



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

2725 Judge Fran Jamieson Way
 Building A, Room 114
 Viera, Florida 32940
 (321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

26Z00022

Jeanne A. Benson & Arthur W. Berger Jr Trust (John Campbell)

Agricultural Residential (AU) to Retail, Warehousing and Wholesale Commercial, (BU-2)

Tax Account Number: 2316445
 Parcel I.D.: 23-36-23-00-16
 Location: North Side of North Courtenay Pkwy, 180 feet east of Pine Island Road (District 2)
 Acreage: 2.11 acres

North Merritt Island Board: 7/09/2026
 Planning & Zoning Board: 7/13/2026
 Board of County Commissioners: 8/06/2026

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	AU	BU-2
Potential*	1 units	FAR 1.0 or 63 Multi-family Units***
Can be Considered under the Future Land Use Map	YES NC	Yes CC**

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. Application of these regulations may reduce development potential.

**Approval pending approval of companion request 26SS00007, which proposes to amend the Future Land Use Map (FLUM) designation from NC (Neighborhood Commercial) to CC (Community Commercial)

***Development potential at 30 units per acre pursuant to F.S. 125.01055 (Live Local Act)

Background and Purpose of Request

The applicant is seeking a change of zoning classification from AU (Agricultural Residential) on 2.11 acres to BU-2 (Retail, Warehousing and Wholesale Commercial) for the purposes of having a Contractor’s office with outside storage and a Land Surveyor’s Office. The subject parcel has access to N. Courtenay Pkwy., State Road-3, a State-maintained roadway. The subject parcel is currently

developed with a 3,144 sq. ft. single-family residence and a 1,054 sq. ft. guest house and is located on the north side of North Courtenay Pkwy., 180 feet east of Pine Island Road.

There is also a Small-Scale Comprehensive Plan Amendment (SSCPA) companion application, **26SS00007** to change the Future Land Use Element from Neighborhood Commercial (NC) to Community Commercial (CC). This request, if approved, would provide consistency with the requested zoning of BU-2.

The subject property retains its original zoning classification of AU when the Brevard County zoning code was adopted on May 22, 1958. The subject property was subdivided into this 2.11-acre configuration on July 1, 1974, per Official Records Book 1461, page 349.

The 1958 zoning code AU zoning required a minimum lot size of one acre with a minimum lot width and depth of 125 feet. On March 6, 1975, the AU zoning classification's lot size was amended to a minimum of 2.5 acres with a minimum lot width and lot depth of 150 feet. The referenced parcel qualifies as Nonconforming to the current AU zoning 2.5-acre minimum lot size requirement, as the parcel was subdivided on July 1, 1974, before the AU amended date of March 6, 1975.

The proposed BU-2 classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. BU-2 zoning is the county's most intense commercial zoning classification due to the intensive nature of commercial activities permitted. Off-site impacts such as noise, light, traffic, and other potential nuisance factors associated with BU-2 activities should be considered. The BU-2 zoning classification allows outside storage of retail items, including, but not limited to, motor vehicles, utility sheds, nursery items such as plants and trees, boats, and mobile homes. The property meets the minimum lot width, depth, and size requirements for the proposed BU-2 zoning.

The closest BU-2 zoned, and CC FLU designation is a 3.1-acres which appears to be used as an outdoor RV storage yard as shown on images from Google Earth dated January 2026, located 25 feet west of the subject parcel on the north side of N. Courtenay Pkwy. There are Industrial zoned parcels located along the north side of N. Courtenay Pkwy., 1,170 feet to the east.

In 2023, the Live Local Act was enacted and was revised in 2024. The Act is intended to address the state's growing housing affordability crisis through significant land use, zoning, and tax benefits. Pursuant to Florida Statute 125.01055, a county must authorize multifamily and mixed-use as allowable uses in any area zoned for commercial, industrial, or mixed use if at least 40 percent of the residential units in a proposed multifamily rental development are rental units that, for a period of at least 30 years, are affordable as defined in Florida Statute 420.0004. In unincorporated Brevard County, the Live Local Act effectively allows for the development of up to 30 dwelling units per acre. Under the current BU-1 zoning classification, the 13.57-acre subject property could be developed with commercial uses at a maximum Floor Area Ratio (FAR) of 1.0. Alternatively, the property may be eligible for residential development of up to 407 multifamily units as stipulated by the Live Local Act. The subject property, encompassing 2.11 acres zoned BU-1, allows for development options that include either commercial use with a Floor Area Ratio (FAR) of 1.00, or 63 multi-family units as stipulated by the Live Local Act.

Natural Resource notes: this property contains mapped National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands and hydric soils; indicators that wetlands

may be present on the property. A portion of this property is located within the Coastal High Hazard Area (CHHA) as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map. This property is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) AE, as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. Protected and Specimen trees may exist on the parcel. The entire property is mapped within the Indian River Lagoon Nitrogen Reduction Overlay.

This property is outside of the Brevard County Water Service Area. Please be aware that the North Indian River Lagoon Basin Management Action Plan Injunction prohibits septic tanks in this area. In the context of onsite sewage treatment and disposal systems, "Available" is defined in F.S. 381.0065 (2)(a) and the requirements to connect to an existing onsite sewage treatment and disposal system to central sewerage system are defined in F.S. 381.00655 (1)(a). Brevard County has the exclusive right to furnish the sewer service per Section 110-181 BCCO because this is within the Brevard County Utility Services Department Service Area. The appropriate sewer facility is operating at a level equal to or less than 85% of the existing plant capacity as determined by the service provider or appropriate authority. Please note that concurrency for the project can only be confirmed with a detailed review of the plans. The current Sykes Wastewater plant capacity as of March 2026 based on actual connections is 53%.

There are no current code enforcement complaints on the property.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Vacant Land	AU	NC & RES 1
South	S. Courtenay Pkwy.	No Zoning	No Future Land Use
East	Vacant Land	AU	RES 1
West	Vacant Land	AU	NC

To the north and west of the subject parcel is a vacant 5.17-acre Flag Lot parcel with AU (Agricultural Residential) zoning classification with NC and RES 1 FLU designation.

South of the subject property across N. Courtenay Pkwy. is a vacant 34.14-acre parcel with AU (Agricultural Residential) zoning classification and RES 1 FLU designation.

East of the subject property is a vacant 5-acre parcel with AU (Agricultural Residential) zoning classification and RES 1 FLU designation.

AU zoning classification encompasses lands devoted to agricultural pursuits and single-family residential development of spacious character on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification permits all agricultural pursuits, including the raising/grazing of animals, fowl, and beekeeping. plant nurseries,

and the packing and processing of commodities raised on site. Conditional uses in AU include hog farms, zoological parks, and land alteration.

Future Land Use

There is also a Small-Scale Comprehensive Plan Amendment (SSCPA) companion application, **26SS00007**, to change the Future Land Use Element from Neighborhood Commercial (NC) to Community Commercial (CC).

The proposed BU-2 zoning classification can be considered consistent with the CC Future Land Use designations provided on the FLUM series contained within Chapter XI – Future Land Use Element of Brevard County’s Comprehensive Plan.

Applicable Land Use Policies

The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 of the Future Land Use Element.

FLUE Policy 2.2 - The zoning process regulates the types and intensities of uses for a parcel of land. Criteria which aid in assessing zoning compatibility, shall include consideration of the following standards:

Criteria:

- A. Permitted/prohibited uses;

BU-2 classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. BU-2 zoning is the county’s most intense commercial zoning classification due to the intensive nature of commercial activities permitted. Off-site impacts such as noise, light, traffic and other potential nuisance factors associated with BU-2 activities should be considered. The BU-2 zoning classification allows outside storage of retail items including, but not limited to, motor vehicles, utility sheds, nursery items such as plants and trees, boats and mobile homes.

BU-2 permits the development of a contractor’s offices with outdoor stage yard and will need to meet the requirements of Section 62-1833.5, particularly: Storage yards must be enclosed with a six-foot wall, louvered fence or chain-link fence. The development will need to comply with buffering criteria in Section 62-4342. Specific design requirements will be addressed at the site plan stage.

- B. Existing commercial zoning trends in the area;

The nearest property with a BU-2 zoning classification is located 25 feet to the west of the subject property, which appears to be used as an outdoor RV storage yard. There are no other commercial zoning classifications within 0.5 miles of the subject property.

- C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;

The surrounding area north and east of the subject property contains vacant lands with agricultural zoning.

The closest commercial BU-2 use is 25 feet to the west of the subject property.

- D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;

It is not anticipated that the proposed development would cause a deficiency in adopted LOS standards for roads and solid waste based on the preliminary concurrency analysis.

The parcel is within the City of Cocoa public potable water service and utilizes septic service. The parcel is located in the Brevard County Sewer Service Area. The closest Brevard County sewer line is located approximately 3,000 feet to the west at the intersection of North Tropical Trail and N. Courtenay Pkwy.

- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and the following land use issues were identified:

Natural Resources has noted this property contains mapped National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands and hydric soils; indicators that wetlands may be present on the property.

A portion of this property is located within the Coastal High Hazard Area (CHHA) as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map.

This property is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) AE, as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map.

The entire property is mapped within the Indian River Lagoon Nitrogen Reduction Overlay.

Protected and Specimen trees may exist on the parcel.

- F. Other issues which may emerge specific to a particular property which may be addressed through performance-based zoning criteria.

This proposed use will be required to comply with the regulations set forth in Sections 62-1483 and 62-1833.5 of the Brevard County Code. In addition, the development must comply with the performance standards contained within Sections 62-2251 through 62-2272, which will be reviewed during the site plan review process.

Any development involving a contractor's office with outdoor storage must also comply with the requirements of Section 62-1833.5.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area:

Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use;

The proposed rezoning will need to comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272.

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.

Only a certified MAI (Master Appraiser Institute) appraisal can determine if material reduction has or will occur due to the proposed request.

- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:
1. historical land use patterns;

The surrounding area has historically developed as a low-density residential area consisting primarily of vacant land and single-family residential parcels ranging from 0.18 acres to 45.34 acres in size. Nonresidential development is limited, consisting of a commercial zoned property and an institutional use west of the subject property, with vacant industrially zoned properties located along the North Courtenay Parkway corridor to the east.

There are five (5) FLU designations (RES 1, RES 2_DIR, NC, CC and PUB) within a 0.5-mile radius of the subject property. RES 1 is the prominent FLU in this area.

There are twelve (12) zoning classifications (GU, AU, RR-1, SR, RRMH-1, TR-1, TR-2, TR-3, BU-2, IN(L), IU and GML(I) within a 0.5-mile radius of the subject property. TR-1 is the prominent zoning classification in this area.

2. actual development over the immediately preceding three years; and

There has been no development within 0.5 miles approved within the past three years.

3. development approved within the past three years but not yet constructed.

There are four pending zoning actions within 3/4 miles west and south of the subject property:

- **26Z00007 - On January 30, 2026, an application was submitted to rezone 28.37 acres from GML (I) and TR-1 to RVP for the development of a recreational vehicle park. The request also includes a companion Small-Scale**

Comprehensive Plan Amendment (SSCPA) application, 26SS00001, to change the Future Land Use designation from PUB, RES 1, and RES 2-DIR to CC. This parcel is located approximately 0.2 miles north of the subject property. Scheduled for the July 9, 2026, BoCC meeting. Within a half-mile.

- **26Z00006** On January 30, 2026, an application was submitted to remove a Binding Development Plan (BDP) on 1.71 acres zoned BU-2. Removal of the BDP would eliminate the existing restriction limiting the property to BU-1 permitted uses and would allow all uses permitted within the BU-2 zoning classification, including the proposed outdoor boat and RV storage use depicted in site plan application 25SP00048. This parcel is located approximately 0.3 miles south of the subject property. Scheduled for the July 9, 2026, BoCC meeting.
- **26Z00017** - On April 6, 2026, an application was submitted to rezone 2.0 acres from AU to RR-1 for the development of one single-family residence. This parcel is located approximately 0.1 miles southeast of the subject property. Item scheduled to be heard on the same date as this request.
- **26Z00024**, an application requesting to change from BU-1 to BU-2 zoning on 2.43 acres to utilize a metal building for the development of a self-storage mini-warehouse.

There has been no approved development within the 0.5 mile radius in the preceding three (3) years that has yet to be constructed.

D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Only a certified MAI appraisal can determine if material reduction has or will occur due to the proposed request.

Analysis of Administrative Policy #4 - Character of a neighborhood or area.

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

The requested rezoning from AU to BU-2 zoning classification is not anticipated to materially or adversely affect the surrounding developments. This request is not anticipated to have a measurable impact on the area in terms of trip generation or parking.

B. In determining whether an established residential neighborhood exists, the following factors must be present:

1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.

The property is located in an existing single-family residential area, along with commercially zoned properties along the corridor.

2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.

The request is for commercial use. It is located in an existing single-family residential area with commercially zoned properties along the corridor. There is a Community Commercial FLU established in this area, 25 feet to the west of the subject property.

3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial, or other non-residential uses have been applied for and approved during the previous five (5) years.

The area is primarily low-density single-family residential use. There has not been commercial, industrial, and other non-residential uses approved in this area during the previous five (5) years.

Analysis of Administrative Policy #7

Proposed use(s) shall not cause or substantially aggravate any (a) Substantial drainage problem on surrounding properties; or (b) significant, adverse and unmitigable impact on significant natural wetlands, water bodies or habitat for listed species.

Natural Resources has noted this property contains mapped National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands and hydric soils; indicators that wetlands may be present on the property.

A portion of this property is located within the Coastal High Hazard Area (CHHA) as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map.

This property is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) AE, as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map.

The entire property is mapped within the Indian River Lagoon Nitrogen Reduction Overlay.

Protected and Specimen trees may exist on the parcel.

Please review all comments from the Natural Resources Management Department found at the end of this report.

Preliminary Concurrency

The subject property is located within the concurrency management segment on N. Courtenay Pkwy. (State Road 3) between N. Tropical Trail and Space Commerce Way, which has a Maximum Acceptable Volume (MAV) of 45,800 trips per day, a Level of Service (LOS) of C, and currently operates at 26.29% of capacity daily. The most intense commercial use would be a fast-food restaurant with a drive-thru at an average, 5,060 square foot building. It would be anticipated to increase the percentage of MAV utilization by 2, 267 trips. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 4.95%, and the corridor would be anticipated to operate at 31.24% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the proposed project is a commercial development and not intended for residential uses.

The parcel is within the City of Cocoa public potable water service and septic service. The parcel is located in the Brevard County Sewer Service Area. The closest Brevard County sewer line is located approximately 3,000 feet to the west at the intersection of North Tropical Trail and N. Courtenay Pkwy.

The parcel is located within the mapped Indian River Lagoon Nitrogen Reduction Overlay.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands and Hydric Soils
- Coastal High Hazard Area
- Floodplain Protection in North Merritt Island
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees

Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

For Board Consideration

The Board may wish to consider if the request is consistent and compatible with the surrounding area.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item No. 26Z00022

Applicant: John Campbell (Owner: Arthur Berger, Jr., Trustee)

Zoning Request: AU to BU-2

Note: for commercial zoning

NMI Advisory: 07/09/2026; **Zoning Hearing:** 07/13/2026; **BCC Hearing:** 08/06/2026

Tax ID No.: 2316445

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands and Hydric Soils
- Coastal High Hazard Area
- Floodplain Protection in North Merritt Island
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees

Land Use Comments:

Wetlands and Hydric Soils

The entirety of the subject parcel contains mapped National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands and hydric soils (Basinger sand; Copeland-Bradenton-Wabasso complex, limestone substratum; and Pompano sand, 0 to 2 percent slopes); indicators that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.**

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). However, N. Courtenay Parkway is not a MQR at this location. MQRs are depicted and identified in a table on map 8 of the comprehensive plan conservation element. An amendment to the comprehensive plan shall be required to add a mitigation qualified roadway to map 8 and the associated table.

Additionally, if wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e),

including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.**

Coastal High Hazard Area

A portion of this property is located within the Coastal High Hazard Area (CHHA) as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates Coastal High Hazard Areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute. Objective 7 of the Coastal Management Element aims to limit densities within the coastal high hazard area and direct development outside of this area.

Floodplain Protection in North Merritt Island

This property is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) AE, as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. The parcel is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance, including compensatory storage. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Additionally, the parcel is located on North Merritt Island (NMI), north of Hall Road. Section 62-3724(4) contains additional criteria including compensatory storage and written certification from the engineer of record that there will be no adverse flooding impacts upon properties resulting from the proposed development. **The applicant is encouraged to contact NRM prior to any plan or permit submittal or prior to performing any land clearing activities.**

Indian River Lagoon Nitrogen Reduction Septic Overlay

The entire property is mapped within the Indian River Lagoon Nitrogen Reduction Overlay. Per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay, if adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

Protected and Specimen Trees

Protected and Specimen trees may exist on the parcel. The applicant shall perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements and buffer requirements. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**