



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS  
 24Z00071**

**Nicholas Duffy**

**BU-1 (General retail commercial) to BU-2 (Retail, warehousing and wholesale commercial)**

Tax Account Number: 3006387  
 Parcel I.D.: 30-38-11-00-520  
 Location: North side of Micco Rd West of US Highway 1 (District 3)  
 Acreage: 2.79 +/- acre

Planning & Zoning Board: 03/17/2025  
 Board of County Commissioners: 04/22/2025

**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)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	BU-1	BU-2
<b>Potential*</b>	FAR 1.00 83 multifamily units**	FAR 1.00 83 multifamily units
<b>Can be Considered under the Future Land Use Map</b>	Yes* CC	YES* CC

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.

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

**Background and Purpose of Request**

The applicant is requesting a change of zoning classification from BU-1(General retail commercial) to BU-2 (Retail, warehousing and wholesale commercial) on 2.79 acres. The site is undeveloped. Approval of this request will permit the proposed use of RV and boat storage business.

The subject property is within a mixed use corridor. It is located between residential use to the west and south across Micco Rd. and commercial use to the east along the north side of Micco Rd. The Board may wish to consider if the request is consistent and compatible with the surrounding area.

The 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.

There have been two rezoning actions less than ¼ mile from the subject.

1. **23Z00023** approved 02/21/2024. This was a rezoning from IU-1 to BU-2 with a Binding Development Plan retaining all BU-1 uses and restricting the BU-2 use to outdoor boat and RV storage.
2. **22Z00060** approved 04/06/2023. This changed a BU-1 to BU-2 with a Binding Development Plan to restrict the use to RV and Boat storage and retaining all BU-1 uses. Site plan (24SP00014) for indoor RV and boat storage has been approved.

The subject property has access to Micco Rd., a Brevard County maintained roadway. The current configuration was created August 1, 1975 via ORB 1554 Page 73.

The subject property was approved for a zoning change from AU to BU-1 on July 12, 1979 under zoning action **Z-4981**. No other zoning changes have been made.

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. In unincorporated Brevard County, the Live Local Act effectively allows for development of up to 30 dwelling units per acre. The applicant has not expressed an interest in developing multi-family residential units.

At this time, there are no active code enforcement associated with the subject parcel.

**Surrounding Area**

	<b>Existing Land Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Vacant	BU-1	CC
<b>South</b>	Single-family Residential	RRMH-1	RES 1

<b>East</b>	Non-retail Commercial	AU	NC
<b>West</b>	Single-family mobile homes	TRC-1	RES 4

North of the subject property is a vacant 5.23 acre parcel zoned BU-1 with a CC (Community Commercial) FLU.

South of the subject property are two single-family one-acre residential lots developed under RRMH-1 with RES 1 FLU bifurcated by Pine Ridge Tr.

West of the subject property are single-family mobile homes on 0.09 to 0.15 acre lots with TRC-1 zoning with RES 4 FLU bifurcated by a 15 foot maintenance easement and 25 foot drainage easement.

East of the subject property is an electric substation. This property is zoned AU (Agricultural Residential) with a NC (Neighborhood Commercial) FLU.

BU-1 classification permits retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

RRMH-1 classification encompasses lands devoted to single-family mobile home development of spacious character, together with accessory uses as may be necessary or are normally compatible with residential surroundings, and at the same time permit agricultural uses which are conducted in such a way as to minimize possible incompatibility to residential development. RRMH-1 permits single-family mobile homes and detached single-family residential land uses on minimum one acre lots, with a minimum width and depth of 125 feet. This classification permits horses, barns and horticulture as accessory uses. The minimum house size is 600 square feet.

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 also permits the raising/grazing of animals, fowl and beekeeping.

TRC-1 encompasses lands devoted to planned single-family mobile home development which permits mobile homes or residences on lots of minimum 6,500 square feet with a lot width of 65 feet and a lot depth of 80 feet. The higher density or compacted lot size is permitted where there are cooperative agreements to ensure up-keep and maintenance of the overall development, including common open space. Provisions satisfactory to the board of county commissioners shall be made to ensure that the overall development shall be perpetually maintained in a satisfactory manner, without expense to county.

## Land Use

The subject property is designated as Community Commercial (CC) Future Land Use (FLU). The existing BU-1 zoning can be considered consistent with the existing CC FLU designation under Sec. 62-1255.

The proposed BU-2 zoning classification can be considered consistent with the existing CC FLU designation under Sec. 62-1255.

## Applicable Land Use Policies

### FLUE Policy 2.2 - Role of Zoning Regulations in the Designation of Commercial Lands

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;

**The BU-2 zoning classification permits outdoor storage yards, wholesale warehousing, and uses on lots of at least 7,500 square feet. Possible incompatibilities are due to the intensive nature of commercial activities permitted by the BU-2 classification and possible noise, light, traffic, and other nuisance factors potentially associated with BU-2 activities (auto-repair facilities, paint and body shops, and contractor storage yards).**

- B. Existing commercial zoning trends in the area;

**Most commercial development the general area is located to the north and west along Highway 1, Micco Rd and Barefoot Blvd. The subject property's location would be considered a mixed-use corridor that includes commercial and industrial land uses to the east as well as established residential development to the west and south sides of the subject property. There has been no new commercial development in the area in the past three years.**

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

**The proposed use will need to comply with Brevard County Performance Standards noted in Sections 62-1483, 62-1833.5, and 62-2251-62-2271 of the Brevard County Code and be subject to a site plan review.**

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

The proposed development increases the percentage of MAV utilization by 0.28%. The corridor is anticipated to operate at 47.94% of capacity daily. The proposed development will not create a deficiency in LOS. Specific concurrency issues will be addressed at the time of site plan review. This is only a preliminary review and is subject to change.

Potable water service may be provided by Brevard County Utility Water Service. A Brevard County water line is located directly west within the Barefoot Bay development and east of the subject property at the intersection of Micco Road and Ron Beatty Blvd. Sewer is provided by Barefoot Bay Sewer. An approved Concurrency Application, including potable water service capacity, sanitary sewer service capacity, and solid waste capacity is required upon a formal site plan submission.

- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and

The subject property contains soils that typically indicate wetlands resulting in the requirement for a current wetland assessment and wetland delineation map. The subject is found within an area mapped as FEMA Special Flood Hazard Area (SFHA)A, as identified by the Federal Emergency Management as shown on the FEMA Flood Map. This finding may result in additional development standards. The applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

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

**This property will need to comply with Brevard County Performance Standards noted within Section 62-1483 and 62-1833.5 of the Brevard County Code.**

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

**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 applicant has proposed to use the land for a RV and boat storage business. Hours of operation, lighting, or a traffic analysis has not been provided. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the zoning change be approved. Additionally, the proposed use will need to comply with Brevard County Performance Standards noted within Section 62-1483 and 62-1833.5 of Brevard County Code.

- 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 (Member Appraisal 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 historical land use patterns within half a mile to the north and east of the subject property includes non-commercial, retail, institutional and vacant land. Land use patterns to the west and south across Micco Rd are single-family residential lots on approximately 0.09 to one (1) plus acre lots.**

**There are four (4) FLU designations surrounding the subject property; NC (Neighborhood Commercial), CC (Community Commercial) RES 1 (south), as well as RES 4 to the west. The predominant FLU designation in the area is RES 4 and RES 1.**

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

**There has been no permitted development within a one-half mile radius over the immediately preceding three years.**

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

**There is no development approved within the past three years that has not yet been constructed.**

**There has been no FLUM amendments within one-half mile in the past three years.**

- **23SS00006** is pending. It is a request to change the Future Land Use (FLU) from RES 1 and RES 2 to all at RES 6.

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

**No material violation of relevant policies has been identified.**

#### **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 corridor is anticipated to operate within the Maximum Acceptable Volume (MAV). The proposal would not create a deficiency in Adopted Level of Service (LOS).**

Three zoning actions have been approved within a half-mile radius of the subject property within the last three years:

- **22Z00060** approved on April 7, 2023, was a request to change BU-I (General Retail Commercial) with a Binding Development Plan to BU-2 retaining all BU-1 uses, and limiting BU-2 uses to outdoor RV and Boat storage on 4.58 acres located approximately 1,150 feet north and east of the subject property.
- **23Z00011** approved by the Board on July 13, 2023, was a request for rezoning from a combined RR-1 (Rural Residential) and AU (Agricultural residential) to all AU.
- **23Z00023** approved February 21 2024, was a request for rezoning from BU-1 to BU-2 with a BDP retaining all BU-1 uses, and limiting BU-2 uses to outdoor RV and Boat storage on 2.79 acres located approximately

- 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 subject property abuts an established residential neighborhood with clearly established roadway boundaries to the west. A residential**

**area is established to the south across Micco Rd. East and north of the subject property are commercial land uses. The request does not encroach the established residential neighborhoods.**

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 proposed request is not considered a neighborhood commercial use.**

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 subject property is within a mixed use corridor. It is located between residential use to the west and commercial use to the east along the north side of Micco Rd. Recent rezonings have included two parcels located further east of the subject property but within a ¼ mile of the subject property. Both have been approved for BU-2 zoning with Binding Development Plans for boat and RV storage similar to the subject property's proposed use.**

### **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 unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.

**Natural Resources has noted the subject property contains mapped hydric soils; an indicator that wetlands may be present on the property. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). Micco Road is a MQR at this location. Board approval may be required for impacts.**

**The subject property is located an area mapped as FEMA Special Flood Hazard Area (SFHA)A, as identified by FEMA; and in the Indian River Lagoon Nitrogen Reduction Septic Overlay.**

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

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Micco Rd between Fleming Grant and US Hwy 1, which has a Maximum Acceptable Volume (MAV) of 17,700 trips per day, a Level of Service (LOS) of E, and currently operates at 47.66%



of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.28%. The corridor is anticipated to operate at 47.94% of capacity daily. The proposal would not create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

The concurrency analysis provided above is preliminary and represents an estimate of impacts resulting from the maximum permissible uses under the proposed Future Land Use designation. However, if a site plan for the property is submitted and the development proposal will cause a deficiency of the above-mentioned levels of service, then the County reserves the right to exercise the following options: deny or defer the proposal; cause the proposal to be modified to achieve consistency with the minimum LOS; or process the proposal as a conditional development permit pursuant to Section 62-604 of the Brevard County Code of Ordinances.

No school concurrency information has been provided as the development proposal is for commercial and not residential use.

The parcel is within the Barefoot Bay utilities service area for sewer and potable water.

**Summary of Mapped Resources and Noteworthy Land Use Issues:**

- Hydric Soils
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees

No noteworthy land use issues were identified. Natural Resources Management (NRM) reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

**For Board Consideration**

The Board may wish to consider if the request is consistent and compatible with the surrounding area. Specifically, the Board may wish to consider whether the intense uses permitted in the BU-2 zoning classification are consistent with the residential uses in the area.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Zoning Review & Summary**

**Item No. 24Z00071**

**Applicant:** Nicholas Duffy (Owner: Nicholas Duffy)

**Zoning Request:** BU-1 to BU-2

**Note:** to allow outdoor boat and RV storage

**Zoning Hearing:** 03/17/2025; **BCC Hearing:** 04/03/2025

**Tax ID No.:** 3006387

- 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:**

- Hydric Soils
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees

**Land Use Comments:**

**Hydric Soils**

The subject parcel contains mapped hydric soils (Anclote sand); an indicator that wetlands may be present on the property. The applicant submitted an Environmental Impact Report by Florida Environmental Consulting, Inc., dated 01/29/2021, indicating the potential presence of wetlands. **A current environmental assessment and 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). Micco Road is a MQR at this location. 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.

### **Floodplain Protection**

This property is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) A, 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."

### **Indian River Lagoon Nitrogen Reduction Septic Overlay**

The eastern portion of this 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 ( $\geq 10$  inches in diameter) and Specimen ( $\geq 24$  inches in diameter) trees likely 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.**