



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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

STAFF COMMENTS 21Z00009

Cooltural Land, LLC (Thomas R. Jones for Peña) General Retail Commercial (BU-1) to Retail, Warehousing, and Wholesale Commercial (BU-2)

Tax Account Number: 2317004

Parcel I.D.: 23-36-27-00-*-5

Location: East side of North Courtenay Parkway, approximately 700 feet south of Crisafulli Road (District 2)

Acreage: 1.02 acres

North Merritt Island Board: 05/13/2021

Board of County Commissioners: 05/27/2021

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	BU-1	BU-2
Potential*	25,700 square feet	25,700 square feet
Can be Considered under the Future Land Use Map	YES CC	YES CC

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

Background and Purpose of Request

The applicant is seeking a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial).

The request is to change from BU-1 to BU-2 in order to accommodate contractor storage yard and flex office/warehouse use. The property is vacant. The property is 1.02 acres.

The original zoning of the property was AU (Agricultural Residential). On 10/31/62, Resolution **Z-854** rezoned the property from AU to BU-1 (Neighborhood Retail Business). Comprehensive Zoning Ordinance **73-13** changed BU-1 (Neighborhood Retail Business) to BU-1 (General Retail Commercial).

Land Use

The subject property retains the Community Commercial (CC) Future Land Use designation. The existing zoning classification BU-1 is consistent with the Future Land Use Designation. The proposed zoning classification of BU-2 is consistent with the Future Land Use Designation.

Applicable Land Use Policies

Future Land Use: FLUE Policy 2.7 – Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation, provided that the listed criteria are met, include the following:

- a) Existing strip commercial
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices;
- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;
- h) Residential uses;
- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;
- l) Transitional uses pursuant to Policy 2.14; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

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. This parcel is located on the east side of Courtenay Parkway, is currently vacant, and lies within the Community Commercial (CC) Future Land Use (FLU) designation. The abutting property to the north is developed as an art studio with retail sales, on the part fronting Courtenay Parkway, and a residence on the rear portion and likewise has split CC/NC FLUE. The two abutting parcels to the east are developed with single-family residences, the western approximately 100 feet of which are part of a drainage pond, with Residential 1 (RES 1) FLU. The parcel to the south is vacant with CC FLU. The property across Courtenay Parkway to the west is developed with a residence and citrus grove with CC FLU. The site is located within a 200 acre commercial corridor with some mixed residential uses.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The developed character of the surrounding area: part of an approximately 200 acre strip commercial corridor, which contains a mixture of neighborhood, retail commercial, limited outdoor storage uses, with some single-family residences as mixed use on same properties as commercial. Most properties are limited to BU-1 with some BU-2 zoned properties. Behind this corridor, on the abutting properties to the east, are high square footage residential homes on $\frac{1}{4}$ to 1 acre lots with RES 1 FLU.

The closest parcel with BU-2 zoning classification on the full depth of the property, is approximately 1,140 feet north of the subject parcel and north of the Crisafulli Road intersection. It is on a much larger vacant parcel, with a Binding Development Plan (BDP), **14PZ-00118B** (ORB 7356, Pages 2762-2766), that limits uses to “all permitted uses in the BU-1 Zoning Classification” and requires “A 20’ opaque buffer on the east side shall always be there.” The next closest lot with BU-2 the full depth of the property is approximately 8,800 feet to the south. In 1983, **Z-6432**, a proposed rezoning from BU-1 to BU-2 was denied and Development Review sheet 3b in the file stated: “BU-2 not recommended in this sector, however BU-2 in area; possibly keep front half BU-1.”

When evaluated against **FLUE 2.7**, the subject 1.02 acre property could be considered spot zoning of BU-2 in a mixed residential/BU-1 corridor, rather than infill or an extension of similar strip commercial development.

BU-2 allows for more intense uses than BU-1, such as, but not limited to, metal buildings, outdoor storage yards, and warehouses. The intensive nature of BU-2 uses could create noise, light, traffic and other nuisance factors. BU-2 zoning and uses on this corridor have not been primarily located directly adjacent to Courtenay Parkway right-of-way, have natural or developed buffers from abutting residential uses, and are primarily located on the west side of Courtenay Parkway.

There has been one zoning action within a half-mile of the subject property within the last three years.

July 9, 2020, application **20PZ00017** rezoned a 2.23 acre parcel from General Use (GU) to Suburban Estate Use (SEU) located approximately 2,350 feet south of the subject property, on the south side of Kings Way, adjacent to and on the east side of Courtenay Parkway.

North Courtenay Parkway Corridor Study. The proposed rezoning is within the North Courtenay Parkway Corridor Study Area for which staff drafted a report for the Citizen Resource Group (CRG), dated October 2005. The study area is bounded on the north by NASA’s Kennedy Space Center, on the east by the rear property lines of properties fronting the east side of North Courtenay Parkway, on the south by the Barge Canal, and on the west by the rear property lines of properties fronting the west side of North Courtenay Parkway. The CRG examined the future land use and zoning for the corridor area and generated the following Land Use recommendations:

LU-1: *For properties zoned BU-2, outdoor storage areas shall not be visible from the roadway. An opaque buffer that shields storage areas from view shall be required for BU-2 uses within the North Courtenay Parkway corridor.*

LU-2: *No bay doors should face the roadway. All such doors should face to the side or rear of the building.*

LU-3: *No portion of a building constructed of sheet metal shall be visible from North Courtenay Parkway. Stucco, wood siding, brick, and other materials with similar textures are appropriate.*

Surrounding Area

The property abutting to the north of the subject property is developed per split zoning of BU-1 on 80 feet closest to Courtenay Parkway and AU (Agricultural Residential) on remainder. The two abutting parcels to the east are developed per Suburban Residential (SR) zoning with a drainage facility on

the western approximately 100 feet of each property and abutting the subject property. The parcel to the south is vacant with BU-1 zoning. The property across Courtenay Parkway to the west is developed with a residence and citrus grove in BU-1 zoning.

The current 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. It also does not permit contractor storage yards or outdoor recreational vehicle storage.

The proposed BU-2 classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. 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.

The AU classification permits single-family residences and agricultural pursuits on 2 ½ 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.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Indian River Lagoon Nitrogen Reduction Overlay
- Floodplain
- Protected and Specimen Trees
- Protected Species

Per Section 62-3724(4) of the floodplain ordinance, the parcel may be subject to compensatory storage for fill brought onto the parcel. Please see floodplain section in NRM comments for more information.

Preliminary Transportation Concurrency

The closest concurrency management segment to the subject property is North Courtenay Parkway, between Hall Road and North Tropical Trial, which has a Maximum Acceptable Volume of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 34.28% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization from 34.28% to 37.80% (LOS C). The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as this site is a proposed commercial development.

The subject property is served with potable water by the City of Cocoa. The property is not serviced by Brevard County sewer. The closest available Brevard County sewer line is located on the opposite side of North Courtenay Parkway, approximately 1,865 feet to the South.

For Board Consideration

The Board may wish to consider whether the request is consistent and compatible with the surrounding area for BU-2 fronting Courtenay Parkway.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item # 21Z00009

Applicant: Jones for Peña

Zoning Request: BU-1 to BU-2

Note: Applicant wants contractor storage yard, warehouse, RV storage, and RV rental.

NMI Hearing Date: 05/13/21; **BCC Hearing Date:** 05/27/21

Tax ID No: 2317004

- 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.**

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Land Use Comments:

Indian River Lagoon Nitrogen Reduction Overlay

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If sewer 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.

Floodplain

If it is determined that any area of the parcel is within the floodplain, then per Section 62-3724(4) of the floodplain ordinance, any development, land alteration, or grading on North Merritt Island in the area from Hall Road, north to State Road 405, herein after referred to as "Area," is subject to compensatory storage, and written certification from the engineer of record that there will be no adverse flooding impacts upon properties within the Area resulting from the proposed development. Delineation of floodplains, shall use best available pre-alteration ground elevation data. Sealed pre-

existing topographic survey or engineered site plan delineating floodplain limits on the property, if any, with base flood elevation using best available flood elevation data. The engineer shall provide a report that includes full engineering data and analysis, including the hydraulic and hydrologic modelling and analysis demonstrating that there is no impact. Any engineered compensatory storage shall be maintained by the owner in perpetuity. Please call NRM at 321-633-2016 prior to any grading, filling or land alteration activities.

Protected and Specimen Trees

An environmental report, prepared by Floravista, Inc, found several Protected (greater than or equal to 10 inches in diameter) and Specimen trees (greater than or equal to 24 inches in diameter) on the parcel. Prior to any site plan design, a tree survey should be conducted to locate trees that may be integrated into the site plan design, including, the Live Oak that is 74.2 inches in diameter, and in good condition. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, 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 tree preservation and canopy coverage requirements. The applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities. Land clearing is not permitted without prior authorization by NRM.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.