



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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**STAFF COMMENTS
 25Z000005**

Wayne & Laura Bresette (Kim Rezanka)

BU-1 (General Retail Commercial) to BU-2 (General Retail Commercial)

Tax Account Number: 2410956
 Parcel I.D.: 24-36-07-00-8
 Location: East side of US Hwy 1, approx. 875 ft. north of Cross Rd. (3740 H. Hwy 1, Cocoa) (District 1)
 Acreage: 2.47 acres
 Planning & Zoning Board: 04/14/2025
 Board of County Commissioners: 05/01/2025

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	BU-1	BU-2
Potential*	FAR 1.0 74 multifamily Units**	FAR 1.0 74 multifamily Units**
Can be Considered under the Future Land Use Map	YES* Community Commercial (CC)	YES* Community Commercial (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 requests a zoning classification change from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial.) for mobile home sales on 2.47 acres. Mobile home and travel trailer sales is a permitted use with conditions in the BU-2 zoning classification. The subject property is located on the east side of N. Highway 1, which is a State

maintained highway, and would be pursuant to Florida Department of Transportation (FDOT) requirements and Brevard County Code.

The proposed BU-2 zoning 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 (auto-repair facilities, paint and body shops, and contractor storage yards).

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 the development of up to 30 dwelling units per acre. The subject property, encompassing 2.47 acres zoned BU-1, allows for development options that include either commercial use with a Floor Area Ratio (FAR) of 1.00 or 74 multi-family units as stipulated by the Live Local Act. There is no difference in development potential under the Live Local Act with the approval of this rezoning request.

Zoning history actions:

- **Z-1373**; May 7, 1964, AU to BU-2, denied as requested for BU-2 zoning and approved from AU to BU-1 with a Special Use Permit (SUP) for Trailer Sales.

Per Sec. 62-1901(d)(3); All Special Use Permits shall be subject to revocation, Special Use Permits issued to properties prior to August 2, 1973, shall be removed.

According to the best available data from the Brevard County Property Appraiser, the subject property was part of a larger parcel that was AU zoned upon the adoption of the Brevard County Zoning Regulations on May 22, 1958. After a rezoning from AU to BU-1 on May 7, 1964, the subject property was created in May 1965, as described in Official Records Book 783, Page 848.

Per Sec. 62-1838, outside sales of mobile homes may be of new or used mobile homes but shall not consist of the construction nor the manufacture of mobile homes. The enclosed sales office shall be located on the same premises as the mobile homes offered for sale. In the BU-1 zoning classification, the use shall be permitted only in conjunction with an abutting mobile home development.

There are currently no open Code Enforcement cases or violations noted on the property.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Nursery	AU, BU-2	NC & RES-1, CC
South	Office Building	BU-1	CC
East	Church	IN(L)	RES-1
West	Single-Family Mobile Home Park.	US Hwy 1, then TR-1	CC

North of the subject property is 7.07-acre parcel that is comprised of four parcels under one tax account number with a mixed zoning of AU (approx. 5.5 acres) and BU-2 (approx. 1.5 acres), that is being utilized as a nursery. The AU portion of the property has a FLU of RES-1 and NC, while the BU-2 portion has a FLU of CC.

South of the subject property is an office building on a 1.46-acre parcel with a BU-1 zoning classification and a CC FLU.

East of the subject property is a church on a 5.82-acre parcel with an IN(L) zoning classification, and a RES-1 FLU.

West of the subject property, located across US Hwy 1, is a platted single-family neighborhood. Developed with twenty (20) mobile homes in a TR-1 zoning classification and a CC FLU.

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

The BU-2 classification is a higher intensity commercial zoning classification, that permits retail, warehousing and wholesale commercial that encompasses lands devoted to general retail and wholesale business, contracting and heavy repair services and warehousing activities.

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

The IN(L) zoning classification is a low intensity class that provides for private, nonprofit or religious uses which are intended to service the needs of the public for facilities of an educational, religious, health or cultural nature. Low intensity uses are those that are of such limited scale and impact that they are compatible with residential uses in residential land use designations, or neighborhood commercial uses in neighborhood commercial land use designations.

The TR-1 zoning classification encompasses land devoted to single-family mobile homes with a minimum of 7,500 square foot lots.

Future Land Use

The subject property is currently designated as Community Commercial (CC) FLUM designation. The current BU-1 zoning and the proposed BU-2 zoning are consistent with the existing CC FLUM designation.

Applicable Land Use Policies

FLUM 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;

BU-2 zoning classification permits outdoor storage yards, wholesale and warehousing 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 (auto-repair facilities, paint and body shops, and contractor storage yards). Mobile home and travel trailer sales is a permitted use with conditions in the BU-2 zoning classification.

- B. Existing commercial zoning trends in the area;

The subject property's location would be considered a commercial corridor that includes commercial land uses to the north and south with residential development to the east side 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 Land Use in the surrounding area is commercial to the north, south, and west with residential to the east.

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

The preliminary concurrency analysis did not indicate that the proposed development has the potential to impact the adopted level of service standards for roads. Specific concurrency issues would be addressed at the time of site plan review.

The subject property has access to the City of Cocoa for potable water and is in the area of Cocoa Sewer. The preliminary concurrency analysis did not indicate

that the proposed development has the potential to cause a deficiency in the transportation adopted level of service.

It is not anticipated that a mobile home sales office will have a significant impact on the LOS for solid waste disposal.

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

Natural Resources has identified the subject property as containing aquifer recharge soils, protected tree specimens, and protected species may be present on the property. Please see NRM comments at the end of this report.

- 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 62-2251 – 62-2272 of 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;

Any proposed commercial use shall be subject to compliance with all performance standards within Sec. 62-2251 through Sec. 62-2272.

The Board should consider the array of intense uses permitted under the BU-2 zoning classification and the potential impacts on the abutting residential lots to the west across US Hwy 1.

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

Only a certified MAI (Master 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;

There are five (5) FLU designations within 500 feet of the subject site: CC, NC, RES 1, RES 2, and RES 4. The predominant FLU designation is CC.

The proposal is in a commercial corridor, located on the east side of US Hwy. 1 with BU-1 and BU-2 zoning and Community Commercial (CC) FLU.

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

Staff analysis has determined there has not been any development approved but not yet constructed within this area in the preceding three (3) years.

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

24Z00016 was approved on October 3, 2024, to rezone a parcel from AU to TR-1.

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

There has not been any development approved but not yet constructed within this area in the preceding three (3) years.

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.

Criteria:

A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic, parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

Staff analysis indicates the subject property is located along a predominantly commercial corridor. The closest BU-2 zoned property is located approximately 180 ft. to the north. The applicant has not provided hours of operation, a lighting plan, or a traffic analysis. Specific concurrency issues will be addressed at the time of site plan review.

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.

Staff analysis does not indicate the property is located within an established residential neighborhood.

- 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 east side corridor of Highway 1 has an existing FLU designation of commercial. This request does not encroach into the existing residential area.

- 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.

Abutting the east side of US Hwy. 1 is commercial uses with single-family residential and vacant land easterly of the commercial uses.

Preliminary Concurrency

The closest concurrency management segment to the subject property is on US Hwy 1, between SR 528 and Canaveral Groves Blvd., which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 64.37% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.02%. The corridor is anticipated to operate at 64.39% of capacity daily. The maximum development potential of the proposal is not anticipated to 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.

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

The subject property has access to the City of Cocoa for potable water and is in the area of Cocoa Sewer. The preliminary concurrency analysis did not indicate that the proposed development has the potential to cause a deficiency in the transportation adopted level of service.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

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. 25Z00005

Applicant: Kimberly Rezanka (Owners: Wayne and Laura Bresette)

Zoning Request: BU-1 to BU-2

Note: Combine with adjacent properties and develop for agricultural use

Zoning Hearing: 04/14/2025; **BCC Hearing:** 05/01/2025

Tax ID No.: 2410956

- 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:

- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

Land Use Comments:

Aquifer Recharge Soils

This property contains Paola fine sand, 0 to 8 percent slopes, classified as an aquifer recharge soil. Additionally, the mapped topographic elevations show that the property falls within Type 2 and/or Type 3 Aquifer Recharge areas, which are subject to impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 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.**

Protected Species

Federally and/or state protected species may be present on the property. Specifically, Gopher Tortoises can be found in areas of aquifer recharge soils. 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 (FWC), and/or U.S. Fish and Wildlife Service, as applicable. The applicant is advised to call Valeria Guerrero at 561-882-5714 (O) or 561-365-5696 (C) with the FWC to obtain any necessary permits or clearance letters for Gopher Tortoises.