



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

25Z00020

Boniface and Company, Inc. (Kim Rezanka)

BU-1 (General Retail Commercial) with a Binding Site Plan (BSP) to BU-1 (General Retail Commercial) with removal of a portion of the BSP.

Tax Account Number: 2800682
Parcel I.D.: 28-36-02-00-1
Location: 3890 W. New Haven Ave. Melbourne, FL. (District 5)
Acreage: 12.81 acres

Planning and Zoning Board: 9/15/2025
Board of County Commissioners: 10/02/2025

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)

	CURRENT	PROPOSED
Zoning	BU-1 w/ BSP	BU-1
Potential*	FAR of 1.0 384 dwelling units**	FAR of 1.0 384 dwelling units**
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.

** 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) with a BSP on 12.81 acres to BU-1 (General Retail Commercial) to allow for expansion of the Boniface-Hiers Kia dealership and service center. The subject parcel has access to W. New Haven (U.S.192), a state-maintained roadway. This request would effectively remove the original BSP from 12.81 acres of the 46± acre total affected area. The remaining

affected property is no longer owned by the same owner. And, the current owner does not have authorization to remove the entirety of the BSP. The subject parcel is currently developed and is located on the north side of W. New Haven.

On November 7, 1988, the subject property was part of a request to rezone the property from AU to BU-1 and TR-3, encompassing 46± acres. The request was approved with a BSP subject to Section 77 Binding Site Plan under **Z-8270**. The approval changed the zoning classification from AU to BU-1 on the south 750 feet, approximately 14.87 acres, and TR-3 on the remaining approximately 31.13 acres with a BSP.

In accordance with Section **62-1157(4)**, Existing binding site plans shall be treated as binding development plans insofar as they are consistent with the 1988 county comprehensive plan, as amended, and more restrictive ordinances of the county, and the plans shall continue to be binding on the applicant and his assigns, heirs and successors in title or possession of the lot, tract or parcel of land. However, at the time such binding site plans are amended, the plan shall be converted to the form of the binding development plans required under this section.

On the BU-1 portion of the subject property, the BSP required a masonry wall on the north, east, and west property boundaries to provide a buffer for the site from the residential zoning to the west and north property boundaries. And an antique store that abutted the subject property on the southeast corner.

The applicant is proposing to remove the BSP on 12.81 acres due to the north wall was constructed and is to remain in place. The owner does not intend to remove this wall.

On the western boundary, the wall shown on the BSP is no longer on the property owned by the current property owner. This area is owned by the Meadow Lake Subdivision and provides ingress/egress to the subdivision.

It is the applicant's position that the wall on the east side of the property is not necessary, as the additional single-story building will still provide a 207-foot setback and substantial vegetative buffer that currently already exists and is to remain in place. In addition, the applicant states there are 2 existing public easements as additional buffer to the east: Crane Creek has a 58-foot public drainage right-of-way (R/W) and a 40-foot public R/W (unnamed road), as noted by the provided survey. Staff analysis has determined that the vegetative buffer noted by the applicant is approximately between 125 feet and 220 feet in width and approximately 500 feet in length on the east side property line.

The property abutting the subject property at the southeast corner, being used as mixed-use commercial, is zoned BU-1 and therefore a wall is not required to separate the uses.

The CC FLU designation originated from the adoption of the Brevard County Comprehensive Plan on September 8, 1988.

The BU-1 general retail commercial zoning classification encompasses land devoted to general retail shopping, offices and personal services to serve the needs of the community. BU-1 requires a minimum 7,500 square foot lot. The BU-1 classification does not permit warehousing

or wholesaling. Metal buildings shall be permitted in this zoning classification, subject to the restrictions presented in Section 62-2115.

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 3.49 acres with approval of rezoning to BU-1, allows for development options that include either commercial use with a Floor Area Ratio (FAR) of 1.00 or 384 multi-family units as stipulated by the Live Local Act. The subject property is currently developed as a car dealership with plans of expansion to add additional structures to support the use.

There are no current code enforcement complaints on the property.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Single-family residence	RU-1-7	RES 15
South	W. New Haven	N/A	N/A
East	Mixed-use commercial, furniture store, single-family residence	BU-1, RR-1	CC, RES 6
West	Vista Lake Cir	BU-1	CC

North of the subject property is Meadow Lake Subdivision, 32.897 acres developed with 128 single-family residences, RU-1-7 zoning classification and RES 15 FLU. Currently, the subdivision is developed at approximately 3.89 units per acre.

South of the subject property is a four-lane divided highway, W. New Haven Avenue, a state-maintained roadway.

East of the subject property are three (3) parcels: separated by the drainage and R/W easement; a 1.29-acre parcel, developed as a furniture store with BU-1 zoning classification and CC FLU designation. The second parcel is 3.93 acres, developed with a single-family residence with RR-1 zoning classification and RES 6 FLU designation. The third (abutting the subject property's southeast corner) is a 0.66-acre parcel, developed as a commercial mixed-use property with BU-1 zoning classification and CC FLU designation.

West of the subject property is Vista Lake Circle, the entrance into the Meadow Lake Subdivision, zoned BU-1 with a CC FLU designation.

RU-1-7 classification encompasses lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings on minimum 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet. The minimum house size is 700 square feet.

The BU-1 general retail commercial zoning classification encompasses land devoted to general retail shopping, offices and personal services to serve the needs of the community. BU-1 requires a minimum 7,500 square foot lot. The BU-1 classification does not permit warehousing or wholesaling.

RR-1 classification encompasses lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings on a minimum one acre lot, with a minimum lot width and depth of 125 feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The minimum house size is 1,200 square feet. Keeping of horses and agricultural uses are accessory to a principle residence within the RR-1 zoning district.

Future Land Use

The BU-1 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 of the Future Land Use (FLU) Element.

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-1, General Retail Commercial zoning classification encompasses lands devoted to general retail shopping, offices and personal services to serve the needs of the community. BU-1 requires a minimum 7,500 square foot lot. The BU-1 classification does not permit warehousing or wholesaling.

B. Existing commercial zoning trends in the area;

BU-1 is the predominant commercial zoning classification within 0.5 miles of the subject property. The first rezoning from commercial to residential was approved on August 4, 1960. Commercial zoning trends were the highest in the 1960s. There was one commercial zoning in the 1970s. Commercial rezoning picked up with the

highest being in the 2000s. Commercial rezonings have slowed since then, with the last commercial rezoning taking place in 2022.

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

Staff analysis has determined that the surrounding area north and west of the subject property is single-family detached and mobile home residences mixed with vacant lands. Abutting the W. New Haven Avenue corridor are primarily commercial properties. Where the property abuts a residential zoning classification, the maximum height threshold of any building or structure shall be 35 feet. Where a side lot line abuts a residential zone, such side setback shall be a minimum of 15 feet. Where a side lot line abuts a non-residential zone, such side setback shall be 5 feet.

The subject property was developed as a car dealership in 2020. The closest commercial zoning classification is the abutting southeast corner property, which is zoned BU-1 and is used as an antique and collectables mall. There is a second parcel to the east that is also zoned BU-1 and developed as a furniture store, Babcock Home Furnishings. The most recent commercial development is a mini storage warehouse, built in 2024, approximately 0.3 miles east 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.

Connection to centralized water and sewer is available in this area with the City of Melbourne.

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

The subject parcel contains mapped hydric soils, an indicator that wetlands may be present on the property. A wetland delineation will be required before 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). West New Haven Avenue is an MQR at this location. The mapped topographic elevations show that the property falls within Type 3 Aquifer Recharge areas, which are subject to impervious area restrictions. The eastern portion of this 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.

No other issues were identified that may emerge that would be addressed through performance-based zoning criteria.

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;

A concept plan was not submitted with this request. However, this is an expansion of the existing service center. This property will need to comply with the regulations of Section 62-1482 and 62-4342 of the Brevard County Code. In addition, the performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan stage should the zoning change be approved.

Traffic is not anticipated to impact the surrounding area as the removal of the BDP will not increase current LOS levels from the property. The corridor is anticipated to operate within the Maximum Acceptable Volume (MAV). The maximum development potential from the proposed request increases the percentage of MAV utilization by 0.0%. Specific concurrency issues related to any future development will be addressed at the time of site plan review.

- 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;

Within the 0.5-mile radius of the subject property, there are several FLU designations: RES 4, RES 6, RES 15, NC, and CC. RES 6 is the predominant FLU designation on the north side of W. New Haven Avenue. RES 4 is the predominant FLU designation on the south side of W. New Haven Avenue.

There have been no FLUM amendments within one-half mile of the subject property in the past three years.

Within the 0.5-mile radius of the subject property, there are several zoning classifications: AU, TR-1, RR-1, RU-1-7, RU-1-9, RP, SR, BU-1-A, BU-1, and BU-2, with the predominant residential zoning classification being TR-1 and BU-1 being the predominant commercial zoning classification.

The existing pattern is a mixture of single-family residential dwellings, mobile home dwellings, with commercial uses along W. New Haven Avenue. There are a few undeveloped properties blended in. Although the subject property was not developed until 2020, it was planned and approved for commercial use in November 1988. Other large commercial developments are located less than 0.5 mile to the west and more toward I-95.

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

One new development has occurred within 0.5 miles of the subject property within the last three years. It is located approximately 0.3 miles east of the subject property and is developed as a mini storage warehouse.

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

No development has been approved within the last three years, but not yet constructed. However, there has been one zoning action:

- **21Z00040: On 2/3/2022, approved rezoning from BU-1 and BU-2 to all BU-2 on 2.11 acres.**

- 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, parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

Staff analysis of a preliminary traffic concurrency indicates the proposed use will not materially and adversely impact the established residential neighborhoods by introducing types or intensity of traffic, parking, or trip generation. This is not an introduction of commercial activity within the identified boundaries of a neighborhood.

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 area is considered to be established with residential neighborhoods. There are clearly established boundaries, such as roads and open spaces.

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 does involve a neighborhood commercial use in an existing residential neighborhood.

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.

This area is presumed to be mixed with residential and commercial uses. Commercial uses are primarily found along the W. New Haven Avenue corridor.

FLUE 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.

Wetlands may be present on the property. A wetland delineation will be required before 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). West New Haven Avenue is a MQR at this location.

The property falls within Type 3 Aquifer Recharge areas, which are subject to impervious area restrictions.

The eastern portion of this property is mapped within the Indian River Lagoon Nitrogen Reduction 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 U.S.192, between John Rodes Blvd. and Wickham Rd., which has a Maximum Acceptable Volume (MAV) of 39,800 trips per day, a Level of Service (LOS) of C, and currently operates at 86.53% of capacity daily. The maximum development potential from the proposed rezoning does not affect the percentage of MAV utilization. The corridor is anticipated to operate at the current level of 86.53% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues related to any future development 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 is serviced by the City of Melbourne for centralized water and sewer.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues

- Hydric Soils
- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- 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 whether the proposed zoning request is consistent and compatible with the surrounding area.

The Board may wish to consider whether the current mitigating techniques **protect the potential intrusion of this land use into the** abutting residential zoned properties and subdivision.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item No. 25Z00020

Applicant: Kimberly Rezanka (Owner: Boniface and Company)

Zoning Request: Removal of BDP

Note: to allow expansion of Boniface-Hiers Kia dealership and service center

Zoning Hearing: 09/15/2025; **BCC Hearing:** 10/02/2025

Tax ID No.: 2800682

- 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
- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

Land Use Comments:

The subject parcel contains mapped hydric soils (Basinger sand); an indicator 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). West New Haven Avenue 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 no net loss mitigation in Brevard County in accordance with Section 62-3696.

Aquifer Recharge Soils

This property contains Basinger sand that may also function as a highly permeable soil. Additionally, the mapped topographic elevations show that the property falls within 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.

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 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.

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.