



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

25Z00022

Housing Authority of Brevard County

A Conditional Use Permit (CUP) for Mitigating a Non-Conforming Use

Tax Account Number: 2702810
Parcel I.D.s: 27-36-14-01-*66
Location: 1686 Marywood Rd. North side of Aurora Rd. (District 5)
Acreage: 12.15 acres

Planning & Zoning Board: 10/13/2025
Board of County Commissioners: 11/06/2025

Consistency with Land Use Regulations

- Current zoning cannot be considered under the Future Land Use Designation, Section 62-1255.
- The proposal cannot 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	RU-2-30	RU-2-30 with CUP for mitigating a non-conforming use
Potential*	50 units**	50 units**
Can be Considered under the Future Land Use Map	NO RES 4	YES RES 4

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

** Current development on the property consists of 25 Duplexes, 50 units total, and one office building.

Background and Purpose of Request

The applicant's request is for a Conditional Use Permit (CUP) to mitigate a non-conforming use. The subject property currently features one office building and 25 duplexes, totaling 50 units. The current development of the property has a current density of approximately five (5) units per acre. The residential development of the property currently has RU-2-30 zoning classification with RES 4 FLU designation, which is not considered consistent. However, to make the property conform, they have applied for a CUP since there is no RES 30 FLU within the surrounding area, which is the FLU designation needed to make the property conform. The CUP, if approved, would recognize the

nonconformity and allow for the housing authority to build a maintenance building on site to better assist with the upkeep of the property.

The subject property provides low-rent housing to citizens by the Housing Authority of Brevard. The proposed use of the property is intended to remain the same as it has for over 30 years.

While staff has determined, through analysis of this application, that the lot in question could qualify as a nonconforming lot of record (thereby allowing the current density despite the Future Land Use designation), if the applicant applied for an Administrative Action Non-Conforming Lot of Record under Sections 62-1188 and 62-1189, it would only address the current development of the property, not the proposed new development of a maintenance building. Therefore, though approval of this application, current residential non-conforming use of the property would be recognized while allowing for the new proposed structure.

Procedure for mitigating a nonconformity, Section 62-1190(a): Many nonconformities have been in neighborhoods for a long time. Some may have only recently become nonconforming. In many instances, the use is an integral part of the neighborhood's function. The purpose of zoning is to protect neighborhoods. Therefore, if the community is comfortable with the particular use or structure, the classification "nonconformity" may not be what the community desires. Under such conditions, the use may be mitigated and made conforming to remove the stigma typically associated with the designation as a nonconforming use. This section's provisions for nonconforming uses, structures, or lots provide the procedures for making a nonconformity conform.

ZONING HISTORY:

The subject property was platted and recorded in PB 8, PG 86, dated December 31, 1926, as part of Indian River Groves and Gardens Tracts 66 and 67.

On May 22, 1958, the Brevard County zoning code was established, with the subject property having AU (Agricultural Use) zoning classification on Tract 67 and RU-1 (Single-family residential) zoning classification on Tract 66.

On February 7, 1963, the Board approved rezoning the Tract 67 portion from AU to RU-3 (multi-family residential) under zoning action **Z-0919**.

On August 6, 1964, the Board approved rezoning the Tract 66 portion from RU-1 to RU-3 under zoning action **Z-1467**.

Based on the best available historical data, staff analysis has determined that RU-3 zoning classification was redesignated administratively to RU-2-30, under Ordinance 89-17, in March 1990.

The parcel, since that time, has kept the RU-2-30 zoning classification.

The site has direct access off Marywood Road, a County-Maintained Right-of-Way.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Mobile Home Park	TR-3	RES 4
South	Aurora Oaks Subdivision	RU-1-7	RES 6
East	Single-family residences and a church	RU-1-13 & IN(L)	RES 4
West	Church/ religious sorority home	IN(L)	RES 4

North of the subject property is a 13.7-acre parcel, a developed mobile home park with 69 units, with TR-3 zoning classification and RES 4 FLU designation.

South of the subject property across Aurora Road is the Aurora Oaks subdivision, approximately 14.3 acres in size, developed with approximately 60 single-family residences on approximately 0.13 to 0.25-acre lots. The subdivision has RU-1-7 zoning classification and RES 6 FLU designation.

East of the subject property across Marywood Road is seven (7) parcels, approximately 0.25 acres each, developed with single-family residences, zoned RU-1-13 with RES 4 FLU. There is one additional parcel, approximately 0.78 acres in size, developed as a church, with IN(L) zoning classification and RES 4 FLU designation.

West of the subject property is a 7.26-acre parcel, developed as a church/ religious sorority home, with IN(L) zoning classification and RES 4 FLU designation.

TR-3 zoning is a mobile home park zoning classification with a minimum lot size of 10 acres for the park. Mobile home sites must be at least 4,000 square feet, with a minimum width of 40 feet.

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.

RU-1-13 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 7,500 square foot lots, with minimum widths and depths of 75 feet. The minimum house size is 1,300 square feet. RU-1-13 does not permit horses, barns, or horticulture.

IN(L) is an Institutional (Light) zoning classification, intended to promote low-impact private, nonprofit, or religious institutional uses to service the needs of the public for facilities of an educational, religious, health, or cultural nature.

The subject property's current RU-2-30, high-density multiple-family residential zoning classification encompasses lands devoted to multiple-family residential development, together with such accessory uses as may be necessary or are normally compatible with residential surroundings, permits high-

density multi-family residential development of up to 30 units per acre. Multiple-family residential structures may be constructed on a minimum lot size of 10,000 square feet, with at least 100' of lot width and 100' of lot depth. Single-family residences are also permitted on minimum lot sizes of 7,500 square feet with at least 75' of lot width and 75' of lot depth.

Land Use

The subject property is currently designated RES 4 (Residential 4). The RU-2-30 zoning classification cannot be considered consistent with the RES 4 FLU designation.

Applicable Land Use Policies

Residential 4 (maximum of 4 dwelling units per acre)

Policy 1.7

The Residential 4 land use designation affords an additional step down in density from more highly urbanized areas. This land use designation permits a maximum density of up to four (4) units per acre, except as otherwise may be provided for within this element. The Residential 4 land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan:

Criteria:

A. Areas adjacent to existing Residential 4 land use designation; or

Properties abutting the subject property to the north, east, and west are currently designated with RES 4 FLU.

B. Areas which serve as a transition between existing land uses or land use designations with density greater than four (4) units per acre and areas with density of less than four (4) units per acre; or

The subject property is not considered transitional. RES 4 is located on both the north and south sides of Aurora Road. RES 4 FLU is predominantly on the north side of Aurora Road, with a few parcels south and west of the subject property along Aurora Road with RES 4 FLU. RES 4 FLU can be found outside the search radius, approximately over one (1) mile until properties are in the jurisdiction of the City of Melbourne. Based on the best analysis of the area, the RES 4 FLU has been the designated FLU on the subject property since the inception of the Brevard County Comprehensive Plan in 1988. South of the subject property across Aurora Road is predominantly RES 6 FLU.

C. Unincorporated areas which are adjacent to incorporated areas and may be considered a logical transition for Residential 4.

The subject property is abutted by unincorporated properties; however, within the area, it does include areas that are incorporated in the City of Melbourne jurisdiction.

D. Up to a 25% density bonus to permit up to five (5) units per acre may be considered with a Planned Unit Development were deemed compatible by the County with adjacent development, provided that

minimum infrastructure requirements outlined in Policy 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses. This density bonus shall not be utilized for properties within the CHHA.

The applicant's request is not part of a PUD application. No density bonus is requested.

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 through 8 of the Future Land Use Element, outlined in the Administrative Policies.

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.

Staff analysis: Regarding the hours of operation, lighting, odor, noise levels, traffic, or site activity, the proposed CUP must comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272. The Board may require additional conditions and/or limitations.

If the CUP is approved, the applicant intends to build a new maintenance building on the site to help maintain the existing 50 units on the property. It is not anticipated that the addition of the maintenance building would significantly diminish the enjoyment, safety or quality of life in the existing neighborhoods within the area.

- 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.

Staff analysis: Only a certified MAI 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 three (3) FLU designations within a half-mile radius of the subject property. They include RES 4, RES 6, and RES 15. Res 4 is the predominant FLU designation in the area.

Within the area, new development has been sparse; however, predominantly in the area are single-family dwellings with a mixture of single-family mobile homes.

There are multiple zoning classifications within a half-mile radius of the subject property. They include BU-2, BU-1, TR-3, IN(L), TR-1, RU-1-13, SR, TR-1-A, RR-1, EU, RU-1-7, RRMH-1 and AU. RR-1 is the predominant zoning classification in the area.

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

There has been no new development within a half-mile radius of the subject property within the last three (3) years.

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

Staff Analysis: There has been one zoning approval in the past three (3) years.

- **23Z00083 changed zoning from RU-1-7 and TR-1 to BU-2 with a BDP on a 5.32-acre parcel located on the south side of Aurora Road, approx. 425 ft. southeast of the subject property on August 8, 2024. The property is developed as an RV and boat storage, as the BDP on the property limits the uses to all BU-1 and only the BU-2 use of RV and boat storage.**

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

Staff analysis: 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.

This property was developed in 1966, according to the Brevard County Property Appraiser's website. The applicant has been established at this site since the development of the property. Based on staff analysis, the requested CUP is not anticipated to materially or adversely affect the surrounding developments.

Traffic from the proposed development will impact the surrounding area, however, the corridor is anticipated to operate within the Maximum Acceptable Volume (MAV). The maximum development potential from the proposed FLUM amendment increases the percentage of MAV utilization by 0.19%. The corridor

is anticipated to operate at 53.65% of capacity daily. 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.

The area has well-established boundaries, roads, and open spaces. The subject property is not located in a residential neighborhood or subdivision but is located on Marywood Road, which is between Aurora Road and White Road.

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.

Staff analysis indicates that the area is residential in character. The northside of Aurora Road surrounding the subject property has a residential nature, as there are a couple of mobile home parks with varying sizes of single-family residential and single-family mobile home properties to the north, a church with single-family residential dwellings, and single-family mobile home properties on at least 0.25 acres located east. South across Aurora Road is Aurora Oaks subdivision with approximately 60 single-family residences on approximately 0.13-acre lots, single-family dwellings on varying lot sizes of at least 0.25 acres, and single-family mobile home properties, along with a commercial RV and boat storage property. West of the subject property is a church and single-family residential property on varying lot sizes of at least one acre.

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.

Staff analysis has determined the subject parcel is located directly on Aurora Road. The area is predominantly residential with a couple of churches and sparse commercial properties.

Administrative Policy #5 - The impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered.

The proposed CUP will access Aurora Rd. segment between John Rodes Blvd. to Turtlemound Rd. The maximum development potential from the proposed CUP increases the percentage of MAV utilization by 0.19%. The Aurora Rd. corridor is anticipated to operate at 53.65% of capacity daily. The request is not anticipated to create a deficiency in LOS.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Aurora Rd. between John Rodes Blvd. and Turtlemound Rd., which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 53.46% of capacity daily. The maximum development potential from the proposed CUP increases the percentage of MAV utilization by 0.19%. The Aurora Rd. corridor is anticipated to operate at 53.65% of capacity daily. The request is not anticipated to create a deficiency in LOS.

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

The parcel has centralized utilities serviced by the City of Melbourne Utilities for water and sewer.

Special Considerations for CUP (Conditional Use Permit)

The Board should consider the compatibility of the proposed CUP pursuant to Section 62-1151(c) and to Section 62-1901, as outlined on pages 6 – 8 of these comments. Section 62-1901 provides that the approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. **The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved.** The applicant's responses and staff observations, if any, are indicated below.

Section 62-1151(c) directs the Board to consider the character of the land use of the property and its surroundings; changes in the conditions of the land use being considered; impact upon infrastructure; compatibility with land use plans for the area; and appropriateness of the CUP based upon consideration of applicable regulations relating to zoning and land use within the context of public health, safety and welfare. The applicant has submitted documentation in order to demonstrate consistency with the standards set forth in Section 62-1901 and Section 62-1190, Procedure for mitigating a non-conforming use.

This request should be evaluated in the context of **Section 62-1190**, which governs the procedure for mitigating a nonconformity:

- A) Many nonconformities have been in neighborhoods for a long time. Some may have only recently become nonconforming. In many instances, the use is an integral part of the neighborhood's function. The purpose of zoning is to protect neighborhoods. Therefore, if the community is comfortable with the particular use or structure, the classification "nonconformity" may not be what the community desires. Under such conditions, the use may be mitigated and made conforming to remove the stigma typically associated with the designation as a nonconforming use. This section's provisions for nonconforming uses, structures, or lots provide the procedures for making a nonconformity conform.

Staff analysis: The applicant has a 12.15-acre site that currently provides low-rent housing to citizens through the Housing Authority of Brevard County. The housing authority has owned the property for over 30 years. The property currently has RU-2-30 zoning with RES 4 FLU, which is not consistent. However, to make the property conform, they have applied for a CUP since there is no RES 30 FLU within the surrounding area, which is the FLU needed to make the property conform. The CUP, if approved, would recognize the nonconformity and allow for the housing authority to build a maintenance building on site to better assist with the upkeep of the property.

- B) Any nonconforming lot, use, or structure may apply for a conditional use permit for the lot, use, structure, or sign.

The subject property is currently nonconforming as the RU-2-30 zoning classification and the RES 4 FLU designation are not considered compatible.

- C) In addition to the criteria for a conditional use approval set forth in section 62-1901, the applicant shall meet the following requirements:

(1) Demonstrate that the use, as conducted and managed, has minimal noncompatibilities that have been integrated into the neighborhood's function. Factors to evaluate this criteria include that:

- a. The neighborhood residents patronize or are employed at the use (for nonresidential uses).

The subject property is a residential duplex housing area providing low rent to citizens.

- b. Management practices eliminate problems such as noise, waste materials, competition for on-street parking, or similar conflicts.

Based upon historical data, the management practices that have been used have created no official complaints to Brevard County Code Enforcement.

- c. The use has a minimal history of complaints (including police or fire calls) against it.

Based upon historical data, there has been no history of code enforcement complaints. There has been one noted fire assistance call related to a kitchen fire.

- d. The use has been maintained in good condition, or that the nonconformity represents a disincentive for such maintenance.

There have been no code enforcement actions related to the conditions of the property. The nonconformity is not related to any condition of the site or causes a lack in any maintenance of the site.

- 2) The planning and zoning board shall review the application and recommend in writing, to the board of county commissioners, any conditions relative to the expansion of buffer yards, landscaping, or other site design. The review may also contain use limitations believed necessary to address any concerns that as a conforming use it might become a nuisance.

There has been no historical data showing any code enforcement complaints related to nuisance issuance for the use of the property. The site is currently developed with 50 units and wants to add a maintenance building to help better maintain the property.

- 3) The planning and zoning board shall submit to the board of county commissioners a list of all the property's nonconforming conditions.

The current zoning classification, RU-2-30, and the established RES 4 FLU designation are the only non-conformities to the subject property, as neither is considered compatible.

- 4) The planning and zoning board shall first determine that the use is generally integrated into the neighborhood and has minimal adverse impacts. Upon that finding, the LPA may recommend to the board of county commissioners, conditions as it deems necessary to ensure that the use remains a good neighbor.

The board may wish to add conditions if it is deemed necessary. However, the use of the property has been the same for over 30 years, and the request doesn't expand the residential development of the property.

- 5) Sign mitigation shall not be permitted in any circumstance.

The CUP request does not include any mitigation for a nonconforming sign.

- (D) Upon board of county commission approval of a conditional use permit, the county manager or his/her designee shall have a notation placed on the official zoning maps stating that the property is a conditional use. Granting the conditional use makes the use, lot, or structure conform to the specifics of the conditional approval, eliminating the nonconformance.

With approval of the CUP, the housing authority will be able to build a new maintenance building to better keep the site maintained and stay aligned with historical use and harmony within the neighborhood.

General Standards of Review

Section 62-1901(c)(1)(a): The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1) the number of persons anticipated to be using, residing or working under the conditional use; (2) noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3) the increase of traffic within the vicinity caused by the proposed conditional use.

Applicant's Response: This commercial facility will be used for maintenance & office. This facility will be used to help maintain the existing 50 units on the 12.15-acre site. 1) Use will be by (8) or less people. Occupancy of (8) people at the same time is not expected and will be a rare occurrence. 2. No excess noise is expected with the exception of those associated with normal maintenance. No odor, no particulates, no smoke, no fumes and no other emissions, or nuisance activities will be associated with this use. 3) With (8) or less people using the facility, increases in traffic will be negligible.

Staff analysis: The proposed CUP must comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272. The request is not anticipated to create a deficiency in Aurora Road traffic Level of Service (LOS).

Section 62-1901(c)(1)(b): The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.

Applicant's Response: This facility will be owned & operated by the Housing Authority of Brevard County. The quiet nature of the maintenance and office building will be compatible with the adjacent MFR it will help serve. The proposed 4,000 sf building location is interior to 12.15 acres multifamily residential (MFR) property already owned by the Housing Authority. Necessary parking will be provided on the site. Traffic generation is expected to be negligible.

Staff analysis: The subject property is located in a residential area of character and is currently developed with 50 units, which is owned and operated by Housing Authority of Brevard County. The request is for a new maintenance building and does not include any new residential. It is not anticipated to cause any issues with the current development or surrounding residential uses or cause a deficiency in LOS. Any issues related to LOS, performance standards or parking would be handled at site plan review.

Section 62-1901(c)(1)(c): The proposed use will not cause a substantial diminution in value of abutting residential property. Note: A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15 percent reduction in value as a result of the proposed conditional use. A reduction of ten percent of the value of abutting property shall create a reputable presumption that a substantial diminution has occurred. The board of county commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by a MAI certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.

Applicant's Response: Proposed project site is interior on the 12.5-acre property already owned by the Housing Authority of Brevard County. Three sides of the site are currently owned by the Housing Authority. The 4th side will abut Marywood Drive. Diminution of value is not anticipated.

Staff analysis: Competent and substantial evidence by a MAI certified appraiser has not been provided by the applicant.

Section 62-1901(c)(2)(a): Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1) adequate to serve the proposed use without burdening adjacent and nearby uses, and (2) built to applicable county standards, if any.

Note: Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20 percent, or ten percent if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at level of service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable county standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of

vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.

Applicant's Response: Ingress & Egress to the property & facility will be from Marywood Drive. 1. The site will be designed with the intended use in mind, not burdening adjacent or nearby uses. 2. The project will require site planning with Brevard County. Thus, will be constructed to Brevard County Standards. Vehicular Access, pedestrian safety/ convenience, traffic flow/ control and response will all be considered in design.

Staff analysis: This property has ingress and egress off Marywood Drive, which is directly on the north side of Aurora Road. Any issues with performance standards and traffic concerns related to the development of the new maintenance building will be addressed at site plan review.

Section 62-1901(c)(2)(b): The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.

Applicant's Response: This facility will be used for maintenance & office. Due to the proposed use, noise, glare, odor, particulates, smoke, fumes and other emissions are not anticipated.

Staff analysis: The proposed must comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272. Any proposed outdoor lighting and noise standards should remain within code requirements, or a violation will be created.

Section 62-1901(c)(2)(c): Noise levels for a conditional use are governed by section 62-2271.

Applicant's Response: This facility may or may not be occupied between the hours 7:00 am & 10:00 pm. This facility will be used for maintenance & office. Everyday sound levels are expected to be significantly below maximum allowable sound limits. Near zero.

Staff analysis: There are no anticipated noise level issues, but the site must comply with the noise ordinance within Brevard County Performance standards Sections 62-2251 through 62-2272.

Section 62-1901(c)(2)(d) The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.

Applicant's Response: This facility will be used for maintenance & office. Anticipated solid waste generation is expected to be very minor. Thus, not exceed the LOS for the site or area.

Staff analysis: The adopted level of service for solid waste disposal is not anticipated to be affected.

Section 62-1901(c)(2)(e): The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to

be exceeded by the proposed use.

Applicant's Response: This project is proposing (2) offices interior to the building with the required restroom. Water & sewer will be connected to City of Melbourne Utilities, providing service to this area. Potable water & sewer flows are expected to be minor.

Staff analysis: The CUP should not exceed the adopted level of service for potable water or wastewater. The development is connected to public sewer system.

Section 62-1901(c)(2)(f): The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.

Applicant's Response: The proposed project will have a security fence installed to safeguard & screen the facility. A landscape Plan will be included with the site plan review. This plan will meet Brevard County Landscape requirements and take into consideration buffering any nuisances, sight and noise impact to the adjacent properties.

Staff analysis: The property was developed in 1966, according to the Brevard County Property Appraiser's website. The property has to ensure it meets the Brevard County Performance Standards.

Section 62-1901(c)(2)(g): Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to, traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.

Applicant's Response: No signs are currently proposed. Exterior lighting, if any, will be included in the site plan for review. A site lighting (photometric plan) will be developed to demonstrate the lighting meets or exceeds Brevard County Lighting Standards. Light levels cannot exceed maximum allowable levels at the property line.

Staff analysis: Any new signage and lighting would need to meet the current Brevard County Code.

Section 62-1901(c)(2)(h): Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.

Applicant's Response: This commercial facility may or may not be occupied between the hours 7:00 am & 10:00 pm. These hours are consistent with a normal residential community hours. Effect or adverse impacts to area residential is not anticipated. Negligible

Staff analysis: The hours of operation appear to be in line with the historical use of the property. Brevard County performance standards regarding hours of operation will need to be followed. There are no anticipated adverse impacts to the residential use of the property or adjacent properties.

Section 62-1901(c)(2)(i): The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.

Applicant's Response: The proposed building eave height is not expected to exceed 25'. This is not 35' higher than the highest residence within 1000 feet. Not applicable

Staff analysis: The proposed development is a single-story building and is required to meet the height requirements.

Section 62-1901(c)(2)(j): Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

Note: for existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

Applicant's Response: All parking & loading areas will be on site. These areas will be included in a site plan to be reviewed by Brevard County. A Landscape Plan will be included in the site plan to provide required buffering along Marywood Drive right of way (adjacent properties).

Staff analysis: The subject property was developed in 1966. The applicant states it will operate in the same historical manner. With the proposed development of a new maintenance building and office, the applicant understands the requirement to be reviewed for compliance with the Brevard County Code during the site plan review.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils
- Land Clearing and Landscape Requirements

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

For Board Consideration

The Board should consider if the application meets the intent of Section 62-1190(a), which states that "Many nonconformities have been in neighborhoods for a long time. Some may have only recently become nonconforming. In many instances, the use is an integral part of the neighborhood's function. The purpose of zoning is to protect neighborhoods. Therefore, if the community is comfortable with the particular use or structure, the classification "nonconformity" may not be what the community desires. Under such conditions, the use may be mitigated and made conforming to remove the stigma typically

associated with the designation as a nonconforming use.” If it does, the Board should consider whether all criteria have been met to qualify for the mitigation.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item No. 25Z00022**

Applicant: Michael Bean (Owner: Housing Authority of Brevard County)

Zoning Request: CUP - mitigation of non-conforming use

Note: To construct 4,000 sf maintenance building; Existing density (50 units) exceeds 4 units per acre (RES 4).

Zoning Hearing: 10/13/2025; **BCC Hearing:** 11/06/2025

Tax ID No.: 2702810

- 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
- Land Clearing and Landscape Requirements

Land Use Comments:

Hydric Soils

A small portion of the subject parcel along the north and west property boundaries contains mapped hydric soils (Malabar sand, 0 to 2 percent slopes); indicators that wetlands may be present on the property. However, the hydric soils are not mapped within the proposed development area.

Land Clearing and Landscape Requirements

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) tree preservation. Land clearing is not permitted without prior authorization by NRM. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**