



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

25Z00050

100 Flug Ave LLC.

BU-1 (General Retail Commercial) to RU-2-15 (Medium-Density Multiple-Family Residential)

Tax Account Number: 2730890
Parcel I.D.s: 27-38-30-51-1-1
Location: 100 Flug Ave. Indialantic 32903 (District 5)
Acreage: 0.29 acres

Planning & Zoning Board: 01/12/2026

Board of County Commissioners: 02/5/2026

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**	RU-2-15
Potential*	2 Multi-Family Residence (Triplex) or 8 Multi-family Units**	1 Multi-Family Residence (Triplex)
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 to change the zoning from BU-1 (General Retail Commercial) to RU-2-15 (Medium-Density Multi-Family Residential) on 0.29 acres, so the applicant can develop a multi-family triplex. The property is currently zoned BU-1, General Retail Commercial, which would allow for a single-family residence but not a multi-family residential use.

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 rental units that, for a period of at least 30 years, are affordable as defined in Florida Statute 420.0004. 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 0.69 acres with approximately 0.60 acres zoned BU-1 commercial, would currently allow for the development of 18 multi-family units as stipulated by the Live Local Act.

Comments from NRM may impact development on the subject property:

- This property contains Canaveral-Palm Beach-Urban land complex, classified as an aquifer recharge soil. Additionally, the mapped topographic elevations show that the property falls within a Type 3 Aquifer Recharge area, which is 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.

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.

RU-2-15 medium-density multiple-family residential zoning classifications encompass lands devoted to medium-density multifamily residential purposes, together with such accessory uses as may be necessary or are normally compatible with residential surroundings. RU-2-15 permits multiple-family residential uses or single-family residences at a density of up to 15 units per acre on 7,500 square foot lots. Resort dwellings are a permitted use in the classification (it is also permitted in the current BU-1 classification).

The subject property's current configuration was recorded in PB 14, PG 29, as Green Field Subdivision on October 10, 1960.

Zoning History Actions:

RU-1 was the original established zoning classification on the subject property upon the adoption of the Brevard County Zoning Regulations on May 22, 1958.

On April 7, 1960, zoning action **Z-0332**, the subject parcel was part of a mass administrative rezoning for properties with RU-1 & RU-2 zoning to BU-1.

The subject property retains the original FLU, Community Commercial (CC), from when Brevard County Comprehensive Plan was established in 1988.

The subject property has direct access to N. Highway A1A, which is an FDOT-maintained right-of-way.

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

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Retail Store	BU-1	CC
South	Restaurant, Duplex	BU-1, RU-2-15	CC, RES 15
East	Vacant, motel	GML, RU-2-15	PUB-CONS, NC
West	Duplex	RU-2-15	RES 15

North of the subject property is a 0.5-acre parcel, developed as a retail store with BU-1 zoning and CC FLU designation.

South of the subject property across Flug Ave. is a 0.47-acre parcel developed as a restaurant, with BU-1 zoning classification and CC FLU designation. A second parcel is 0.18 acres, developed with a duplex, RU-2-15 zoning, and RES 15 FLU designation.

East of the subject property, across N. Highway A1A, are two (2) parcels. The first is 0.7 acres of vacant land that has GML with PUB-CONS FLU designation. The second parcel is 0.96 acres, developed with a motel, Ocean Front Paradise, which was built in 1954, and has RU-2-15 zoning and NC FLU designation.

West of the subject property is a parcel 0.17 acres, developed with a duplex which has RU-2-15 zoning and RES 15 FLU designation.

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 purpose of the GML government managed lands zoning classification is to recognize the presence of lands and facilities which are managed by federal, state and local government, special districts, nongovernmental organizations (NGOs) providing economic, environmental and/or quality of life benefits to the county, electric, natural gas,

water and wastewater utilities that are either publicly owned or regulated by the Public Service Commission, and related entities.

RU-2-15 medium-density multiple-family residential zoning classification encompass lands devoted to medium-density multifamily residential purposes, together with such accessory uses as may be necessary or are normally compatible with residential surroundings. RU-2-15 permits multiple-family residential uses or single-family residences at a density of up to 15 units per acre on 7,500 square foot lots.

Land Use

The subject property's BU-1 zoning classification can be considered consistent with the CC Future Land Use designation provided on the FLUM series contained within Chapter XI – Future Land Use Element of Brevard County's Comprehensive Plan. The subject property's RU-2-15 zoning classification can be considered consistent with CC if permitted by Policy 2.10 of the Future Land Use (FLU) Element.

Applicable Land Use Policies

FLUE Policy 2.10- Residential Development in Neighborhood Commercial and Community Commercial Land Use Designations

Residential development or the integration of residential development with commercial development shall be permitted in the Neighborhood Commercial and Community Commercial land use designations, provided that the scale and intensity of the residential/mixed use development is compatible with abutting residential development and areas designated for residential use on the Future Land Use Map. Residential development is permissible in these commercial land use designations at density of up to one category higher than the closest residentially designated area on the Future Land Use Map (FLUM) which is on the same side of the street. In this case, RES 15 is present on the same side of the street. Increases in density beyond this allowance may be considered through a public hearing. In the CHHA, however, residential development is strictly limited to the density of the closest residentially designated area on the FLUM that is on the same side of the street. Such residential development, as described above, shall be allowed to utilize the following characteristics:

Criteria:

- A. Residential uses within Neighborhood Commercial and Community Commercial designations shall be encouraged to utilize neo-traditional neighborhood development techniques, such as narrower road rights-of-way, mid-block pedestrian pass-throughs, alleys, smaller lot sizes, on-street parking, reduced lot line setbacks and public transit facilities.

The owner proposes to develop a vacant, undeveloped parcel with a single-family attached triplex. The zoning request abuts other multi-family residential zoning, which abuts the subject property to the west. There are also multi-family properties situated south of Flug Ave.

- B. Residential density bonuses as set forth in Policy 11.2 may be considered in addition to the bonus stated in the above policy within Neighborhood Commercial and Community Commercial designations as an incentive for redevelopment and regentrification if the proposed development will address serious incompatibility with existing land uses, is adequately buffered from other uses, is located along major transportation corridors, and meets the concurrency requirements of this Comprehensive Plan.

With the subject property, 0.29 acres, located in the CC FLU designation, the applicant wishes to utilize the RU-2-15 medium-density multi-family zoning. RU-2-15 zoning classification can be considered consistent with the CC FLU designation. The applicant's request proposes a 3-unit triplex on the subject property. The property is located adjacent to N. Highway A1A, classified as an urban principal arterial road by the SCTPO.

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

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.

Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use;

The applicant proposes to develop a triplex on the property. The proposed development would need to meet Performance Standards defined by Sections 62-2251 through 62-2272 for hours of operations, lighting, odor, noise levels, traffic, or site activity. A preliminary concurrency analysis does not indicate that the proposed request would impact the surrounding established residential area.

Additionally, RU-2-15 zoning classification has a maximum lot coverage of 40 percent, as noted in Section 62-1372 (4)(e). During site plan review, the applicant will need to demonstrate that the proposed development will meet this criterion, along with all of the RU-2-15 requirements.

- 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 (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;

The existing pattern is a mixture of single-family residential, multi-family residential, and commercial properties. Commercial uses in the area include restaurants and a motel, which was developed in 1954.

There are five (5) FLUM designations within a 0.5-mile radius of the subject property. They include RES 15, Community Commercial (CC), Neighborhood Commercial (NC), PUB-CONS (Public Conservation), and PUB (Public Facilities). The RES 15 is the predominant FLU designation in the area.

There are fourteen (14) zoning classifications within the 0.5-mile radius of the subject property: BU-1, RU-2-15, IN(L), GML, GU, RU-1-9, EU-2, RU-2-10, RU-1-11, RU-2-10(7), RU-2-10(9) , RU-2-30(18.5), RU-2-12, and EU. RU-1-11 and RU-1-9 are the predominant zoning classifications in the area.

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

There has been no actual development over the immediately preceding three years.

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

Staff analysis has determined there are two (2) developments approved but not yet constructed:

- **21Z00033: Approved on 1/27/2022 to rezone from RU-1-11 to RU-2-12 with a BDP to limit development to one duplex with two (2) units.**
- **22Z00046: Approved on 11/3/2022 to rezone from BU-1-A to RU-2-12 to construct six (6) multi-family residential units as three (3) duplexes.**

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 of the Comprehensive Plan has been identified.

Analysis of Administrative Policy #4 - Character of a neighborhood or area.

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

Staff analysis of a preliminary traffic concurrency indicates the proposed use will not materially and adversely impact the established single-family residential areas, multi-family residential, and commercial properties 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 subject property is located on the west side of N. Highway A1A and north side of Flug Ave., which is an existing mixed residential and commercial area. There are clearly established roads, open spaces, and residential lot boundaries.

- 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 is not for commercial use. It is located within an existing multi-family 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.

The subject parcel is not requesting to be rezoned for commercial, industrial, or other non-residential uses.

Analysis of Administrative Policy #7

Proposed use(s) shall not cause or substantially aggravate any (a) Substantial drainage problem on surrounding properties; or (b) significant, adverse and unmitigable impact on significant natural wetlands, water bodies or habitat for listed species.

This property contains Canaveral-Palm Beach-Urban land complex, classified as an aquifer recharge soil. Additionally, the mapped topographic elevations show that the property falls within a Type 3 Aquifer Recharge area, which is subject to impervious area restrictions. The property is mapped within the Indian River Lagoon Nitrogen Reduction Overlay District. Federally and/or state protected species may be present on the property. Specifically, Gopher Tortoises can be found in areas of aquifer recharge soils.

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 N. Highway A1A, between U.S. 192 and Paradise Blvd., which has a Maximum Acceptable Volume (MAV) of 37,910 trips per day, a Level of Service (LOS) of D, and currently operates at 55.10% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.06%. The corridor is anticipated to operate at 55.16% of capacity daily. The proposed development is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change

No school concurrency information has been provided as the development potential of this site falls below the minimum number of new residential lots that would require a formal review.

The subject property has access to centralized sewer from Brevard County Utilities and centralized water service from Melbourne Water Utility.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Land Clearing and Landscape Requirements
- 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 request is consistent and compatible with the surrounding area.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item No. 25Z00050

Applicant: Bruce Moia (Owner: 100 FLUG AVE LLC)

Zoning Request: BU-1 to RU-2-15

Note: for the construction of a single-family triplex (one building with 3 two-story units)

Zoning Hearing: 01/12/2026; **BCC Hearing:** 02/05/2026

Tax ID No.: 2730890

- 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
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Land Clearing and Landscape Requirements
- Protected Species

Land Use Comments:

Aquifer Recharge Soils

This property contains Canaveral-Palm Beach-Urban land complex, classified as an aquifer recharge soil. Additionally, the mapped topographic elevations show that the property falls within a Type 3 Aquifer Recharge area, which is 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 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.

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 and Specimen 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.**

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.