

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

Small Scale Plan Amendment 24S.07 (24SS00007)
Township 20G, Range 34, Section 22

Property Information

Owner / Applicant: Alexis DeJesus

Adopted Future Land Use Map Designation: Community Commercial (CC) and
Neighborhood Commercial (NC)

Requested Future Land Use Map Designation: Community Commercial (CC)

Acreage: 2 acres

Tax Account #: 2102561

Site Location: East side of Highway US 1 approximately 400 feet south of Andre Road.
(District 1),.

Commission District: 1

Current Zoning: General Use (AU & BU-1)

Requested Zoning: BU-2

Background & Purpose

The applicant is requesting to amend the Future Land Use (FLU) designation from Community Commercial (CC) and Neighborhood Commercial (NC) on 2 acres for the purposes of a unified FLUM across the entire proposed project area. The CC portion includes approximately 1.9 acres and 0.1 acres of NC. The applicant proposes to develop the site for mobile home sales and automobile sales. A CC FLU designation is required for consistency with the requested BU-2 zoning classification.

The parcel has access to Highway US 1. According to the survey there are at least three frame buildings (one used as a single-family residence), one concrete pad, and two carports on the subject property.

In 1988, Brevard County Comprehensive Plan went into effect applying the CC and NC Future Land Use designation to the subject property. The subject property retains the 1988 adopted Future Land Use designation. Approval of this request would provide a consistent FLU designation across the subject property.

The requested Community Commercial (CC) FLU permits development activities which are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation include the following: a) Existing strip commercial; b) Transient commercial uses; c) Tourist commercial uses; d) Professional offices; e) Personal service establishments; f) Retail establishments; g) Non-retail commercial uses; h) Residential uses; i) Institutional uses; j) Recreational uses; k) Public facilities; l) Transitional uses pursuant to Policy 2.1; and m) Planned Industrial Park development (as permitted by PIP zoning).

A companion application, **24Z00021**, if approved, would amend the zoning classification from AU (Agricultural Residential) and BU-1 (General Retail Commercial) to BU-2 (Retail, warehousing and wholesale commercial). The requested zoning classification requires CC FLU designation to be considered consistent with Chapter XI – Future Land Use Element of Brevard County’s Comprehensive Plan.

Under the CC FLU designation, BU-2 is the most intensive commercial zoning classification permitted.

The proposed BU-2 retail, warehousing and wholesale commercial zoning classification encompasses lands devoted to general retail and wholesale business, contracting and heavy repair services, outdoor storage yards, warehousing activities, and outside storage of retail items including, but not limited to, motor vehicles, utility sheds, nursery items such as plants and trees, boats and mobile homes.

BU-2 zoning is the county’s most intense commercial zoning classification due to the intensive nature of commercial activities permitted such as dry-cleaning plants; Seafood processing plants not located within 300 feet of any residential zone boundary; and testing laboratories. Other activities permitted with conditions in BU-2; Crematoriums; Manufacturing, compounding, processing, packaging, storage, treatment or assembly of certain products such as: Electronic assembly, Food, beverage and tobacco products, Pottery and figurines, Professional, scientific, photographic and optical instruments, Technical and scientific products and materials; and Recovered materials processing facility.

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Single family dwellings/auto body shop	BU-1, BU-2, TR-1	CC, NC
South	undeveloped	RU-1-11	CC
East	Single family dwellings	TR-1, RRMH-1, AU, RU-1-11	RES 4
West	Highway/retail store/undeveloped	BU-1, BU-2	CC

To the north are 3 parcels; single family with BU-1 zoning, classified by Brevard County Property Appraiser as auto body shop with CC FLU designation and BU-2 zoning and single family with NC FLU designation and TR-1 zoning.

To the east is 1 parcel; 0.41-acre (unplatted residential vacant land) with RES 4 FLU designation and AU zoning.

To the south is 1 parcel; 30 acres vacant land with CC designation and RU-1-11 zoning.

To the west is Highway 1, 0.72 acres of undeveloped land and 0.66 acres developed as a retail store, according to the Brevard County Property Appraiser.

The surrounding Land Use within half mile area is predominately Residential 4 (RES 4). Residential 4 (RES 4). This land use designation permits a maximum density of up to four (4) units per acre, except as otherwise may be provided for within FLU element. Community Commercial (CC) is the dominate land use along the Highway 1 corridor.

Future Land Use (FLU) designations, the county's Comprehensive Plan, indicates the intended use and development density for a particular area, while zoning classification specifically defines allowable uses and contains the design and development guidelines for those intended uses. The county's Comprehensive Plan shall be the guidance for consideration when considering the appropriate zoning district to rezone a property to, moving towards consistency with the FLUM.

Comprehensive Plan Policies/Comprehensive Plan Analysis

Comprehensive Plan Policies are shown in plain text; Staff Findings of Fact are shown in *italics*.

Notice: The Comprehensive Plan establishes the broadest framework for reviewing development applications and provides the initial level of review in a three layer screening process. The second level of review entails assessment of the development application's consistency with Brevard County's zoning regulations. The third layer of review assesses whether the development application conforms to site planning/land development standards of the Brevard County Land Development Code. While each of these layers individually affords its own evaluative value, all three layers must be cumulatively considered when assessing the appropriateness of a specific development proposal.

Role of the Comprehensive Plan in the Designation of Commercial Lands FLUE Policy 2.1

The Comprehensive Plan takes into consideration broad criteria for evaluating requests for commercial land use designations within Brevard County. At a minimum, these criteria address the following:

Criteria:

- A. Overall accessibility to the site;

The subject property has access along Highway 1. Accessibility will be reviewed at site plan.

- B. Compatibility and inter-connectivity with adjacent adopted Future Land Use designations and land uses;

The requested CC land use designation is present along this segment to north and south of Highway 1 on the same side of the road.

- C. Existing commercial development trend in the area;

Existing commercial development is limited along the Highway 1 corridor. The west side of Highway 1 and one lot to the North are developed with commercial uses. All of the commercial uses in the area have been established for sometime. Commercial uses in the area includes, but not limited to a garage and auto body shop, a small light manufacturing plant, warehousing and truck terminal, a retail store, fraternal organization clubhouse and vacant commercial parcel. Single-family residential are also located within this segment of Highway 1.

- D. Fundamental changes in the character of an area prompted by infrastructure improvements undertaken by the County;

There are no changes in the character of the area prompted by infrastructure improvements undertaken by the county. All development occurring is by private owners.

- E. Availability of required infrastructure at/above adopted levels of service;

The proposed development increases the percentage of MAV utilization by 6.90%. The corridor is anticipated to operate at 34.19% of capacity daily. The proposed development will not 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.

Potable water service may be provided by Brevard County Utility Water service. The closest Brevard County sewer line is approximately one and one-third (1.3) miles west across other properties to Indian River Parkway. An approved concurrency application, including potable water service capacity, sanitary sewer service capacity and solid waste capacity is required upon a formal site plan submission.

- F. Spacing from other commercial activities;

Existing commercial activity begins approximately 160 feet to the north and west across Highway 1. Commercial activity to the west is separated by Kelly Rd.

- G. Size of proposed commercial designation compared with current need for commercial lands;

A market analysis would determine the need for additional commercial in this area relative to the extent of the existing single-family residential development in the area.

- H. Adherence to the objectives/policies of the Conservation Element and minimization of impacts upon natural resources and systems;

Commercial and industrial land development activities shall be prohibited in wetlands contained in properties designated on the Future Land Use Map as commercial or industrial, and in surrounding upland buffers for such wetlands, except as provided below for I-95 interchanges, mitigation qualified roadways, abutting properties, and access to uplands.

The provisions of this Criterion will be addressed at the site plan stage.

- I. Integration of open space; and

Open space requirements will be addressed during site plan.

- J. Impacts upon strip commercial development.

Based on staff analysis this request would qualify as an infill development rather than an expansion of strip commercial.

Activities Permitted in the Community Commercial (CC) Future Land Use Designations

FLUE Policy 2.7

Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation, provided that the guidelines listed in Table 2.2 are met, include the following:

- a) Existing strip commercial;
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices;

- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;
- h) Residential uses;
- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;
- l) Transitional uses pursuant to Policy 2.1; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

The applicant is proposing to develop the property for mobile home and automobile sales.

Locational and Development Criteria for Community Commercial Uses Policy 2.8

Locational and development criteria for community commercial land uses are as follows:

Criteria:

- A. Community Commercial clusters of up to ten (10) acres in size should be located at arterial/arterial intersections. Collector/arterial intersections are acceptable for clusters of up to ten (10) acres in size, however, the collector roadways must serve multiple residential areas. Intrusion of these land uses into the surrounding residential areas shall be limited. For Community Commercial clusters greater than ten (10) acres in size, they must be located at principal arterial/principal arterial intersections.

There are 3 clusters of Community Commercial within and extends outward from the 500 feet boundary. Total acreage of the cluster to the north on the east side of Highway 1 is approximately 17.4 acres. The CC cluster to the south on the east side of Highway 1, including the subject property, is approximately 35.6 acres. RES 4 FLUM designation is located on the perimeter of these clusters.

- B. Community commercial complexes should not exceed 40 acres at an intersection.

The proposed commercial development of the subject will not exceed 40 acres at an intersection.

- C. Community commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.

The existing community commercial clusters are abutting the subject property and extend approximately quarter mile to the north and half mile to the south.

- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size unless within a Planned Unit Development (PUD) zoning classification. The square footage may be increased if it is located within a PUD zoning classification.

At this time, the applicant has not presented a conceptual plan for the proposed use. Any proposed development will be addressed during site plan stage to ensure compliance with Brevard County Land Development Regulations and other regulations.

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites unless accompanied with a PUD zoning classification wherein the FAR may be increased up to 1.75.

A gross Floor Area Ratio (FAR) of 1.00, if FLUM amendment is approved, would be applicable to the subject property.

- F. Recreational vehicle parks shall be located in areas which serve the needs of tourists and seasonal visitors to Brevard County. The location of recreational vehicle parks shall have access to interstate interchanges via arterial and principal collector transportation corridors or the property shall be located on a major multi-county transportation corridor.

The concurrent requested zoning classification is BU-2 and does not permit recreational vehicle parks.

Administrative Policy 3

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered. 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;

Although there are properties developed as residential in the surrounding area, it would not be considered an existing neighborhood. The applicant is proposing to develop the property for mobile home and automobile sales.

The applicant has not provided hours of operation, a lighting plan, or a traffic analysis. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan stage should the zoning and Future Land Use change be approved.

- 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;

There are three (3) FLU designations within 500 feet of the subject site: CC, NC and RES 4. Predominant FLU designations CC and RES 4.

There are 3 clusters of Community Commercial within and extends outward from the 500 feet boundary. Total acreage of the cluster to the north on the east side of Highway 1 is approximately 17.4 acres. The CC cluster to the south on the east side of Highway 1, including the subject property, is approximately 35.6 acres. Located to the west across Highway 1 are several smaller clusters of CC.

Staff analysis indicates the proposed use may be considered consistent with the existing pattern of development along Highway 1.

FLUM amendments within one-half mile within the past three years:

- **23SS00007 request to amend FLUM designation from REC to RES 4 on 2.12 acres, approved 09/01/2022 located approximately 735 feet east of the subject property.**

Zoning actions within one-half mile within the past three years:

- **22Z00029 – RU-1-11 with BDP, SR with BDP, GML & AU to RU-1-7 with BDP on 76.52 acres limiting the project density to 197 units,**
- **21Z00026 – AU to SR on 0.5 acres,**
- **21Z00025 – AU to RR-1 on 1.15 acres,**
- **There are no pending zoning actions within one-half mile of the subject property.**

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

Construction of one single family home has occurred within the immediate preceding three years approximately 625 feet north west of the subject property.

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.

Administrative Policy 4

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 indicates the subject property is not located within an established residential neighborhood. The applicant has not provided hours of operation, a lighting plan, or a traffic analysis. The proposed development increases the percentage of MAV utilization by 6.90%. The corridor is anticipated to operate at 34.19% 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.

- 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 indicates the subject property is not located in an established residential neighborhood or area.

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 existing FLU designation of commercial. This request does not encroach into the existing the 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.

Along the east side of Highway 1 is a mix of commercial uses, single-family residential and vacant land.

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 unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.

Based on Natural Resources analysis, the proposed use is not anticipated to cause or substantially aggravate any (a) substantial drainage problem on surrounding properties; or (b) significant, adverse and unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species. However, development of the property may be limited due to Type 2 Aquifer Recharge soils that have impervious area restrictions.

Concurrency

The closest concurrency management segment to the subject property is US Hwy 1, from Lionel Rd. to State Road 46, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 27.29% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 6.90%. The corridor is anticipated to operate at 34.19% of capacity daily. The proposal 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.

The concurrency analysis provided above is preliminary and represents an estimate of impacts resulting from the proposed uses. However, if a site plan for the property is submitted and the development proposal will cause a deficiency of the above mentioned levels of service, then the County reserves the right to exercise the following options: deny or defer the proposal; cause the proposal to be modified to achieve consistency with

the minimum LOS; or process the proposal as a conditional development permit pursuant to Section 62-604 of the Brevard County Code of Ordinances.

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

The subject parcel is within the Brevard County Water utilities service area for potable water. A Brevard County water node and line is located directly fronting the property on Highway 1. The closest Brevard County sewer line is approximately one and one-third (1.3) miles west across other properties to Indian River Parkway. An approved Concurrency Application, including potable water service capacity, Sanitary sewer service capacity and solid waste capacity is required upon a formal site plan submission.

Environmental Resources

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

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

Historic Resources

There are no recorded historic or archaeological sites on the project site according to the Master Site File from the Florida Division of Historic Resources.

For Board Consideration

The Board may wish to consider if the request is consistent and compatible with the surrounding area.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Land Use Review & Summary
Item No. 24SS00007

Applicant: Alexis DeJesus (Owners: Alexis DeJesus, Rosemary DeJesus, Brandon DeJesus)

Land Use Request: CC & NC to all CC

Note: To sell mobile homes and automobiles

LPA Hearing: 06/10/2024; **BCC Hearing:** 07/11/2024

Tax ID No.: 2102561

- 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 Species
- Protected and Specimen Trees
- Enforcement

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

Aquifer Recharge Soils

This property contains Pomello sand and Orsino fine sand, classified as aquifer recharge soils. Mapped topographic elevations indicate the soils may consist of Type 2 Aquifer Recharge soils that have 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 and Specimen Trees likely exist on the parcel. Brevard County Landscaping, Land Clearing and Tree Protection ordinance Section 62-4337, entitled Permit Application Requirements and Review Process, states that a permit shall be required

prior to any land clearing activities unless exempt. 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. The confirmation of unpermitted land clearing activities may result in code enforcement action. **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.

Enforcement

There is an active Code Enforcement case (24CE-00510) for unpermitted land clearing on the property in 2023/2024. The case is pending.