



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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**STAFF COMMENTS**

**22Z00006**

**Norfolk Parkway LLC.**

**GU with a CUP for Towers and Antenna to BU-2 with Proposed Binding Development Plan (BDP) and the removal of a CUP for Towers and Antenna**

Tax Account Number: part of 2802676  
Parcel I.D.: 28-36-13-00-758  
Location: North side of Norfolk Parkway, 1,200 feet west of Minton Road (District 5)  
Acreage: 17.5 acres of 18.11-acre total size

Planning & Zoning Board: 3/14/2022

Board of County Commissioners: 4/07/2022

**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)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	GU with CUP for towers and antenna	BU-2 with BDP and removal of CUP for towers and antenna
<b>Potential*</b>	Two single-family lots	762,300 square feet of commercial use
<b>Can be Considered under the Future Land Use Map</b>	Yes CC	Yes CC

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

**Background and Purpose of Request**

The applicant is requesting a change of zoning classification from GU (General Use) with a Conditional Use Permit (CUP) for Towers and Antenna to BU-2 (Retail, Warehousing and Wholesale Commercial) with a Binding Development Plan (BDP) and the removal of the CUP for Towers and Antenna to create a storage facility with outdoor boat/RV parking. The submitted BDP proposes eight (8) site limitations. Those limitations are: 1) Provide a 50-foot undisturbed vegetative buffer and to maintain the existing vegetative buffer along the west and north boundaries of the property. No improvements shall be allowed within the buffer; 2) Limit the number of outdoor storage spaces to 350; 3) Limit ingress and egress to Norfolk Parkway; 4) Limit use to a boat and RV storage facility and related ancillary services and facilities; 5) Not to provide a RV dump station unless public sewer connection is obtained; 6) Limit outdoor lighting to 17-feet in height when measured from grade to

bottom of the light fixture; 7) Provide a traffic study detailing any required roadway improvements including, but not limited to, a westbound right turn lane, at the time of site plan submittal; and, 8) No residing or overnight stays within stored vehicles shall be allowed.

A prior application submittal was applied for under Zoning application # **20Z00015**. That request failed to record a Binding Development Plan (BDP) prior to its expiration. The Board's last hearing on that request was on February 4, 2021. The BDP conditions proposed under that action were: 1.) to develop the property as a boat and RV storage facility and related ancillary services and facilities; 2.) to provide a 50-foot buffer along the west and north boundaries of the property, in lieu of a 6-foot wall; 3.) to limit the number of outdoor storage spaces to 350; 4.) to limit ingress and egress to Norfolk Parkway; 5.) the site shall be developed as a Boat & RV storage facility and related ancillary service and facilities; 6.) to prohibit a sewage dump station unless public sewer connection is obtained; 7.) to limit outdoor lighting to 17 feet in height from grade to bottom of light fixture; 8.) to provide a traffic study detailing any required roadway improvements including, but not limited to a right turn lane, at the time of site plan submittal. If an improvement is warranted, and approved by the City of West Melbourne, it shall be constructed accordingly; 9.) to prohibit residing and overnight stays within the stored vehicles; 10) complying with applicable Florida Department of Environmental Protection requirements for building on a landfill.

This site previously had a CUP for towers and antenna approved under Z-6769 which was adopted on July 12, 1984. The existing tower (480-foot tall) is located to the north and outside of this zoning action's legal description. The applicant does not wish to retain the CUP over this property description. The GU zoning is original zoning dating back to May 22, 1958. The property is also known to have had an unlicensed landfill at this location. Brevard County entered into a settlement Agreement on March 25, 1991 closed the site. The landfill operation activity started in January, 1984 was terminated on December 31, 1991.

## **Land Use**

The subject property is currently designated Community Commercial (CC). The existing GU and proposed BU-2 zoning with BDP are both consistent with the Community Commercial (CC) FLU designation.

## **Applicable Land Use Policies**

### **FLUE Policy 2.2 – Role of Zoning Regulations in the Designation of Commercial Lands**

The zoning process regulates the types and intensities of uses for a parcel of land. Criteria which aid in assessing zoning compatibility, shall include consideration of the following standards:

#### **Criteria:**

A. Permitted/prohibited uses;

**Applicant wishes to develop a storage facility with outdoor boat/RV parking. This use needs BU-2 zoning as outdoor storage is not permitted under the GU and BU-1 zoning classifications.**

B. Existing commercial zoning trends in the area;

**There have not been other commercial rezoning attempts within the last three years, except for this parcel. This parcel is located upon a side street west of the Minton Road right-of-way.**

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

**The development proposes a 50-foot buffer to the north and west property lines; however, no buffer is proposed to the abutting lot to the east which lies within the City of West Melbourne's jurisdiction.**

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

**Development of a storage yard (mini-warehouse # 151) is one of the lowest commercial traffic generators identified in the ITE Handbook. Additionally, the applicant is binding themselves as part of the proposed BDP to provide a traffic study for the site plan review stage.**

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

**NRMD will review impacts to natural resources as part of this zoning action and under site plan review should the zoning request be approved.**

F. Other issues which may emerge specific to a particular property which may be addressed through performance-based zoning criteria.

**This property will need to comply with Brevard County Performance Standards noted within Sections 62-2251 through 62-2272 of Brevard County Code.**

### **FLUE Policy 2.3 – Role of Land Development Regulations in the Designation of Commercial Lands**

Land development regulations provide performance standards for evaluating the acceptability of proposed commercial development activities. Criteria include:

#### **Criteria:**

A. Integration of vehicular and non-vehicular access into the site and access management features of site in terms of driveway cuts and cross access between adjacent sites, including use of frontage roads and/or shared access, where feasible, as determined by Brevard County;

B. Buffering from adjacent existing/potential uses;

**Buffering is proposed along the west and northern property lines.**

C. Open space provisions and balance of proportion between gross floor area and site size;

**Open space development is not required for this type of commercial usage. Building type and floor area ratio will be reviewed at the site plan stage.**

D. Adequacy of pervious surface area in terms of drainage requirements;

**Drainage requirements will be reviewed at the site plan stage.**

E. Placement of signage;

**Sign location has not been identified on the submitted survey.**

F. Adequacy of site lighting and intrusiveness of lighting upon the surrounding area;  
**External site lighting height has been proposed; however, lighting will need to comply with Section 62-2257 of Brevard County Code and will be reviewed at the site plan review stage.**

G. Safety of on-site circulation patterns (patron, employee and delivery vehicles), including parking layout and drive aisles, and points of conflict;  
**Review will be performed at the site plan review stage.**

H. Landscaping, as it relates to the requirements of the Comprehensive Plan and Land Development Regulations;  
**Review will be performed at the site plan review stage.**

I. Unique features and resources which may constrain site development, such as soils, existing vegetation and historic significance; and  
**No noteworthy comments have been identified by the NRMD review. Review will be performed at the site plan review stage.**

J. Performance based zoning requirements which may serve as a substitute for or accompany land development regulations in attaining acceptable site design.  
**Two land development waivers have been submitted on this site. The first is: 21WV00005 which was approved by the Board on February 23, 2021 for a waiver of Section 62-3202(h) which requires a 6-foot masonry or solid wall when commercial developments are adjacent to a residential zoning classification. A 50-foot vegetative buffer was allowed in lieu of the required wall. The second is: 21WV00009 a waiver to a site plan provision (Section 62-3206.B.5) for waiver of asphalt submitted April 14, 2021 for site plan review # 21SP0015. This request has not been finalized as this date.**

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 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 limit the use of the property by providing a Binding Development Plan. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the zoning 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 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;

**To the west of this parcel, a residential subdivision has developed. To the north and east of this parcel which lies on the north side of Norfolk Parkway a majority of the area remains vacant. Improvements within that area include single-family home sites and limited institutional uses. To the east lies the City of West Melbourne's jurisdiction.**

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

**There has been no development in the preceding three (3) years.**

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

**There has been no development 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.

**This property will need to be developed in compliance with the Comprehensive Plan.**

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

##### **Surrounding Area**

The developed character of the surrounding area is mostly vacant/unimproved land. To the north is a developed single-family lot zoned Agricultural Residential (AU). There is also a developed communication tower on General Use (GU) zoning. To the east is a vacant GU zoned parcel and city zoned parcels which mostly seem to be used as a private school/learning center. To the south is the Norfolk Parkway road right-of-way. To the west is a large retention tract/lake for the Sawgrass Lakes community.

The four adjacent city zoning classifications abutting this area allow for residential, institutional and commercial use. The 2016-2021 aerials do not reflect any current development pattern except for the residential subdivision buildout (west) of this parcel in the immediate neighborhood.

	<b>Existing Land Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Communication tower	GU	RES 2
<b>South</b>	street	N/A	N/A
<b>East</b>	vacant	West Melbourne	West Melbourne
<b>West</b>	Retention Pond	West Melbourne	West Melbourne

There have been no recent county zoning actions within a half-mile of the subject property within the last three years.

The BU-2 retail, warehousing and wholesale commercial zoning classification encompasses lands devoted to general retail and wholesale business, contracting and heavy repair services and warehousing activities. This zoning classification also supports the use of outdoor storage as a permitted with conditions use identified under Section 62-1833.5 of Brevard County Code.

The AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

The GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet.

There does not appear to be any emerging development trends in the existing area located north or east of this site.

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Minton Road, between Hield Road to Eber Boulevard, which has a Maximum Acceptable Volume (MAV) of 39,800 trips per day, a Level of Service (LOS) of D, and currently operates at 76.83% of capacity daily. The maximum development potential from a min-warehouse and RV/Boat storage use as limited in the proposed BDP would increase the percentage of MAV utilization by 4.74%. With the maximum development potential from the proposed rezoning, the corridor is anticipated to operate at 81.57% of capacity daily (LOS C). The proposal is anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the project is not intended for residential uses.

The parcels currently do not have access to either potable water or sanitary sewer. In the future, the parcels may be able to obtain potable water from the City of West Melbourne, if they can connect to the main located on the south side of the Norfolk Parkway.

### **Environmental Constraints**

- National Wetland Inventory (NWI) Wetlands
- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

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

### **For Board Consideration**

The Board may wish to consider whether this request is consistent and compatible with the surrounding area, and whether the proposed conditions within the BDP help mitigate off-site impacts.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Rezoning Review & Summary**

**Item # 22Z00006**

**Applicant:** Moia for Boozer

**Zoning Request:** GU w/ CUP for tower & antenna to BU-2 & remove CUP for tower & antenna

**Note:** Applicant wants BU-2 & removal of CUP for tower and antenna

**P&Z Hearing Date:** 03/14/22; **BCC Hearing Date:** 04/07/22

**Tax ID Nos:** 2802676 & 2802674

- 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:**

- National Wetland Inventory (NWI) Wetlands
- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

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

**Land Use Comments:**

**Wetlands**

The subject parcel contains mapped NWI (Freshwater emergent wetlands) as shown on the NWI Wetlands map, an indicator that wetlands may be present on the property. A wetland delineation was performed in December 2019 by Andrew Conklin Environmental Services, LLC (ACES), and found approximately 0.22 acres of wetlands in the northeast corner of the parcel.



Per Section 62-3694(3), 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. In no instance shall a proposed land development activity result in increased flooding on adjacent properties. Where the State does not require a buffer, wetland buffers shall be established in accordance with Section 62-3694(c)(10). Where impacts are permitted, the applicant is encouraged to propose innovative wetland preservation alternatives. Where the State does not require mitigation for any wetland impact, mitigation shall be provided to meet the County's no net loss policy as defined in Section 62-3696. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

### **Aquifer Recharge Soils**

A small area of the parcel contains mapped aquifer recharge soils (Palm Beach sand) as shown on the USDA Soil Conservation Service Soils Survey map. 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**

Aerials indicate that Protected (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) may reside on subject property. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Protected and Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, 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 tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

### **Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. 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 and/or U.S. Fish and Wildlife Service, as applicable.

### **Other**

According to Florida Department of Environmental Protection (FDEP) records, the subject property was utilized as a construction and demolition debris landfill site from approximately 1984 to 1992. The applicant should contact FDEP at (407) 897-4313 for guidance regarding disturbing/developing old landfill sites to ensure that public health and the environment will not be harmed by the disturbance of the waste at the site.