



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

2725 Judge Fran Jamieson Way  
 Building A, Room 114  
 Viera, Florida 32940  
 (321)633-2070 Phone / (321)633-2074 Fax  
<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS  
 21Z00049**

**Harmony Villas Properties, Inc. & Murrell Properties of Brevard, LLC**

**BU-1-A (Restricted Neighborhood Retail Commercial) to BU-1 (General Retail Commercial)**

Tax Account Numbers: 2511043 & 2511036  
 Parcel I.D.s: 25-36-22-00-269 & 25-36-22-00-262  
 Location: 3525 & 3545 Murrell Road Rockledge, FL 32955 (District 2)  
 Acreage: 2.00 acres  
 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 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)

|  | <b>CURRENT</b>            | <b>PROPOSED</b>           |
|--|---------------------------|---------------------------|
| <b>Zoning</b>  | BU-1-A                    | BU-1                      |
| <b>Potential*</b>                                      | 65,340 sq. ft. commercial | 87,120 sq. ft. commercial |
| <b>Can be Considered under the Future Land Use Map</b> | YES<br>NC                 | YES**<br>CC               |

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. \*\*Application is pending approval of companion request **21PZ00095** which proposes to change the Future Land Use Designation from Neighborhood Commercial (NC) to Community Commercial (CC). If approved, this request can be heard.

**Background and Purpose of Request**

The applicant requests to change the property from BU-1-A (Restricted Neighborhood Retail Commercial) (lowest intensity commercial zoning classification) to the BU-1 (General Retail Commercial) zoning classification. Both parcels are developed with existing buildings. The northern parcel (269) is developed with an office use. The southern parcel (262) is developed as a home. The northern parcel is utilized in site plan **21SP00034** for an existing office and proposed group home level II use. The southern parcel was already developed as a home (residential use).

The northern parcel (269) received its current BU-1-A zoning under Zoning Resolution **Z-9598** adopted on August 28, 1995. The southern parcel (262) received its current BU-1-A zoning under Zoning Resolution **15PZ00075** adopted on February 4, 2016.

## Land Use

The subject property is currently designated Neighborhood Commercial (NC) FLU. The proposed BU-1 zoning is not consistent with the Neighborhood Commercial (NC) FLU designation. The companion request **21PZ00095** proposes to change the Future Land Use Designation from Neighborhood Commercial (NC) to Community Commercial (CC) on these two parcels. The BU-1 request would be 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 two Assisted Living Facilities (ALF); one on each lot. ALF use cannot be performed from the current BU-1-A zoning. This use requires the BU-1 zoning classification. The BU-1 classification allows higher intensity retail uses, automobile washing and minor/major automotive repairs.**

B. Existing commercial zoning trends in the area;

**These parcels already have commercial zoning (BU-1-A). City zoning adjacent to these lots is also a commercial designation. This request will increase the potential commercial uses allowed on these properties from fulfilling local needs to regional needs.**

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

**The development is buffered north and south by existing commercial zoning under the City of Rockledge's jurisdiction. To the east is a private airport zoned Light Industrial (IU) under county zoning jurisdiction.**

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

**As the site is already developed, should the property propose future development, those plans will need to meet county site plan approval.**

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;

**Site abuts commercial on both sides and the rear lot line. No buffering is proposed.**

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 been identified on aerials of the property. New signage will need to comply with Section 62-3316 of Brevard County Code.**

F. Adequacy of site lighting and intrusiveness of lighting upon the surrounding area;

**External site 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.

**No waivers, administrative approvals or variances have been applied for at this time.**

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 has not identified any operational changes to the use of the subject property. The effects of lighting, site activity and traffic will be evaluated as part of a future site plan review.**

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.

**Only a certified MAI 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 is an existing commercial use pattern along this segment of Murrell Road, more specifically on the east side from Gus Hipp Boulevard south to Barnes Boulevard. City of Rockledge zoning is C2 (a general commercial designation) and IP (an industrial park designation). Existing county zoning is identified as BU-1-A for this set of abutting parcels and the next set of abutting parcels to the south under county jurisdiction.**

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

**There has not been any actual development within this area in the preceding three (3) years.**

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

**There has not been any actual development 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.

**As this site (both parcels) were previously developed, no material violation of relevant policies have been identified.**

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

The developed character of the surrounding area is a mixture of commercial zoning classifications along both sides of Murrell Road either under City of Rockledge or County Zoning jurisdiction. This area is an enclave with the City of Rockledge having jurisdiction over the abutting properties located to the north, south, to the west across Murrell Road right-of-way. To the north of the subject property is an office building (City of Rockledge). To the south, is a single-family residence (City of Rockledge). To the east is an airstrip (Greenlight Industrial Airpark). To the west, across Murrell Road are single-family residences (City of Rockledge). The applicant does not currently propose to annex into Rockledge. The parcels on the east side of Murrell Road have transitioned from residential uses to commercial uses under the previous zoning actions: **Z-9468**, **Z-9872**, **Z-9900** and **15PZ00075**.

**Surrounding Area**

|              | <b>Existing Land Use</b>                               | <b>Zoning</b>                                    | <b>Future Land Use</b>   |
|--------------|--|--|--|
| <b>North</b> | Office building  | City of Rockledge:<br>C2-General Commercial      | Rockledge:<br>MUPD7-Mixed Use Planning District 7                |
| <b>South</b> | One (1) single-family residence                        | City of Rockledge:<br>C2-General Commercial      | Rockledge:<br>MUPD7-Mixed Use Planning District 7                |
| <b>East</b>  | Airstrip   | IU   | IND  |
| <b>West</b>  | Two (2) single-family residences (across Murrell Road) | City of Rockledge:<br>P1-Professional;<br>and AU | Rockledge:<br>MUPD7-Mixed Use Planning District 7;<br>and RES 15 |

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.

BU-1-A classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods. Minimum lot size of 7,500 square feet is required with minimum width and depth of 75 feet.

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.

IU zoning classification permits light industrial land uses within enclosed structures. The minimum lot size is 20,000 square feet, with a minimum width of 100 feet and a minimum depth of 200 feet.

There has been no zoning action within a half-mile radius of the subject property within the last three years.

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Murrell Road, between Roy Wall Boulevard to Barnes 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 43.27% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 5.99%. The corridor is anticipated to operate at 49.26% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

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

The parcel is connected to City of Cocoa water. The parcel is not connected to sanitary sewer. The closest Brevard County sanitary sewer line is approximately 6,025 feet south of the subject property at Murrell Road and Solitary Drive. The City of Rockledge can provide sewer service, if requested.

### **Environmental Constraints**

- Protected Species
- Land Clearing and Landscape Requirements

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

### **For Board Consideration**

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

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

**Item # 21Z00049**

**Applicant:** Vaheed Teimouri

**Zoning Request:** BU-1A to BU-1

**Note:** Applicant wants assisted living facility use

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

**Tax ID Nos:** 2511043 & 2511036

- 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:**

- Protected Species
- Land Clearing and Landscape Requirements

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:**

**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.

**Land Clearing and Landscape Requirements**

Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Specimen trees. 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.