



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

22Z00007

Rotation Holdings, LLC

Amendment to Existing Binding Development Plan (BDP) for Property Zoned BU-2 (Retail, Warehousing, and Wholesale Commercial)

Tax Account Numbers: 2411214
Parcel I.D.s: 24-36-08-00-259.1
Location: 3640 North US Highway 1, Cocoa, Florida 32926 (District 1)
Acreage: 1.37 acres

Planning & Zoning Board: 4/18/2022
Board of County Commissioners: 5/05/2022

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)

	CURRENT	PROPOSED
Zoning	BU-2 with BDP	BU-2 with Amended BDP
Potential*	4,464 square foot of retail & 33,979 square foot of outdoor storage	60,113 square foot of retail
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.

Background and Purpose of Request

The applicant requests to amend an existing Binding Development Plan (BDP) in order to allow the expansion of the existing 4,464 square foot sales building and remove the stipulation for long term secured recreation vehicles, boats, trailers, vehicles storage parking lot extending 220' westward.

. Conditions (2-5) of the existing BDP are as follows:

2. Developer/Owner shall provide a 20 foot. buffer along the east property line.

3. *The Developer/Owner shall construct an 8 foot tall cmu block (concrete masonry unit) wall along the east property line.*

4. *The Developer/Owner shall limit usage of the area measuring from the west edge of the 20' buffer described in section 2, extending westward for 220', for long term secured recreation vehicles, boats, trailers, vehicles storage parking lot.*

5. *The site will NOT be able to perform motorcycle repairs, as listed in section 62-1102, that is part of the BU-2 zoning classification.*

The proposed amended BDP would:

- Amend condition #2 to read: **“2. Developer/Owner shall provide a 50-foot buffer on the East Property Line and increase vegetation by adding Bald Cypress trees every 25 ft, Wax Myrtle every 5’, and Muhly Grass every 3 ft”;**
- Delete condition #4 in its entirety, and;
- Keep all other conditions unchanged.

The original zoning classification of the property was General Retail Commercial (BU-1). Per **Resolution 15PZ00047**, approved a rezoning from BU-1 to Retail, Warehousing, and Wholesale Commercial (BU-2) with a BDP approved on October 1, 2015.

Land Use

The subject property is currently designated Community Commercial (CC) FLU. The existing and proposed BU-2 zoning, with BDP’s addressing compatibility with adjacent properties, could be considered consistent with the CC FLU designation.

Applicable Land Use Policies

Policy 2.2 – 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;

With the exception of motorcycle repairs, the proposed amended BDP would allow all permitted and permitted with conditions uses listed in Section 62-1483 under BU-2 zoning on the unbuffered portion of the property. These uses include, but are not limited to retail, wholesale, and warehousing uses.

- B. Existing commercial zoning trends in the area;

There has been one zoning action in the surrounding area within the last three years. Per Resolution 21Z00034, approved December 2, 2021, an approximately 3.8 acre property on the west side of US-1, approximately 140 feet southwest of the subject property, was rezoned from BU-1 to BU-2 for construction of a mini-storage warehouse.

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

The property is adjacent to BU-2 zoned and developed property to the north, a BU-1 zoned and developed property to the south, and US-1 right-of-way (ROW) with BU-2 zoned and developed properties across US-1. Abutting the property to the east is one residential lot in a subdivision with lots just over 1/3 acre in size and living areas in excess of 3,000 square feet. The zoning and proposed use could be considered to be consistent with adjacent and nearby properties fronting the US-1 corridor. The purpose of the enhanced landscape buffer is to buffer impacts of the property on the residential properties to the east and northeast.

The Board may wish to consider whether the expanded and enhanced buffer in the amended BDP proposed by the applicant adequately buffers abutting and nearby residential properties.

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

The preliminary concurrency analysis did indicate that the proposed development does not have the potential to cause a deficiency in the transportation adopted level of service. The subject site is within the City of Cocoa's service area for potable water. The subject property utilizes septic system. Specific concurrency issues will be addressed at the time of Site Plan review.

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

NRMD expressed concern with the adequacy of the buffer in the BDP originally submitted with the proposed action. After meeting with a representative of NRMD, the applicant voluntarily submitted a revised proposed BDP which is under consideration by this application. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

- E. 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 as noted within Section Sections 62-2251 through 62-2272 of Brevard County Code.

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 stated a specific commercial use of motorcycle/auto part sales facility with outdoor boat and RV storage. The proposal would decrease the amount of boat and RV storage and increase the amount square footage and building footprint of motorcycle/auto parts sales by expanding the building to the east. 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 review stage should the BDP amendment 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 use.

- 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;

U.S. Highway 1 is a commercial corridor with CC Future Land Use designations along the majority of it to provide an array of services for local, sub-regional and regional neighborhoods.

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

There has been no other actual development within this area in the preceding three (3) years.

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

The dilapidated furniture store across US-1 from the subject property recently had a site plan 21SP00028 approved to redevelop the building/site as a mini-warehouse storage facility.

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

In general, the character of the area is defined by a mix of developed and undeveloped commercial parcels along Highway 1 with an established residential area directly to the east of the subject property. The commercial development on the eastern side of S. Highway 1, where the subject property is located, consists primarily of more intense commercial uses, including landscaping business, retail and wholesale uses, and outdoor storage of boats and RV's.

The Sabal Chase residential subdivision directly abuts the subject property to the east. The lots vary in size, but are mostly one-third-acre or larger, and are zoned EU. The EU zoning was approved November 20, 1997 with FLU of Residential with Urban Fringe overlay (density = 4 units/acre). The property at the southeastern corner is Indian River Estates Unit No 1 subdivision, also with one-third-acre lots, which are zoned RU-1-13. This subdivision was rezoned to RU-1 July 5, 1962 per Z-768. It was administratively rezoned RU-1-13 by blanket rezoning Z-2980, approved May 30, 1972. As this subdivision was platted and all associated zoning actions approved prior to adoption of the first Comprehensive Plan by the Board, the zoning is nonconforming to the FLU designation. The subject property currently has BU-2 zoning with a BDP.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	4,000 square foot developed single-tenant retail building	BU-2	CC
South	Single-wide and Double-wide manufactured homes utilized as mixed use residential/commercial landscaping/plant nursery, including outdoor storage.	BU-1 with Binding Site Plan (BSP)	CC
East	Developed single-family residential subdivision with lot sizes in excess of 1/3 acre	EU (east) Note: zoning appears to be nonconforming to current FLU RU-1-13 (southeast) Note: EU and RU-1-13 zoning is nonconforming to FLU	RES 2
West	US-1 right-of-way	BU-1	CC

The subject property is currently zoned BU-2, with a Binding Development Plan (BDP). The amended BDP will increase the eastern buffer from 20' to 50' and add trees and shrubs as specifically outlined in condition #2 of the proposed BDP in an effort to buffer residential properties to the east.

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-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. Possible incompatibilities are due to the intensive nature of commercial activities permitted by the BU-2 classification and possible noise, light, traffic and other nuisance factors potentially associated with BU-2 activities.

EU zoning classification is an estate single family residential zoning classification. The minimum lot size is 15,000 square feet with a minimum lot width and depth of 100 feet. The minimum living area is 2,000 square feet.

RU-1-13 permits single-family residences 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.

There has been one request for zoning actions within a half-mile radius of the subject property within the last three years. Resolution 21Z00034, adopted December 2, 2021, rezoned a 3.8 acre property, located on the west side of US-1, approximately 140 feet southwest of the subject property, from BU-1 to BU-2.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US-1, from SR-528 to Canaveral Groves Boulevard, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 67.18% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 19.79%. The corridor is anticipated to operate at 86.97% 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 will not impact school enrollment.

The parcel is connected to City of Cocoa Water Utilities. The parcel is not connected to sanitary sewer. The closest Brevard County sanitary sewer line is approximately 3.6 miles south of the subject property. The property utilizes an on-site septic system.

Environmental Constraints

- Aquifer Recharge Soils
- Land Clearing and Landscape Requirements
- Protected Species

The property was previously developed under site plan number 15SP00013. Any revisions to the development would require a site plan submittal. Mapped natural resources would be reviewed at that time.

For Board Consideration

The Board may wish to consider whether the request to amend the existing BDP stipulations mitigates potential impacts and is consistent and compatible with the surrounding area.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item # 22Z00007

Applicant: Don Smith

Zoning Request: Amend BDP with zoning of BU-2

Note: Applicant wants to expand building eastward which conflicts with current BDP.

P&Z Hearing Date: 04/18/22; **BCC Hearing Date:** 05/05/22

Tax ID No: 2411214

- 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 Natural Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Land Clearing and Landscape Requirements
- Protected Species

The property was previously developed under site plan number 15SP00013. Any revisions to the development would require a site plan submittal. Mapped natural resources will be reviewed at that time.

Land Use Comments:

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Paola fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. 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.

Land Clearing and Landscape Requirements

The revised BDP proposes to provide a 50-foot buffer on the east property line and increase the vegetation by adding a Bald Cypress tree every 25 feet, Wax Myrtle every 5 feet and Muhly Grass every 3 feet. The proposed vegetation meets Type A buffer requirements where residential use abuts commercial use.

Aerials indicate that one or more trees requiring preservation during the site plan review may have been removed, and thus may require mitigation. 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.