



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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**STAFF COMMENTS**

**22Z00020**

**Sunshine Petro, Inc., Jacob Aaron Corporation, and Alice Elaine Tisthammer**

**GU (General Use), BU-1 (General Retail Commercial) and BU-1-A (Restricted Neighborhood Retail Commercial) with Two BDPs to BU-2 (Retail, Warehousing, and Wholesale Commercial) and Removal of Two BDPs**

Tax Account Numbers: 2312203, 2312233, 2312234, 2312214, 2312213, 2312205, 2312191, 2312201, 2312249, 2312189  
Parcel I.D.s: 23-35-27-00-45, 23-35-27-00-75, 23-35-27-00-76, 23-35-27-00-56, 23-35-27-00-55, 23-35-27-00-47, 23-35-27-00-33, 23-35-27-00-43, 23-35-27-00-91, & 23-35-27-00-31  
Location: On the north side of Port St. John Parkway approximately 570 feet west of Grissom Parkway (District 1)  
Acreage: 17.70± acres

Planning & Zoning Board: 7/18/2022

Board of County Commissioners: 8/04/2022

**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>	GU, BU-1 and BU-1-A	All BU-2
<b>Potential*</b>	<ul style="list-style-type: none"><li>• 0 SFR unit</li><li>• 630,095 sq. ft. of commercial (using 0.75 FAR for NC and 1.0 FAR for CC)</li></ul>	771,012 sq. ft. of commercial (using 1.0 FAR for CC)
<b>Can be Considered under the Future Land Use Map</b>	YES RES 4, CC, & NC	YES** CC

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. \*\*Approval is pending approval of companion request **22SS00003** which proposes to change the Future Land Use Designation from Residential 4 (RES 4), Community Commercial (CC), and Neighborhood Commercial (NC) to all Community Commercial (CC).

**Background and Purpose of Request**

The applicants are requesting to change the zoning of a 17.70± acre property from GU (General

Use), BU-1 (General Retail Commercial) and BU-1-A (Restricted Neighborhood Retail Commercial) with Two BDPs to BU-2 (Retail, Warehousing, and Wholesale Commercial) and Removal of Two BDPs in order to develop a Florida Power and Light hardened service center (Space Coast Service Center) comprised primarily of an administrative office building, a warehouse, and a vehicle maintenance garage. BU-2 zoning is necessary for their proposed use, as the existing GU, BU-1 and BU-1-A zoning classifications do not permit storage warehouses and outdoor storage of motor vehicles.

According to the applicant, a service center is a facility FPL establishes to maintain and manage the current and future growth of the electrical system in an area and is typically comprised of an administrative office building, a warehouse, a vehicle maintenance garage, and certain other site features associated with operations and securing the property. It is not a place where customers can pay bills or place service repair requests. The proposed buildings will provide space for offices, workstations, conference rooms, assembly rooms, break areas, restrooms, storage, vehicle and equipment maintenance, and ancillary building and employee support spaces to include temporary housing for employees due to an emergency.

The subject property consists of ten parcels that are undeveloped.

The GU portions of the property retain the original zoning. The BU-1-A portion of the property was rezoned from GU to BU-1-A with a BDP on August 25, 2009 as zoning action **Z-11514**. That BDP, recorded in ORB 6014, Pages 2375-2383, provides the following conditions:

- Where feasible, any structure constructed on the Property shall have a similar outer material and color finish envelope as the Parrish Medical Center at the South West intersection of Grissom Parkway and Port St. John Connector Road
- Landscaping shall, where possible, be of Florida Natural Vegetation to minimize the use of potable watering for irrigation
- Unless otherwise required by the requirements of oil company providing products to the Property, all signage shall be monument signs and similar in design to the signage of Parrish Medical Center
- All lighting will be down lighting to limit light to the building site and minimize off site impacts on adjoining undeveloped properties
- There will be no overnight parking of automobiles, semi-tractors and trailers on the Property
- Where reasonably determined to be feasible by the Owner, recyclable building materials will be used in any structures to be built upon the Property.

The BU-1 portions of the property were rezoned from GU to BU-1 with a BDP on May 7, 2009 as zoning action **Z-11493**. That BDP, recorded in ORB 5945, Pages 1177-1182, limits the number of hotel rooms to a maximum of 220 rooms on the property and limits commercial square footage, excluding hotel, to 335,000 square feet.

## **Land Use**

The subject property is currently designated as Community Commercial (CC), Neighborhood Commercial (NC), and Residential 4 (RES 4) Future Land Use (FLU). The proposed BU-2 zoning is consistent with the existing Community Commercial (CC) FLU designation, but not with the existing Neighborhood Commercial (NC) or Residential 4 (RES 4) FLU designations. A companion

application, **22SS00003**, if approved, would change the Future Land Use designation on the NC and RES 4 portions of the parcel to all CC.

### **Applicable Land Use Policies**

**FLU 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;  
**The applicant wishes to develop a Florida Power and Light hardened service center (Space Coast Service Center) comprised of an administrative office building, a warehouse, a vehicle maintenance garage and other associated features. This use requires BU-2 zoning as warehouses and outdoor storage of motor vehicles is not permitted under the GU, BU-1-A, and BU-1 zoning classifications.**
- B. Existing commercial zoning trends in the area;  
**There have been no zoning actions within a half-mile radius of the subject property within the last three years; however, there are two pending applications: 22SS00006 is an application for a small scale comprehensive plan amendment to change the future land use on 20.88 acres from CC and NC to RES 15, and 22Z00027 is the companion application to rezone from TU-2 and GU with BDP to all RU-2-15 and removal of BDP.**
- C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;  
**Based on the FLU, the property is adjacent to undeveloped residential and public conservation lands on the north and east, undeveloped residential and commercial properties on the west, and developed commercial (medical center) and undeveloped commercial on the south (across Port St. John Parkway).**
- D. 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 has the potential to cause a deficiency in the transportation adopted level of service. The applicant may be required to phase develop based on available roadway network capacity. A more detailed analysis will occur at site plan. The subject site is within the City of Cocoa's service area for potable water and sewer. Specific concurrency issues will be addressed at the time of Site Plan review.**
- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and  
**No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.**
- 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.**

**Policy 2.3** – Land development regulations provide performance standards for evaluating the acceptability of proposed commercial development activities, including:

**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;  
**This will be reviewed at the site plan stage.**
- B. Buffering from adjacent existing/potential uses;  
**Review will be performed at the site plan review stage.**
- 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;  
**Signage will need to comply with Section 62-3316 of Brevard County Code and will be reviewed at the site plan review stage.**
- F. Adequacy of site lighting and intrusiveness of lighting upon the surrounding area;  
**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.  
**Nothing in the form of waivers, administrative approvals or variances have been requested at this time.**

**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.

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

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 a Florida Power and Light hardened service center (Space Coast Service Center) comprised of an administrative office building, a warehouse, a vehicle maintenance garage and other associated features. The applicant has not provided hours of operation, a lighting plan, or a traffic analysis. The proposed use has the potential to subject the adjacent residential to the north when developed.**

**According to the applicant, the administrative office building along with the stores warehouse and vehicle maintenance garage are being designed to withstand Category 5 hurricane winds and provide a location to support the prepositioning of approximately 120 utility workers to facilitate restoration work as soon as the weather permits. More particularly, the large centrally located assembly rooms in the administrative office building will be reconfigured with 50 bunks to be used during emergencies. The administrative office building is constructed to support not only the day-to-day activities but the increased population in support of utility workers being staged at the property to implement storm restoration activities.**

**The proposed use is not anticipated to generate odor or noise that would diminish the quality of life of the existing neighborhood approximately 2,000 feet to the north along Bridge Road. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage.**

- 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;

**There are four (4) FLU designations (CC, NC, RES 4, and PUB-CONS) within 500 feet of the subject property. The latest FLU amendment was approved under 2009-2.1 which changed the FLU from NC to PUB-CONS on December 15, 2009 (Ordinance 09-36).**

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.

**While there has not been any actual development within this area in the preceding three (3) years, one zoning action is pending (22Z00027) within one-half mile.**

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

In general, the character of the area along Port St. John Parkway is mostly undeveloped commercial parcels with CC Future Land Use designations with the exception of two developed commercial properties: an office building and a medical center. Due to the I-95 interchange, Port St. John Parkway provides vehicular access into the Port St. John community and is intended to serve as a commercial corridor to provide an array of services for local and regional neighborhoods and tourist markets. Developed commercial parcels include a medical center (with BU-1 zoning) and an office building (with TU-2 zoning) on the south side of Port St. John Parkway.

While the applicants are proposing a Florida Power and Light hardened service center (Space Coast Service Center) comprised of an administrative office building, a warehouse, a vehicle maintenance garage and other associated features, the BU-2 zoning classification also permits other commercial activity of a higher intensity.

If the zoning is approved, the subject property would be the only parcel with BU-2 zoning in the surrounding area. There are no comparable properties with the same zoning along Port St. John Parkway. The closest developed BU-2 lot is approximately 2.4 miles to the east on the western side of N. Highway 1 and contains a self-storage facility on 1.7 acres.

While the closest established residential neighborhood zoning is approximately 2,000 feet to the north of the subject property, undeveloped residential land is adjacent to the north and west of the subject property. Consideration should be given to uses permitted in BU-2 that have the potential to impact the residential area adjacent to the subject parcel. Such uses in BU-2 include major automobile

repairs (permitted by right), the manufacturing and assembly of certain products (permitted with conditions), and overnight commercial parking (conditional use).

The proposed BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots.

### Surrounding Area

	Existing Use	Zoning	Future Land Use
<b>North</b>	Undeveloped land	GU & RU-1-11	CC & RES 4
<b>South</b>	Stormwater pond, undeveloped land, and a medical center (across Port St. John Parkway)	GU & BU-1	PUB-CONS, NC, and CC
<b>East</b>	Undeveloped land (across Grissom Parkway)	GU	PUB-CONS and RES 4
<b>West</b>	Undeveloped land	GU & RU-1-11	RES 4 & CC

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.

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.

TU-2 is a transient tourist commercial classification, intended to accommodate tourist needs adjacent to interstate and expressway interchanges.

The RU-1-11 classification permits single family residences on minimum 7,500 square foot lots, with a minimum width and depth of 75 feet. The minimum house size is 1,100 square feet. RU-1-11 does not permit horses, barns or horticulture.

There have been no zoning actions within a half-mile radius of the subject property within the last three years; however, there are two pending applications: **22SS00006** is an application for a small scale comprehensive plan amendment to change the future land use on 20.88 acres from CC and NC to RES 15, and **22Z00027** is the companion application to rezone from TU-2 and GU with BDP to all RU-2-15 and removal of BDP.

## **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Port St. John Parkway, between I-95 to Grissom Parkway, which has a Maximum Acceptable Volume (MAV) of 39,800 trips per day, a Level of Service (LOS) of D, and currently operates at 27.54% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 45.95%. The corridor is anticipated to operate at 73.49% of capacity daily. The proposal is anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review.

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

The subject parcel is within the City of Cocoa's service area for potable water. The closest Brevard County sewer line is 0.8 miles north of the subject property at Fay Boulevard.

## **Environmental Constraints**

- Wetlands/Hydric Soils
- Aquifer Recharge Soils
- Protected Species
- Protected and Specimen Trees

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 subject parcel contains mapped hydric soils. A wetland delineation will be required prior to any land clearing activities or site plan application. Per Section 62-3694(c)(2), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one unit per five acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property as defined in Section 65 694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with Section 62-3696.

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 and removal of the two existing BDPs are consistent and compatible with the surrounding area. The Board may also wish to consider additional BDP conditions to help mitigate any off-site impacts.



**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Rezoning Review & Summary  
Item # 22Z00020**

**Applicant:** Rosenthal, FPL

**Zoning Request:** GU, BU-1, BU-1-A with 2 BDPs to BU-2 and remove BDPs

**Note:** Applicant wants multipurpose FPL facility.

**P&Z Hearing Date:** 07/18/22; **BCC Hearing Date:** 08/04/22

**Tax ID Nos:** 2312205, 2312189, 2312249, 2312191, 2312201, 2312203, 2312233, 2312234, 2312213 & 2312214

- 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:**

- Wetlands/Hydric Soils
- Aquifer Recharge Soils
- Protected Species
- Protected and Specimen Trees

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:**

**Wetlands/Hydric Soils**

The subject parcel contains mapped National Wetlands Inventory (NWI) wetlands, SJRWMD wetlands, and hydric soils (Anclote sand & St. Johns sand), as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service Soils Survey maps, respectively. All are indicators that wetlands may be present on the property. A Natural Resource Assessment report prepared by Kimley Horn in March 2021, found no wetlands on site. The wetland assessment shall be verified at time of site plan submittal. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). Port St. John Parkway and Grissom Parkway are MQRs at this location.

Impacts to wetlands are permissible for commercial or industrial land development activities on a property that is designated as commercial or industrial on the Future Land Use map.

If wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62 3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696.

### **Aquifer Recharge Soils**

St. Johns sand may also function as an aquifer recharge soil. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

### **Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. There is a large area of mapped Florida Scrub Jay occupancy adjacent to the property, and there is potential for existence of Gopher Tortoises on site. 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.

### **Protected and Specimen Trees**

Protected ( $\geq 10$  inches in diameter) and Specimen ( $\geq 24$  inches in diameter) trees may exist on the parcel. A tree survey will be required at time of a site plan submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. 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 August 18, 2009 BDP, proposed to be removed, stated that landscaping shall, where possible, be of Florida Natural Vegetation to minimize the use of potable water for irrigation. During site plan design, the applicant is encouraged to use a low-water use plant palette such as xeriscape plants and trees. 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. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.