



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  
 22Z00073**

**Terrance & Peggy Mulreany**

**GU (General Use) to BU-2 (Retail, warehousing and wholesale commercial)**

Tax Account Number: 2400694, 2400695, 2400696, 2400697, 2400698 &2400700  
 Parcel I.D.: 24-35-01-25-12-10, 24-35-01-25-12-11, 24-35-01-25-12-12, 24-35-01-25-12-13, 24-35-01-25-12-14, 24-35-01-25-12-16  
 Location: Eastside of Grissom Pkwy, approximately 0.68 miles south of Canaveral Groves Blvd (District 1)  
 Acreage: 8.89 +/- acre  
 Planning & Zoning Board: 4/17/2023  
 Board of County Commissioners: 5/04/2023

**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	BU-2
<b>Potential*</b>	0	387,248 sf commercial (based on 1.0 FAR)
<b>Can be Considered under the Future Land Use Map</b>	YES NC & RES 4	YES** CC

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. \*\*Approval is pending approval of companion request **22SS00017**.

**Background and Purpose of Request**

The applicants are requesting a change of zoning classification from GU (General Use) to BU-2 (Retail, warehousing and wholesale commercial) on 6 parcels totaling 8.89-acre. The parcels are currently undeveloped and have retained the original zoning classification of GU. There are no other applicable zoning actions on file for the subject parcels. Two of the six parcels have frontage on Grissom Pkwy.

Tax account #2400699 in the middle of these properties is not included in this request, thus creating an enclave with no access.

At this time, there are no active code enforcement associated with the subject parcels.

## **Land Use**

The subject property is currently designated as Neighborhood Commercial (NC) and Residential 4 (RES 4) FLU. The existing GU zoning can be considered consistent with the existing NC and RES 4 FLU designation.

The proposed BU-2 zoning classification cannot be considered consistent with the existing NC and RES 4 FLU designation; however, the proposed BU-2 zoning classification can be considered consistent with the requested Community Commercial (CC) Future Land Use designation.

A companion application, **22SS00017**, if approved, would amend the Future Land Use designation from NC and RES 4 to CC.

## **Applicable Land Use Policies**

### **FLUE Policy 2.7 – Activities Permitted in Community Commercial (CC) Future Land Use Designations**

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.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 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 proposed a specific commercial use or 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 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 (Member 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;

**The surrounding area are undeveloped lands on lots one (1) acre or larger in size. There are three (3) FLU designations within 55 feet of the subject site: RES 4, NC and CC. The predominant FLU designation along this section of Grissom Pkwy is RES 4.**

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

**Over the immediately preceding three years, the Amazon Distribution facility was constructed. The facility is approximately 2,400 feet to the south within the City of Cocoa incorporated area.**

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

**To the south, immediately adjacent to the subject parcel is a 2.29-acre parcel rezoned (22Z00031) from Institutional Use, Low-Intensity (IN(L)) to Retail, Warehousing, and Wholesale Commercial (BU-2) in September 2022. The parcel also has an approved site plan (21SP00041) and an active building permit (22BC18900) for a Dollar General Store.**

**FLUM amendments within one-half mile:**

**20PZ00020, request to amend Future Land Use Map (FLUM) from RES 4 to CC, approved by the Board on May 7, 2020 on 0.44 acres located approximately 1,791 feet north of the subject property. Companion zoning change discussed under Policy #4.**

**22SS00009, request to amend FLUM from NC/RES 4 to CC, approved by the Board on October 6, 2022 on 4.83 acres located approximately 658 feet south of the subject property. Companion zoning change discussed under Policy #4.**

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.**

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

The developed character of the surrounding area is institutional and single-family residential on lots one (1) acre in size or larger. There is an existing pattern of commercial, institutional and residential zoning surrounding the subject parcel.

This request includes six parcels which surrounds one parcel, owned by a different owner, which is not included with this request. This parcel has a NC designation with GU zoning classification. A zoning enclave would result upon approval of this request. Zoning Enclaves contain parcels that are zoned in a manner that is not currently compatible with the surrounding land use classifications within which they are located.

Two zoning actions has been approved within a half-mile radius of the subject property within the last three years: **20PZ00021**, approved by the Board on May 6, 2020, was a request to change GU (General Use) to BU-1 (General Retail Commercial) on 0.44 acres located approximately 2,460 feet northwest of the subject property; **22Z00031**, approved by the Board on September 12, 2022, IN(L) to BU-2 on 4.83 acres located to the south of the subject property.

### Surrounding Area

	Existing Land Use	Zoning	Future Land Use
<b>North</b>	Undeveloped	GU	RES 4
<b>South</b>	Commercial	BU-2	CC
<b>East</b>	Undeveloped	GU	RES 4
<b>West</b>	Grissom Pkwy	N/A	N/A

To the north and east are undeveloped 1+ acre parcels with GU zoning. To the south are two parcels with BU-2 zoning on 2.29 acres and 7.1 acres (approximate) parcel.

The south 2.29-acre parcel has an approved site plan (**21SP00041**) and an active building permit (**22BC18900**) for a Dollar General Store.

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

The 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.

The BU-1 classification encompasses land devoted to general retail shopping, offices and personal services to serve the needs of the community and allows for retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling. The BU-1 classification allows for the outdoor storage of retail items that may include but are not limited to motor vehicles, utility sheds, nursery items such as plants and trees, and boats.

The proposed BU-2 classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. BU-2 is the most intensive commercial zoning classification. 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. Resort dwelling use is allowed as a permitted use in the BU-2 classification.

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Grissom Pwky, between Industry Rd and Canaveral Groves Blvd, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 60.64% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 95.39%. The corridor is anticipated to operate at 156.03% of capacity daily. The proposal could 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 maximum permissible uses under the proposed Future Land Use designation. 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 parcel is within the City of Cocoa utilities service area for potable water. The closest Brevard County sewer line is approximately 2.8 miles southwest on Adamson Road.

### **Environmental Constraints**

- Wetlands/Hydric Soils
- Aquifer Recharge Soils
- Floodplain

- Protected and Specimen Trees
- Protected Species (FL Scrub Jay)

### **For Board Consideration**

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

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT**  
**Zoning Review & Summary**  
**Item #22Z00073**

**Applicant:** Terrance & Peggy Mulreany

**Land Use Request:** GU to BU-2

**Note:** To allow for more unified future development.

**P&Z Hearing Date:** 04/17/23; **BCC Hearing Date:** 05/04/202

**Tax ID No:** 2400694, 2400695, 2400696, 2400697, 2400698, & 24006700

- 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
- Floodplain
- Protected and Specimen Trees
- Protected Species (FL Scrub Jay)

**Wetlands/Hydric Soils**

The parcel contains mapped National Wetlands Inventory (NWI) wetlands, St. Johns River Water Management District (SJRWMD) wetlands, and hydric soils (Myakka sand, depressional; Immokalee sand, 0 to 2 percent slopes; Myakka sand, 0 to 2 percent slopes), 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. An Assessment of Jurisdictional Wetlands report prepared by Toland Environmental Consulting (TEC) in December 2022, delineated an 0.42-acre depression marsh wetland 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 land development activities along Mitigation Qualified Roadways (MQRs). Courtenay Parkway is an MQR in this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners 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. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

### **Protected Species**

Information available to NRM indicates that federally and/or state protected species may be utilize the property. There is an area of mapped Florida Scrub Jay occupancy on the southeast portion of the property; and there is potential for existence of Gopher Tortoises in 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 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 likely 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 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.

### **Land Use Comments:**

#### **Wetlands/Hydric Soils**

The parcel contains mapped National Wetlands Inventory (NWI) wetlands, St. Johns River Water Management District (SJRWMD) wetlands, and hydric soils (Myakka sand, depressional; Immokalee sand, 0 to 2 percent slopes; Myakka sand, 0 to 2 percent slopes), 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. An Assessment of

Jurisdictional Wetlands report prepared by Toland Environmental Consulting (TEC) in December 2022, delineated an 0.42-acre depression marsh wetland 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 land development activities along Mitigation Qualified Roadways (MQRs). Courtenay Parkway is an MQR in this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners 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. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

### **Aquifer Recharge Soils**

Immokalee sand, 0 to 2 percent slopes and Myakka sand, 0 to 2 percent slopes can also function as aquifer recharge soils. The subject parcel also contains Pomello sand an aquifer recharge soil as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations (~25 to 32 feet NAVD) 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

### **Floodplain Protection**

A portion of the project area is mapped as being within an isolated floodplain as identified by the Federal Emergency Management Agency and as shown on the FEMA Flood Map. The property may be subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Per Section 62-3724(3)(d), compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within the isolated floodplain greater than one third (1/3) acre in size. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

### **Protected and Specimen Trees**

Protected ( $\geq 10$  inches in diameter) and Specimen ( $\geq 24$  inches in diameter) trees likely 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 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.

### **Protected Species**

Information available to NRM indicates that federally and/or state protected species may be utilize the property. There is an area of mapped Florida Scrub Jay occupancy on the southeast portion of the property; and there is potential for existence of Gopher Tortoises in 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 and/or U.S. Fish and Wildlife Service, as applicable.