



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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**STAFF COMMENTS
23Z00009**

Ranger Storage, LLC.

BU-2 (Retail, Warehousing and Wholesale Commercial) with an existing BDP to BU-2 (Retail, Warehousing and Wholesale Commercial) and Amendment of existing BDP

Tax Account Number: 2601558
Parcel I.D.: 26-36-12-DE-20-1
Location: South side of Freeman Lane. approximately 480 feet east of Waelti Dr. (District 4)
Acreage: 2.21 acres

Planning & Zoning Board: 04/17/2023
Board of County Commissioners: 05/04/2023

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)

	CURRENT	PROPOSED
Zoning	BU-2	BU-2
Potential*	96,267 sq. ft. commercial (using 1.0 FAR for CC)	96,267 sq. ft. commercial (using 1.0 FAR for CC)
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 is requesting an amendment to an existing BDP (Binding Development Plan) per zoning action **Z-11334** and recorded in ORB 5761, Page 7355 to allow for a new site layout that is different than the previously approved BDP located in a BU-2 (Retail, Warehousing and Wholesale Commercial) zoning classification. The new BDP removes the use limitation of the existing BDP. The subject parcel is currently undeveloped with frontage on Freeman Lane a County maintained road.

The existing Binding Development Plan Stipulates: Developer/Owner desire to develop the property as a mini warehouse/storage facility pursuant to the Brevard County Code, Section 62-1837.5 and

The County and the Developer/Owner agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
2. Developer/Owner shall provide a vegetative buffer on three (3) sides of the property substantially in accordance with Exhibit "B" attached hereto (the "Plan").
3. The Developer/Owner shall limit use to a mini-warehouse facility only and with the open storage for boats and RVs to the rear.
4. The Developer/Owner shall limit ingress and egress to and from the property from Freeman Lane.
5. No Certificate of Occupancy or Certificate of Completion shall be issued for the operation of the mini-warehouse facility prior to the paving of Freeman Lane.
6. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the property. This Agreement provides no vested rights against changes to the comprehensive plan or land development regulations as they may apply to this property.

The new requested Binding Development Plan proposes a new Exhibit "B" attached hereto (the "Plan") and

The proposed Binding Development Plan Stipulates: Developer/Owner desire to develop the property as RV/Boat Storage Facility and commercial storage facility pursuant to the Brevard County Code, Section 62-1837.5 and pursuant to the Brevard County Code, Section 62-1157; and the parties agree as follows:

1. The above recitals are true and correct and are incorporated into this Agreement by their reference.
2. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
Brevard County will not be or obligated in any way to maintain or participate in any way in the construction or maintenance of the improvements.

3. Developer/Owner shall provide a vegetative buffer on the North side of the property substantially in accordance with Exhibit "B" attached here to (the "Plan").
The existing BDP required Vegetative buffer on three (3) sides of the property per Exhibit "B". New BDP states Developer shall provide a vegetative buffer on the North side of the property.

4. The perimeter facing exterior walls of the proposed buildings meet the requirements for the screening requirements set forth in Section 62-1837.5(10). Vinyl coated chain link fence may be used as perimeter fencing on the west, east and south property lines, but is not allowed along the north property line, where adjacent to residential properties.
Screening requirements will be required for site plan review.

5. The Developer/Owner shall limit ingress and egress to Freeman Lane.
Freeman Lane a County maintained road and is the only road abutting the parcel.

The subject parcel was originally zoned GU (General Use).

On March 23, 2007 zoning action **Z-11334** rezoned the parcel from GU (General Use) to BU-2 with a Binding Development Plan (BDP) for a mini-warehouse facility only and amended the Future Land Use (FLU) designation per Small Scale Plan Amendment **06S.14** from Neighborhood Commercial (NC) to Community Commercial (CC).

Land Use

The subject property is currently designated as Community Commercial (CC) FLU. The existing BU-2 zoning can be considered consistent with the existing 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;
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. Retail items of substantial size or which of necessity must remain outside of a building may be permitted to be displayed outside the building. Storage yards must be enclosed with a six-foot wall, louvered fence or chain-link fence.

- B. Existing commercial zoning trends in the area;
There has been a commercial zoning trend in the immediate area. The developed character of the surrounding area is predominantly commercial in the vicinity of Freeman Lane and Waelti Drive, with two (2) single-family residences along the

north side of Freeman Lane. There is an existing pattern of BU-2 zoning surrounding the subject parcel.

- C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3; **This change to the existing BDP could be considered to be consistent with the immediate surrounding area as this is along a commercial corridor along with residential. The primary zoning classification in the surrounding area is BU-2 which is the current zoning classification of the subject property.**
- 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 not indicate that the proposed development has the potential to cause a deficiency in the transportation adopted level of service.**

The closest Brevard County sewer is located 550 feet west along the west side of Waelti Drive. The closest City of Cocoa potable water is located directly across Freeman Lane.

- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and
The following land use issues were identified:

- **Aquifer Recharge Soils**
- **Protected and Specimen Trees**
- **Protected Species**

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Pomello sand and St. Lucie fine sand, 0 to 5 percent slopes) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations (~27 to 31 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.

- 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 Section 62-1483 and 62-1833.5 of Brevard County Code.

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 is requesting to amend the existing Binding Development Plan (BDP) in a BU-2 (Retail, Warehousing and Wholesale Commercial) zoning to develop the parcel for enclosed RV/Boat storage. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the proposed Binding Development Plan change be approved.

BDP states:

Developer/Owner shall provide a vegetative buffer on the North side of the property substantially in accordance with Exhibit "B" attached here to (the "Plan").

The perimeter facing exterior walls of the proposed buildings meet the requirements for the screening requirements set forth in Section 62-1837.5(10). Vinyl coated chain link fence may be used as perimeter fencing on the west, east and south property lines, but is not allowed along the north property line, where adjacent to residential properties.

The Developer/Owner shall limit ingress and egress to Freeman Lane.

- 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;

The surrounding area is commercial in character. There are three (3) FLU designations within 500 feet of the subject site: Community Commercial (CC), Neighborhood Commercial (NC) and Public Conservation (PUB). The predominant FLU designation along Freeman Lane and Waelti Drive is CC.

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 development approved but not yet constructed 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.

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 predominantly commercial in the vicinity of Freeman Lane and on the east side of Waelti Drive, with two (2) single-family residences along the north side of Freeman Lane. There is an existing pattern of BU-2 zoning surrounding the subject parcel between Waelti Drive and Turner Road. The west side of Waelti Drive is a subdivision with PUD (Planned Unit Development) zoning.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Single-family north of Freeman Lane	GU	NC
South	Warehousing	BU-2	CC
East	Stormwater Pond	GML	PUB
West	Vacant Land	BU-2/GU	CC

To the north across Freeman Lane is a 2.06-acre parcel developed with a single-family residence with General Use (GU) zoning. To the south is a 13.13-acre parcel developed as a warehouse, distribution and trucking terminal with BU-2 zoning. To the east is a 1.29-acre Stormwater pond parcel with GML zoning. To the west, is a 1.09-acre vacant parcel with BU-2 and GU zoning.

The current BU-2 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. The BU-2 zoning classification allows outside storage of retail items including, but not limited to, motor vehicles, utility sheds, nursery items such as plants and trees, boats and mobile homes.

The GU zoning 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.

The purpose of the GML government managed lands zoning classification is to recognize the presence of lands and facilities which are managed by federal, state and local government, special districts, nongovernmental organizations (NGOs) providing economic, environmental and/or quality of life benefits to the county, electric, natural gas, water and wastewater utilities that are either publicly owned or regulated by the Public Service Commission, and related entities.

Preliminary Concurrency

The closest concurrency management segment to the subject property is N. Wickham Road, from Suntree Blvd. to N. Pinehurst Ave., which has a Maximum Acceptable Volume (MAV) of 39,800 trips per day, a Level of Service (LOS) of D, and currently operates at 73.72% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 9.27%. The corridor is anticipated to operate at 46.38% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be addressed 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 zoning classification. 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 Brevard County utilities service area for sewer. The parcel is within the City of Cocoa utilities service area for potable water.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

Aquifer Recharge Soils

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For Board Consideration

The Board may wish to consider if the proposed BDP mitigates potential impacts on the surrounding area.

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #23Z00009

Applicant: Ranger Storage LLC

Land Use Request: BDP amendment

Note: Site layout is different than the previously approved BDP.

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

Tax ID No: 2601558

- 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.**

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Land Use Comments:

Aquifer Recharge Soils

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Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 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 (e.g., gopher tortoises). 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.