



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS  
23Z00023**

**Charles Steven Douglas and Debra Kay Douglas, Trustees; and Sandra Douglas  
IU-1 (Heavy Industrial) to BU-2 (Retail, Warehousing and Wholesale Commercial)**

Tax Account Number: 3010512  
Parcel I.D.: 30-38-11-00-554  
Location: North side of Micco Rd, east of Ron Beatty Blvd (District 3)  
Acreage: 2.79 +/- acre

Planning & Zoning Board: 6/12/2023  
Board of County Commissioners: 7/13/2023

**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>	IU-1	BU-2
<b>Potential*</b>	213,897.02	121,532.4 sq ft
<b>Can be Considered under the Future Land Use Map</b>	NO CC	YES* CC

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.

**Background and Purpose of Request**

The applicants are requesting a change of zoning classification from IU (Industrial Use) to BU-2 (Retail, warehousing and wholesale commercial) on 1 parcel totaling 2.79-acre for the purpose of an RV and boat storage business. This property was approved for a zoning change from AU to IU-1 on September 24, 1979 under zoning action Z-5101. Previous zoning action for a zoning change from AU to BU-2 was denied in July 1979 under zoning action Z-4980. The property has frontage on Micco Rd and Ron Beatty Blvd.

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

## **Land Use**

The subject property is currently designated as Community Commercial (CC) Future Land Use designation (FLU). The existing IU-1 zoning cannot be considered consistent with the existing CC FLU designation under Sec. 62-1255.

The proposed BU-2 zoning classification 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;
- B. Existing commercial zoning trends in the area;
- C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;
- D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;
- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and
- F. Other issues which may emerge specific to a particular property which may be addressed through performance based zoning criteria.

### **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. 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, include the following:

- a) Existing strip commercial;
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices;
- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;
- h) Residential uses;
- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;

- l) Transitional uses pursuant to Policy 2.1; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

**The applicant has proposed to develop the site as a RV and boat storage business.**

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 proposed to use the land for a RV and boat storage business. Hours of operation, lighting, or a traffic analysis has not been provided. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the zoning change be approved. Abutting the subject property are business uses such as the medical care facility to the north, electrical substation to the west and commercial storage tanks to the east. Residential lots are located to the across Micco Rd. It is not anticipated that the existing neighborhoods within the area would be affected in a negative manner by the proposed use.**

- 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 is a mix of professional offices, medical and residential since the adoption of the Brevard County Future Land Use Map. There are three (3) FLU designations surrounding the subject property; NC (west), CC (north and east) and Residential 1 (RES 1) (south). The**

**predominant FLU designation along this section, on the north side of Micco Rd, is CC.**

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

**There has been no permitted development within a one-half mile radius over the immediately preceding three years.**

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

**There is no development approved within the past three years that has not yet been constructed.**

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

**There has been no FLUM amendments within one-half mile within the past three 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.**

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

**The developed character of the surrounding area is developed as professional office and medical to the north, electrical substation to the west, commercial storage tanks to the west and single-family residential on lots one (1) acre in size or larger to the south. There is an existing pattern of commercial and residential zoning surrounding the subject parcel.**

## Surrounding Area

	Existing Land Use	Zoning	Future Land Use
<b>North</b>	Professional offices	BU-1	CC
<b>South</b>	Single-family residential	RRMH-1	RES 1
<b>East</b>	Non-retail Commercial	IU-1	CC
<b>West</b>	Non-retail Commercial	AU	NC

To the north is a 2.06-acre parcel with BU-1 zoning and developed as professional office building.

To the west is a 2.56-acre parcel with AU zoning, developed as an electric substation.

To the east is a 0.83-acre parcel with IU-1 zoning, developed as non-conforming storage tanks.

To the south, across Micco Rd are Single-family one-acre residential lots developed under RRMH-1 zoning.

The current IU-1 classification is the heaviest industrial zoning classification in the Code. It permits heavy manufacturing, including outside activities such as livestock yards and commercial incinerators. The minimum lot size is 40,000 square feet with a minimum width and depth of 200 feet.

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

BU-2 is the county's most intensive commercial zoning classification which may affect the character of the neighborhood. While RV and boat storage may be compatible with the existing character of the neighborhood, some of the other permitted uses in BU-2 may not be.

The closet BU-2 zoning is located approximately 500 feet south on the south side of Micco Rd across the railroad tracks. This site is developed as a mini storage and car wash facility.

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.

AU 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.

One zoning action has been approved within a half-mile radius of the subject property within the last three years: **22Z00060** approved by the Board on April 7, 2023, was a request to change BU-1 (General Retail Commercial) with a Binding Development Plan to BU-2 (Retail, warehousing and wholesale commercial) limited to all BU-1 uses; RV and boat storage on 4.58 acres located approximately 1.064 feet north of the subject property.

There are no pending zoning actions within a half-mile radius of the subject property.

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Micco Rd between Fleming Grant and US Hwy 1, which has a Maximum Acceptable Volume (MAV) of 17,700 trips per day, a Level of Service (LOS) of D, and currently operates at 45.31% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.56%. The corridor is anticipated to operate at 45.87% of capacity daily. The proposal would not 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 Barefoot Bay utilities service area for sewer and potable water.

## **Environmental Constraints**

- Hydric Soils
- Aquifer Recharge
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Overlay
- Land Clearing and Landscape Requirements
- Protected Species

No noteworthy land use issues were identified. Natural Resources Management (NRM) reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

## **For Board Consideration**

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

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT**  
**Zoning Review & Summary**  
**Item #23Z00023**

**Applicant:** Douglas Trust

**Zoning Request:** IU-1 to BU-2

**Note:** For future RV and boat storage

**P&Z Hearing Date:** 06/12/23; **BCC Hearing Date:** 07/13/23

**Tax ID No:** 3010512

- 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:**

- Hydric Soils
- Aquifer Recharge
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Overlay
- Land Clearing and Landscape Requirements
- Protected Species

No noteworthy land use issues were identified. Natural Resources Management (NRM) reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

**Land Use Comments:**

**Hydric Soils**

The subject parcel contains an area of hydric soils (Anclote sand) on the southwest portion of the parcel. This is an indicator that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design or building permit submittal. Section 62 3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). Micco Road 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**

The remainder of the subject parcel contains mapped aquifer recharge soils (Pomello sand) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Type 3 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**

The southwest corner of the property is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) "A" 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, including compensatory storage and filled footprint restrictions. 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."

### **Indian River Lagoon Nitrogen Reduction Overlay**

The southwest corner of the parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

### **Land Clearing and Landscape Requirements**

Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), a purpose and intent of the ordinance is to encourage tree protection. A tree survey will be required at time of a site plan submittal. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for Protected and Specimen 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.