



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

20PZ00032

4090 US 1, LLC

RU-1-7 (Single-Family Residential), RU-2-10 (Medium Density Multi-Family Residential), and BU-1 (General Retail Commercial) to all BU-1

Tax Account Number: 2611636
Parcel I.D.: 26-37-32-52-*-1.01
Location: West side of U.S. Highway 1, approximately 430 feet north of Post Road.
(District 4)
Acreage: 0.92 acres

Planning and Zoning Board: 06/15/20

Board of County Commissioners: 07/09/20

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)

	CURRENT	PROPOSED	
Zoning	RU-1-7, RU-2-10 & BU-1	All BU-1	
Potential*	6 residential units & 2,111 square feet of retail use	10,553 square foot of retail use	
Can be Considered under the Future Land Use Map	YES RES 15, NC & CC	NO** RES 15 and NC	YES CC

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. **Companion request under **20PZ00031** to change FLUM from Residential 15 (RES 15) & Neighborhood Commercial (NC) to Community Commercial (CC). If the Small Scale request is not approved, this request should be denied.

Background and Purpose of Request

The applicant is seeking to consolidate the property under the General Retail Commercial zoning classification (BU-1). Currently, the property has Single-family Residential, RU-1-7, Medium-density Multi-family Residential, RU-2-10 & General Retail Commercial, BU-1 zoning on a parcel less than 1.0 acre in size. No specific development plan has been submitted.

This site has the original BU-1 zoning since 1958 and includes RU-1-7 zoning under Z-2980, (rezoned from RU-1 to RU-1-7) adopted June 1, 1972 and RU-2-10 zoning under Z-4334, (rezoned from BU-1 & RU1-7 to RU-2-10) adopted October 6, 1977. The site which now lies vacant had been previously developed with a one-story building with carport.

Land Use

The current RU-1-7, RU-2-10 and BU-1 zoning classifications are consistent with the current various FLUM designations on the overall property. The proposed zoning request to change the zoning to all BU-1 is not consistent with the existing RES 15 and NC Future Land Use designations. The applicant has applied for a companion Small Scale Comprehensive Plan Amendment request under **20PZ00031** to change the RES 15 & NC FLU designations to Community Commercial.

Comprehensive Plan Policies are shown in plain text; Staff Findings of Fact are shown in *italics*

FLUE Policy 1.4 – The Residential 15 Future Land Use designation affords the second highest density allowance, permitting a maximum residential density of up to fifteen (15) units per acre. This land use category allows single and multi-family residential development – not commercial development.

FLUE Policy 2.1

The Comprehensive Plan takes into consideration broad criteria for evaluating requests for commercial land use designations within Brevard County. At a minimum, these criteria address the following:

Criteria:

- A. Overall accessibility to the site;

The subject .92-acre parcel has frontage on U.S. Highway 1, an urban principal arterial roadway which runs north and south.

- B. Compatibility and inter-connectivity with adjacent adopted Future Land Use designations and land uses;

The .92-acre parcel is adjacent to Community Commercial (CC) land to the north, south and east across U.S. Highway 1. To the west of the subject parcel there is a Residential 15 (RES 15) Future Land Use designation.

The parcel to the north has an existing dog kennel. Inter-connectivity could be provided between the subject parcel to the commercial parcel to the north. The parcels to the east, south and west have existing single-family residences. No inter-connectivity could be provided to the parcel to the south which has a NC Future Land Use designation.

- C. Existing commercial development trend in the area;

The existing commercial trend along this segment of the U.S. Highway 1 corridor consists of a manufactured housing park, open storage with new and used supplies, junkyard and a dog kennel.

- D. Fundamental changes in the character of an area prompted by infrastructure improvements undertaken by the County;

There are no fundamental changes in character within this area prompted by County infrastructure improvements.

- E. Availability of required infrastructure at/above adopted levels of service;

The subject parcel is can be served by potable water and sewer by the City of Melbourne.

The .98-acre parcel has direct access to U.S. Highway 1. Approximately 430' of the subject parcel is the intersection of U.S. Highway 1 and Post Road. U.S. Highway 1 is an urban principal arterial roadway and Post Road is an urban major collector roadway. Currently this section of U.S. Highway 1 is operating at a level of service (LOS) of C. The additional impact to the roadway resulting from this development would remain at a level of service (LOS) of C.

- F. Spacing from other commercial activities;

The segment of U.S. Highway 1 was designated as a commercial corridor through the Future Land Use Map that was adopted in September of 1988.

- G. Size of proposed commercial designation compared with current need for commercial lands;

The FLU designation change from RES 15 and NC is proposed on a .68-acre portion of the overall .98-acre parcel of land is Consistent with Policy 2.7 of the Future Land Use Element of the Comprehensive Plan. Community commercial development is intended to serve several neighborhoods and provide commercial uses.

- H. Adherence to the objectives/policies of the Conservation Element and minimization of impacts upon natural resources and systems;

The Natural Resource Management (NRM) Department has provided a preliminary summary of adherence to the objectives/policies of the Conservation Element and the minimization of impacts upon natural resources and systems. (See attached NRM Department Summary).

- I. Integration of open space; and

Open space will be evaluated during the site plan review process.

- J. Impacts upon strip commercial development.

The promotion of strip pattern commercial development is discouraged within the Future Land Use Element for property with a FLU designation of CC. Infill within established strip commercial areas is preferred over the extension of a strip commercial pattern. The subject property would be considered infill within an established strip commercial

area and would not be considered an extension of the strip commercial pattern and not contiguous to existing CC.

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;

This segment of U.S. Highway 1 serves as a commercial corridor along this urban principal arterial roadway. This commercial corridor serves several neighborhoods, sub-regional and regional areas.

FLUE Policy 2.8 - Locational and development criteria for Community Commercial Uses

Locational and development criteria for community commercial land uses are as follows:

Criteria:

- A. Community Commercial clusters of up to ten (10) acres in size should be located at arterial/arterial intersections. Collector/arterial intersections are acceptable for clusters of up to ten (10) acres in size; however, the collector roadways must serve multiple residential areas. Intrusion of these land uses into the surrounding residential areas shall be limited. For Community Commercial clusters greater than ten (10) acres in size, they must be located at principal arterial/principal arterial intersections.

This commercial corridor along U.S. Highway 1 is not located at an arterial/arterial intersection and is not considered a commercial cluster. This is commercial corridor intended to serve neighborhoods, sub-regional and regional areas with commercial services.

- B. Community commercial complexes should not exceed 40 acres at an intersection.

The subject site is not located at an intersection.

- C. Community commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.

The subject site is not considered a commercial cluster.

- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size.

The gross floor area is regulated through the land development regulations at the time of site plan review.

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites.

The overall subject site has the potential for a 40,075 square foot building. The FAR of up to 1.00 is permitted for CC designated sites. The Floor Area Ratio (FAR) is regulated through the land development regulations at the time of site plan review.

- F. Recreational vehicle parks shall be located in areas which serve the needs of tourists and seasonal visitors to Brevard County. The location of recreational vehicle parks shall have access to interstate interchanges via arterial and principal collector transportation corridors or the property shall be located on a major multi-county transportation corridor.

This parcel does meet the criteria to be developed as a recreational vehicle park because it does have access to an interstate interchange from U.S. Highway 1.

Environmental Constraints

Information available to NRM indicates that impacts to previously existing wetlands may have occurred between 2003 and 2004 when the site was filled. A wetland determination/delineation will be required prior to any plan design or permit submittal. The discovery of unpermitted wetland impacts may result in enforcement action.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US Highway 1, between Post Road and Pineda Causeway, which has a Maximum Acceptable Volume (MAV) of 59,900 trips per day, a Level of Service (LOS) of D, and currently operates at 68.96% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 0.15%. The corridor is anticipated to continue to operate at 69.11% of capacity daily (LOS C). The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development potential of this site does not include residential development.

The subject property can be served by potable water and sewer by the City of Melbourne. Both lines run along the west side of US Hwy 1.

Applicable Land Use Policies

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 through 8 of the Future Land Use Element, outlined in the Administrative Policies

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area. This vacant site is surrounded by developed property. To the north lies a dog kennel in a BU-1 commercial zoning classification consistent with the CC FLU designation. To the east across Highway 1 right-of-way is undeveloped BU-1 zoning and residentially developed RU-1-9 zoning under the CC and RES 6 designations respectively. To the south are developed single-family lots under the RU-1-7 zoning with a FLU designation of RES 6, undeveloped RU-2-10 lands abutting Highway 1 with a FLU designation of NC and single-family developed BU-1/RU-1-7 zoning classification with FLU of CC. To the west is a developed single-family lot zoned RU-1-7 with a FLU designation of RES 6.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. This area has not had a zoning application change within the last five (5) years. The character of the area is a mixture of developed commercial and high-density single-family uses. If this site is rezoned, site plan review will require that some type of buffer (masonry wall or opaque vegetative buffer) will need to be created to protect the abutting developed single-family sites.

Surrounding Area

Zoning classifications found in the general vicinity include: BU-1, RU-1-7, RU-2-10, RP and RU-1-9.

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 RU-1-7 classification permits single family residences on minimum 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet. The minimum house size is 700 square feet.

The RU-2-10 classification permits multiple-family residential development or single-family residences at a density of up to 10 units per acre on minimum lot sizes of 7,500 square feet.

The RU-1-9 classification permits single family residential development on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet.

For Board Consideration

The applicant is seeking to consolidate the property under the General Retail Commercial zoning classification, BU-1. In order to achieve this, the Board would need to approve the companion Small Scale Comprehensive Plan Amendment # **20PZ00031** (Res 15 and NC to CC).

On December 6, 2005, the Board of County Commissioners adopted Comprehensive Plan Amendment 2005A.5. The amendment proposed to maintain at least a two hundred feet (200') deep strip of CC and NC land uses on the western side of U.S. 1. Because of the right-of-way (ROW) acquisition, the current CC and NC designations needed to be extended westward approximately one hundred (100) to two hundred (200) feet to preserve the pre-widening depth of commercial land use.

The amendment area was designated for commercial uses since the inception of the Future Land Use Map (FLUM) in 1988.

The site has direct access onto U.S. Highway 1 and has water and sewer service available the City of Melbourne.

The Board may wish to consider whether the request is consistent and comparable with the mix of residential and commercial zoning classifications in the area.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary**

Item # 20PZ00032

Applicant: Scott Lamb

Zoning Request: BU-1, Ru-2-10, RU-1-7 to BU-1

Note: Applicant wants BU-1 use

P&Z Hearing Date: 06/15/20; **BCC Hearing date:** 07/09/20

Tax ID No: 2611636

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management (NRM) Department 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
- Aquifer Recharge Soils
- Protected Species
- Protected and Specimen Trees

Information available to NRM indicates that impacts to previously existing wetlands may have occurred between 2003 and 2004 when the site was filled. A wetland determination/delineation will be required prior to any plan design or permit submittal. The discovery of unpermitted wetland impacts may result in enforcement action.

Land Use Comments:

Wetlands

Information available to NRM indicates that wetlands may be present on the property. Aerials indicate the site was filled in 2003 and 2004, and may have impacted wetlands. A wetland

determination/delineation will be necessary prior to any plan design or permit submittal. The discovery of unpermitted wetland impacts may result in enforcement action. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). U.S. Highway 1 is an MQR. 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 wetland impact avoidance, minimization and mitigation requirements of Sections 62-3694(e) and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016.

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Candler fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. 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. Specifically, gopher tortoises can be found in areas of 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

Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, 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. A landscape plan and mitigation requirements will be required at time of site plan permit application submittal. 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. Land clearing is not permitted without prior authorization by NRM.