



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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

**STAFF COMMENTS**

**20Z00023**

**2354 Talmadge Drive, LLC**

**RU-1-9 (Single-Family Residential) and BU-1 (General Retail Commercial) to BU-1-A and BDP (Binding Development Plan) Limited to 4 units/acre on RU-1-9.**

Tax Account Number: 2103831  
Parcel I.D.: 21-35-17-53-\*-1  
Location: No address assigned, on the southwest corner of E. Main Street and Harry T. Moore Avenue, in the Mims area (District 1)  
Acreage: 3.04 acre

Planning and Zoning Board: 10/05/2020

Board of County Commissioners: 11/05/2020

**Consistency with Land Use Regulations**

- Current zoning cannot 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>	RU-1-9 & BU-1	RU-1-9 with BDP and BU-1-A
<b>Potential*</b>	9 single-family units and 7,318 sq. ft. Commercial	8 single-family units and 4,275 sq. ft. commercial
<b>Can be Considered under the Future Land Use Map</b>	No, RES 4	No, RU-1-9 requires RES 6** No, BU-1-A requires NC*** (Neighborhood Commercial)

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

\*\* The applicant has submitted a BDP (Binding Development Plan) limiting the RU-1-9 portion of the parcel to 4 units per acre density.

\*\*\* The applicant has submitted a companion Small Scale Comprehensive Plan Amendment application to change the Future Land Use Map (FLUM) from RES 4 (Residential 4) to NC (Neighborhood Commercial) under **20PZ00079** on the easterly 0.98 acres of the parcel.

## Background and Purpose of Request

The applicant is requesting a change of zoning classification from RU-1-9 (Single-Family Residential) and BU-1 (General Retail Commercial) to BU-1-A (Restricted Neighborhood Retail Commercial) on the easterly 0.98 acre portion of the parcel for the purpose of developing a 4,275 sq. ft. retail store. The applicant is also seeking a Binding Development Plan on the westerly 2.29 acres of RU-1-9 limiting the density to 4 units per acre as the RU-1-9 zoning is not consistent with the RES 4 FLU.

The applicant has provided a site plan showing the location, size, access and parking for the proposed retail store.

December 6, 1962, zoning action **Z-876** changed the zoning from RU-1 (Single Family Residential) to RU-2 (Two Family Residential). This zoning action was on Lots 8 thru 13, Jones Ward Plat of Mims.

December 8, 1966, zoning action **Z-2018** changed the zoning from RU-1 and RU-2 to BU-1 (Neighborhood Retail Business) for shopping center. This zoning action was on Lots 1 thru 9 and 12 and 13, Jones Ward Plat of Mims.

July 3, 1975, Administrative zoning action **AZ-11** changed the zoning from RU-2 to RU-1-9.

## Land Use

The subject property retains the RES 4 (Residential 4) FLU designation. The current zoning of RU-1-9 and BU-1 on the subject property is not consistent with the RES 4 FLU per 62-1255 (2). The proposed zoning of BU-1-A is consistent with the Proposed FLU designation of NC. A companion Small-Scale, Comprehensive Plan Amendment (SSCPA) application, **20S.06 (20PZ00079)** for a Future Land Use designation changing the FLU from RES 4 to NC (Neighborhood Commercial) was submitted accompanying this zoning request to be consistent with the proposed BU-1-A zoning for the BU-1 portion of the property.

## Environmental Constraints

### Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Protected and Specimen Trees
- 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.

## Preliminary Concurrency

The closest concurrency management segment to the subject property is Highway US-1, between Dairy Road and State Road 46, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 40.58% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV

utilization by 3.13%. With the maximum development potential from the proposed rezoning, the corridor is anticipated to operate at 43.71% of capacity daily (LOS D). The proposal is not anticipated to create a deficiency in LOS.

According to the School Impact Analysis Capacity Determination (CD-2020-08) dated August 6, 2020, the proposed development for the subject property is projected to generate 3 elementary students, 1 middle school student, and 1 high school student. CD-2020-08 concludes: "At this time, Mims Elementary School, Madison Middle School and Astronaut High School are projected to have enough capacity for the total of projected and potential students from the [proposed development on the subject property]."

The parcel is not serviced by Brevard County sewer. The closest available Brevard County sewer line is located along the east side of Highway US-1 approximately 915 feet west of the westerly property line of the subject parcel as measured along Main Street.

The parcel can be serviced by Brevard County water. The closest available Brevard County water line is located across from the parcel along the north side of E. Main Street.

Land Use Policy 1.2 addresses residential density requirements for sewer and potable water. This policy does not address commercial development requiring sewer and potable water.

Land Use Policy 1.2 D addresses where public water service is available, residential development proposals with densities greater than four units per acre shall be required to connect to a centralized sewer system. The requested BDP limits residential density to four units per acre.

### **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.** The proposed change to the FLUM from RES 4 to NC lies on the easterly 0.98 acres of this parcel. The proposed change to the zoning from BU-1 to BU-1-A is consistent with the proposed change to the FLUM to NC.

Policy #3C Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development approved within the past three year but not yet constructed.

There has not been any approved development in the surrounding area with in the last three years.

The BDP request is to limit the density on the RU-1-9 portion of the parcel to 4 units per acre to be consistent with the Residential 4 FLUM. This BDP request is on the westerly 2.29 acres of the site and the BDP proposal is for 4 units per acre single-family usage.

**Analysis of Administrative Policy #4 - Character of a neighborhood or area.** The subject parcel is currently undeveloped RU-1-9 and BU-1 that abuts E. Main Street to the north, Harry T. Moore Avenue to the west, Jefferson Street and RU-1-9 parcels to the south and abuts Myrtle Ave. to the west. There is a commercial developed BU-1-A and BU-1 parcel, for a retail store, located on the

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northwest corner of E. Main Street and Harry T, Moore Ave. located directly north across Harry T. Moore Ave. from the subject parcel. The northeast corner of E. Main Street and Harry T, Moore Ave. is zoned IN(L) (Institutional Low Intensity) which is developed as a church. There are also developed BU-1 parcels east of this church along the north side of E. Main Street which uses are for a Fraternal Organization Clubhouse and a restaurant. The parcel to the west across Harry T. Moore Ave. is zoned RU-2-30 (High-Density Multi Family Residential) and is a multi-family residential development. The parcels abutting to the south and south across Jefferson Street are zoned RU-1-9 and are developed with single-family homes. The parcels to the west across Myrtle Avenue are zoned RU-1-9 and RU-1-11 (single-family residential) and are developed with single-family homes.

All the surrounding area around the subject parcel has a FLU (Future Land Use) designation of RES 4 which is not consistent with the RU-1-9, RU-2-30, BU-1-A or BU-1 zoning classifications. The proposed BU-1-A zoning may be considered to be consistent with the Future Land Use designation NC (Neighborhood Commercial).

### **Surrounding Properties**

There have been four zoning actions within a half-mile of the subject property within the last four years.

On May 05, 2016, application **16PZ00017** changed the zoning from RU-1-7 to RR-1 on a 1.4 acre parcel located on the west side of Railroad Avenue, westerly of Highway US-1, approximately 1,835 feet southwest of the subject property.

On October 13, 2016, application **16PZ00070** changed the zoning from AU (Agricultural Residential) to SR (Suburban Residential) on a 0.55 acre parcel located on the west side of Folsom Road, westerly of Highway US-1, approximately 2,600 feet northwest of the subject property.

On August 24, 2017, application **17PZ00009** changed the zoning from BU-1 (General Retail Commercial) to BU-2 (Retail, warehousing and wholesale) on the east 200 feet of the parcel with a Binding Development limited to business units, trailer/truck/boat storage, located on the west side of Highway US-1 approximately 2,115 feet northwest of the subject property.

On August 24, 2017, application **18PZ00147** changed the zoning from RU-1-7 (single-family residential) to SR (Suburban Residential) with a Binding Development Plan on a 0.81 acre parcel limiting development to located on the east side of N. Singleton Avenue approximately 2,798 feet southwest of the subject property.

The current 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 current 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.

The proposed 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.

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.

IN(L) is an Institutional (Light) zoning classification, intended to promote low impact private, nonprofit, or religious institutional uses to service the needs of the public for facilities of an educational religious, health or cultural nature.

### **For Board Consideration**

The Board may wish to consider whether this request for RU-1-9 and BU-1-A are consistent and compatible with the surrounding area and whether Binding Development Plan mitigates potential impact caused by the request.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Zoning Review & Summary**  
**Item # 20Z00023**

**Applicant:** Aldon Bookhardt

**Zoning Request:** RU1-9 & BU-1 to RU1-9 & BU-1-A with BDP

**Note:** Applicant wants to develop a retail store on corner of Main St. and Harry T. Moore Ave., and limit residential development to 4 units per acre on remainder of parcel.

**P&Z Hearing Date:** 10/05/20; **BCC Hearing Date:** 11/05/20

**Tax ID No:** 2103831

- 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:**

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

**Aquifer Recharge Soils**

The subject parcel contains mapped aquifer recharge soils (Paola fine sand and Pomello 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 and Specimen Trees**

The parcel contains 100% mapped polygon of SJRWMD Florida Land Use and Cover Classification System (FLUCCS) code 4340 – Upland Mixed Coniferous/Hardwood trees. Heritage Specimen Trees (greater than or equal to 24 inches in diameter) are included in this FLUCCS code and likely reside in the project area. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of heritage Specimen Trees. In addition, per Section 62-4341(18), Specimen 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. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for 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. 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.