



BOARD OF COUNTY COMMISSIONERS

## Planning and Development Department

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### STAFF COMMENTS

**20Z00031**

**4725 Fay Blvd Land Trust**

**BU-1-A (Restricted Neighborhood Retail Commercial) with BDP (Binding Development Plan) to  
BU-1 (General Retail Commercial) with amendment to existing BDP**

Tax Account Number: 2309941  
Parcel I.D.: 23-35-23-JM-81-12  
Location: On the south side of Fay Blvd., 190 feet east of Adams Place,  
in the Port St. John area (District 1)  
Acreage: 1.59 acre

Port St. John Board: 11/18/2020  
Local Planning Agency: 11/23/2020  
Board of County Commissioners: 12/03/2020

### 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
<b>Zoning</b>	BU-1-A with BDP	BU-1 with amended BDP**
<b>Potential*</b>	13,852 sq. ft. Commercial	13,852 sq. ft. commercial
<b>Can be Considered under the Future Land Use Map</b>	Yes NC (Neighborhood Commercial)	No, BU-1 requires CC*** (Community Commercial)

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

\*\* The applicant has submitted a BDP (Binding Development Plan) to amend the existing BDP.

\*\*\* The applicant has submitted a companion Small Scale Comprehensive Plan Amendment application to change the Future Land Use Map (FLUM) from NC (Neighborhood Commercial) to CC (Community Commercial) under **20PZ00088**.

### Background and Purpose of Request

The applicant is requesting a change of zoning classification from BU-1-A (Restricted Neighborhood Retail Commercial) to BU-1 (General Retail Commercial) and to amend an existing Binding Development Plan (BDP) for the purpose of developing a hardware store with an outdoor garden center. A hardware store is not a permitted use in BU-1-A zoning, but it is a permitted use in BU-1

zoning. Bu-1 zoning classification is considered to be consistent with CC Future Land Use Designation

The applicant has not provided a site plan showing the location, size, access and parking for the proposed hardware store with outdoor garden center.

The applicant is also seeking to amend the existing BDP (Binding Development Plan). The existing BDP (**13PZ-00084**), which includes the Family Dollar property, states *“the Developer/Owner agrees that the following uses shall be prohibited: adult entertainment, package liquor stores, gaming rooms, adult arcade, internet cafe, billiard hall, single family residence, group homes, foster homes, resort dwellings, coin laundromat”*.

Along with, *The Developer/Owner shall limit ingress and egress as follows:*

*A. Close existing Adams Place driveway permanently, which is located on the southwest corner of property.*

*B. Construct full access driveway on Adams Place to line up with the driveway on the adjacent property to the west (Gas Station / Convenience Store). The Family Dollar drive aligns with the gas station / convenience store.*

The closing of the existing driveway on the southwest corner of Adams Place as stated on the existing BDP was to limit traffic on Adams Place because of children and pedestrians accessing the public school on Balfern Street just south of the parcel.

In the proposed BDP, the Developer/Owner agrees to limit to all BU-1-A uses and limiting the BU-1 uses to a hardware store with an outdoor garden center only. The applicant is also requesting to open the previously closed Adams Place driveway located on the southwest corner of the property for ingress and egress that was closed in the previous BDP. The previous BDP (**13PZ-00084**) prohibited the following BU-1-A uses: adult entertainment, package liquor stores, gaming rooms, adult arcade, internet cafe, billiard hall, single family residence, group homes, foster homes, resort dwellings, coin laundromat”. These prohibited BU-1-A uses would remain prohibited in the proposed BDP.

BU-1-A zoning allows for limited retail shops and personal services to serve the needs of nearby low-density residential neighborhoods. BU-1-A does not permit retail items to be displayed outside the buildings. Also, BU-1 zoning classification encompasses land devoted to general retail shopping, offices and personal services. BU-1 allows for more intensive retail uses than BU-1-A such as automobile repair (minor), automobile sales and storage, automobile tires and mufflers (new), sales and service. BU-1 zoning also permits the manufacturing, compounding, processing, packaging, storage, treatment or assembly of certain products. BU-1 also allows retail items of substantial size be permitted to be displayed outside the buildings. Such retail items include, but are not limited to motor vehicles, utility sheds, nursery items such as plants and trees, and boats.

October, 1975, Administrative zoning action **AZ-75** changed the zoning from RU-1 to RU-1-9.

December, 2004, Administrative zoning action **Z-10985(62)** changed the zoning from RU-1-9 to IN(L) (Institutional Use Low Intensity) for an existing church built in 1999.

December, 2007, Zoning action **Z-11412** changed the zoning from IN(L) (Institutional Use Low Intensity) to BU-1-A with a BDP.

March 06, 2014, Zoning action **13PZ-00084** removed existing BDP in BU-1-A zoning and replaced the existing BDP with a new BDP.

The 2018, PSJ SAS did not recognize any Future Land Use (FLU) or zoning changes were needed for this property.

## **Land Use**

The subject property retains the NC (Neighborhood Commercial) FLU (Future Land Use) designation. The current BU-1-A zoning is consistent with the NC Future Land Use designation per 62-1255 (2). The proposed BU-1 zoning is not consistent with the current NC Future Land Use designation. A companion Small-Scale, Comprehensive Plan Amendment (SSCPA) application, **20S.10 (20PZ00088)** to change the Future Land Use designation from NC to CC (Community Commercial) was submitted accompanying this zoning request for the proposed BU-1 zoning to be consistent with the FLU designation.

## **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 Fay Blvd., between Grissom Parkway and Highway US-1, which has a Maximum Acceptable Volume (MAV) of 33,800 trips per day, a Level of Service (LOS) of D, and currently operates at 42.38% of capacity daily. The maximum development potential from the proposed rezoning and BDP limiting the development to a Hardware store increases the percentage of MAV utilization by 02.10%. With the maximum development potential for the proposed Hardware/Paint store, the corridor is anticipated to operate at 44.48% of capacity daily (LOS D). The maximum development potential of the proposed Hardware store would not create a deficiency in LOS.

No school concurrency information has been provided as this is a proposed commercial development.

The parcel is not serviced by Brevard County sewer. The closest available Brevard County sewer line is located directly in front of the parcel in the center of Fay Blvd.

The parcel is serviced by The City of Cocoa water.

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.

### **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 companion application (**20PZ00088**) proposed change to the FLUM on this parcel is from NC (Neighborhood Commercial) to CC (Community Commercial). The proposed change to the zoning from BU-1-A to BU-1 is consistent with the proposed change to the FLUM to CC, if it were to be approved.

There is no CC (Community Commercial) FLU in the surrounding block of this parcel. The abutting parcel to the west has FLU of NC (Neighborhood Commercial). The abutting parcels to the east and south have FLU of RES 4 (Residential 4).

The Community Commercial (CC) corridors are approximately 1.3 miles east and west of the subject parcel.

On October 4, 2018, the Board of County Commissioners directed staff to conduct a Small Area Study of Port St. John after a request was made to change the Future Land Use designation from Residential 4 (RES 4) to Community Commercial (CC) and a Zoning change request from Institutional Use – Low Intensity (IN(L)) to General Retail Commercial (BU-1) on a 1.78 acre parcel of land located on the south side of Fay Boulevard, west of the subject parcel. This property remains vacant.

**Analysis of Administrative Policy #4 - Character of a neighborhood or area.** The subject parcel is currently zoned BU-1-A and is developed with an existing church built 1999.

The surrounding area in the same block of the subject parcel has FLU designations of NC and RES 4 which are not consistent with the proposed BU-1 zoning classification.

There has been one zoning action along with a change to the FLU within a half-mile of the subject property within the last four years.

On October 04, 2018, application **18PZ00073**, a companion small scale application to the rezoning application **18PZ00074**, changed the FLU from RES 4 to CC on the easterly 1.78 acres of the parcel, located on the south side of Fay Blvd, approximately 465 feet west of the subject property.

On January 19, 2019, application **18PZ00074** changed the zoning from IN(L) to BU-1 with a Binding Development Plan (BDP) limiting development to an approximate 9,300 sq. ft. retail store on the east 1.78 acres of the parcel, located on the south side of Fay Blvd, approximately 465 feet west of the subject property.

## **Surrounding Properties**

The abutting parcel to the east is a vacant parcel with RU-1-9 zoning. Further to the east in the same block is IN(L) developed parcel with a Church and RU-1-9 zoned lots developed with single-family homes.

The abutting parcels to the south have RP (Residential Professional) zoning and BU-1-A zoning. The RP zoned parcels are vacant land and the BU-1-A zoned parcel is developed with a Day Care Center.

The abutting parcel to the west has BU-1-A zoning and is subject to the same BDP and conditions that is on the subject parcel. This BDP limits the BU-1-A uses, and requires an ingress/egress driveway constructed on Adams Place to line up with the convenience store's driveway on the west side of Adams place. The BDP also states to close the existing Adams Place driveway permanently which is located at the Southwest corner of the parcel. This parcel is developed with a commercial neighborhood retail store, Family Dollar.

The block to the west of the subject parcel, along the west side of Adams Place, has BU-1-A and RP zoning. The BU-1-A zoned parcels are developed with commercial buildings. The RP zoned parcel is developed with a single-family residence. Also, in this block there is a parcel approximately 465 feet west of the subject property with BU-1 zoning (**18PZ00074**) which has a FLU of CC.

The current 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 proposed 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.

IN(L) is an Institutional (Light) 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.

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.

RP is a residential-professional zoning classification, intended to promote low to medium density residential development along with low intensity commercial usage. Minimum lot area requirements in the RP classification are 7,500 square feet, with 75 feet of width and depth.

## **For Board Consideration**

The Board may wish to consider whether this request to BU-1 is consistent and compatible with the surrounding area and whether the proposed Binding Development Plan mitigates the potential impacts of the request. The Board may also wish to consider the 2018 Port St. John SAS recommendations.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Rezoning Review & Summary**  
**Item # 20Z00031**

**Applicant:** Carmine Ferraro

**Zoning Request:** BU-1A to BU-1 with BDP Amendment

**Note:** Applicant wants hardware store with outdoor garden center.

**PSJ Hearing Date:** 11/18/20; **LPA Hearing Date:** 11/23/20; **BCC Hearing Date:** 12/03/20

**Tax ID No:** 2309941

- 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, Tavares fine sand and Orsino 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 and Specimen Trees**

Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Protected and 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. In addition, a large Florida Scrub Jay polygon is mapped over the parcel and surrounding areas. 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.