



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940  
(321)633-2070 Phone / (321)633-2074 Fax  
<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS**

**20Z00038**

**Harold Kurz Trustee**

**BU-1 (General Retail Commercial) to PIP (Planned Industrial Park)**

Tax Account Number: 2316254  
Parcel I.D.: 23-36-22-00-20  
Location: Southwest intersection of N. Tropical Tr. And N. Courtenay Pkwy.  
(District 2)  
Acreage: 3.66 acres

North Merritt Island Board: 1/07/2021  
Board of County Commissioners: 2/04/2021

**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>	BU-1	PIP
<b>Potential*</b>	159,430 sq. ft. commercial building(s)	57,395 sf commercial/industrial building
<b>Can be Considered under the Future Land Use Map</b>	YES Community Commercial	YES Planned Industrial**

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. \*\*A companion application, **20PZ00107**, if approved would change the Future Land Use designation from CC to PI.

**Background and Purpose of Request**

The applicant is requesting a change of zoning classification from General Retail Commercial (BU-1) to Planned Industrial Park (PIP) for the purpose of constructing a building for use in manufacturing that would serve multiple tenants. This location was chosen by the applicant due to its proximity to Kennedy Space Center.

The site is currently vacant and the applicant would be required to undergo the site plan process. The site would be used to assemble small technical parts on computer numerical control (CNC) equipment. This use is permitted in the current zoning under the conditions of Section 62-1837.4. However, the applicant is requesting PIP zoning in order to permit more uses to allow additional tenants sharing the building. Under PIP zoning, all uses permitted in the BU-1 and BU-2 zoning

classifications are permitted in addition to manufacturing activities that can be carried on in a relatively unobtrusive manner.

The original zoning of the lot was Agricultural Residential (AU), adopted May 22, 1958. On November 10, 1966, the southern half acre of the property was rezoned from AU to BU-1 by zoning action **Z-2015**. On June 26, 1978, the remaining approximately 3.16 acres was rezoned from AU to BU-1 by zoning action **Z-4561**.

## **Land Use**

The property retains the Community Commercial (CC) Future Land Use (FLU) designation. The existing zoning classification BU-1 is consistent with the CC FLU designation. The proposed zoning classification, PIP, is not consistent with the current FLU designation, but is consistent with the proposed FLU designation of PI being requested concurrently with this application (**20PZ00107**).

## **Environmental Constraints**

The subject parcel contains mapped hydric soils with potential for wetlands. Section 62 3694(c)(3)b has allowances for wetland impacts for commercial or industrial land development activities along Mitigation Qualified Roadways (MQRs). North Courtenay Parkway is an MQR at this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

The parcel is subject to compensatory storage for fill required for development on North Merritt Island. A topographic survey or engineered site plan delineating floodplain limits on the property is required. The engineer shall provide a report including the hydraulic and hydrologic modelling and analysis. Please see floodplain section in NRM comments for more information.

The property is mapped within the Indian River Lagoon Nitrogen Reduction Septic Overlay. If sewer is not available, the property will require a septic system that provides at least 65% total nitrogen reduction through multi-stage treatment processes per Chapter 46, Article II, Division IV Nitrogen Reduction Overlay.

## **Preliminary Concurrency**

The closest concurrency management segment to the subject property is N. Courtenay Pkwy., between Hall Road and N. Tropical Trail, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 34.28% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 0.93%. The corridor is anticipated to continue to operate at 35.21% of capacity daily. The proposal is not anticipated to create a deficiency in LOS D.

The parcel has access to potable water through the City of Cocoa. The parcel is not serviced by Brevard County sewer. The closest available Brevard County sewer line is approximately 5,622 feet south of the subject property at the intersection of N. Courtenay Pkwy. and Church Rd. According to Utilities, "We will be extending the force main and reuse main north from Church to N. Tropical Trail. Construction will be starting soon and is anticipated to be completed within a year."

### **Applicable Land Use Policies**

The applicant has submitted a Small Scale Comprehensive Plan Amendment application to change the FLUM from CC to PI under **20PZ00107**. Should the proposed FLU designation of PI be approved, then this request to PIP can be considered.

**FLUE Policy 3.5** - The Planned Industrial land use designation is intended to accommodate the clustering of light industrial and business uses in settings which provide special attention to the integration of infrastructure, such as circulation, parking, and utilities, while placing emphasis upon aesthetics of the project and compatibility with abutting properties and properties within the industrial park. These parks shall be designed to limit intrusion into residential areas. Appropriate uses are those that operate within enclosed buildings such as manufacturing, assembling, fabricating, warehousing and retailing activities. Hotel and motel accommodations that serve the travel needs of employees or clients associated with firms within the planned industrial or business parks are also appropriate. Marinas may also be considered within this land use designation.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 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.** The parcel is bounded by roads on its north (N. Tropical Trail) and east (N. Courtenay Pkwy.) sides. The 0.22 acre parcel to the northwest of the subject property containing telecommunication facilities has a FLUM of CC. The parcel to the south containing a gas station also has a FLUM of CC. There are two parcels to the west owned by the County containing Brevard County Fire Station 40 with a FLUM of Public Facilities (PUB). The closest industrial FLUM is located approximately 5,890 feet northeast of the subject property, on the south side of N. Courtenay Pkwy. This property is currently vacant. The closest developed parcel with an industrial FLUM is a parcel with the IND FLUM located approximately 1.38 miles northeast of the subject property. The closest developed parcel with a FLUM of PI is located approximately 4 miles south of the subject property at the intersection of N. Courtenay Pkwy. and Smith Rd.

**Analysis of Administrative Policy #4 - Character of a neighborhood or area.** The subject property is currently vacant. The west side of the property is bordered by single-family residential homes and a fire station. Across N. Tropical Trail there is a single-family residential neighborhood. To the south of the property along N. Courtenay Pkwy. on both sides are commercial properties, both developed and vacant. As N. Courtenay Pkwy. begins to bend to the northeast, there are mostly vacant parcels with public, institutional, and residential zonings.

As an alternative to the requested PIP, the Board may consider the provision within Section 62-1837.4., which allows manufacturing, compounding, processing, packaging, storage, treatment or assembly of certain products is permitted in BU-1 subject to the following conditions:

- (1) All uses shall be conducted on a lot with a minimum size of 20,000 square feet.
- (2) All uses shall be conducted and confined within completely enclosed buildings with walls and a roof.
- (3) The operation within the building shall be conducted so as to prevent the emission of smoke and odors from the structure.
- (4) There shall be no outside storage for the facility, beyond that permitted by the applicable classification.
- (5) All other requirements and specifications for minimum setbacks, minimum floor area, maximum height of structures, off-street parking, signs and fencing for the BU-1 or BU-2 zoning classification as provided in this chapter shall be requirements for this use and are hereby incorporated into and made a part of this section by reference.
- (6) This use shall not include the rendering or refining of fats and oils, poultry and animal slaughtering or dressing, or fish canning. Uses that are permitted with conditions include boatbuilding facilities and recovered materials processing facilities.

The applicant wishes to allow manufacturing beyond what is permitted in BU-1. PIP zoning permits all uses that are permitted in the BU-1 and BU-2 zoning classifications in addition to manufacturing activities that can be carried on in a relatively unobtrusive manner. These uses may include sharpening and grinding shops; testing laboratories; wholesale salesroom and storage rooms; welding repairs; and major and minor automobile repair.

PIP zoning requires larger front, rear, and side setbacks than the current BU-1 zoning. Sec. 62-1542(5) requires all buildings to be set back from all street right-of-way lines at least 50 feet and that no building or wall shall be located closer than 50 feet to a side yard lot line. No structures or truck parking and loading shall be located closer than 25 feet to the rear lot line.

## **Surrounding Area**

This lot abuts a roadway on its east and north perimeters. To the northwest is a 0.22 acre BU-1 lot with a telecommunication facility. To the west are two lots zoned GML containing Brevard County Fire Station 40. Also to the west are two RR-1 zoned residential lots. To the south is a 0.85 acre lot used as gas station zoned BU-1. Zonings in the immediate area are: BU-1, GML(I), and RR-1.

The BU-1 zoning classification permits uses devoted to general retail shopping, offices and personal services to serve the needs of the community on 7,500 sq. ft. lots, with a minimum lot width and depth of 75 feet. The minimum floor area of all structures in BU-1 is 300 sq. ft.

The GML(I) zoning classification permits lands and institutional facilities managed by federal, state and local government on 2.5 acre lots, with a minimum lot width and depth of 150 feet.

The RR-1 zoning classification permits single-family detached dwellings on lots of one acre with a minimum width and depth of 125 feet.

There has been one zoning action within a half-mile radius of the subject property within the last three years.

On September 18, 2018, zoning action **18PZ00054** changed the zoning from AU (Agricultural Residential) to EU (Estate Use Residential) with a BDP limited to one unit per acre, and ingress and

egress limited to one access on N, Tropical Trail on 163.3 acres located approximately 2,622 feet northwest of the subject property.

### **For Board Consideration**

The Board may wish to consider whether the request is consistent and compatible with the surrounding neighborhood, consisting of a mix of single-family, commercial, and institutional.

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

**Item # 20Z00038**

**Applicant:** Perrette for Kurz

**Zoning Request:** BU-1 to PIP

**Note:** Applicant wants to supply the Space Center with parts and services not included in BU-1.

**NMI Hearing Date:** 01/07/21; **BCC Hearing Date:** 02/04/21

**Tax ID No:** 2316254

- 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/Wetlands
- Aquifer Recharge Soils
- Floodplain
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped hydric soils with potential for wetlands. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial or industrial land development activities along Mitigation Qualified Roadways (MQRs). North Courtenay Parkway is an MQR at this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or

permit submittal. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

The parcel is subject to compensatory storage for fill required for development on North Merritt Island. A topographic survey or engineered site plan delineating floodplain limits on the property is required. The engineer shall provide a report including the hydraulic and hydrologic modelling and analysis. Please see floodplain section in NRM comments for more information.

The property is mapped within the Indian River Lagoon Nitrogen Reduction Septic Overlay. If sewer is not available, the property will require a septic system that provides at least 65% total nitrogen reduction through multi-stage treatment processes per Chapter 46, Article II, Division IV-Nitrogen Reduction Overlay.

### **Land Use Comments:**

#### **Hydric Soils/Wetlands**

The subject parcel contains mapped hydric soils (Copeland-Bradenton-Wabasso Complex) as shown on the USDA Soil Conservation Service Soils Survey map. Hydric soils are an indicator that wetlands may exist on the property. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial or industrial land development activities along Mitigation Qualified Roadways (MQRs). North Courtenay Parkway is an MQR at this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. An environmental report was prepared by Andrew Conklin Environmental Services, LLC (ACES) on May 26, 2020. The report indicated that approximately 0.37 acres of wetlands may exist on the western boundary; however, a formal wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

#### **Aquifer Recharge Soils**

The subject parcel contains a small area of mapped aquifer recharge soils (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.

#### **Floodplain**

A portion of the property is mapped as being within the floodplain as identified by the Federal Emergency Management Agency (FEMA) and as shown on the FEMA Flood Zones Map. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Additional impervious area increases stormwater runoff that can adversely impact nearby properties unless addressed on-site. 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."

Per Section 62-3724(4), any development, land alteration, or grading on North Merritt Island in the area from Hall Road, north to State Road 405, herein after referred to as "Area," is subject to compensatory storage, and written certification from the engineer of record that there will be no adverse flooding impacts upon properties within the Area resulting from the proposed development. The engineer shall provide a report that includes full engineering data and analysis, including the hydraulic and hydrologic modelling and analysis demonstrating that there is no impact. A topographic survey or engineered site plan delineating floodplain limits on the property will be required. Delineation of floodplains shall use best available pre-alteration ground elevation data. Any engineered compensatory storage shall be maintained by the owner in perpetuity. Any modifications to the system require approval under Section 62-3724.

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

The property is mapped within the Indian River Lagoon Nitrogen Reduction Overlay. If sewer is not available, the property will require a septic system that provides at least 65% total nitrogen reduction through multi-stage treatment processes per Chapter 46, Article II, Division IV-Nitrogen Reduction Overlay.

### **Protected and Specimen Trees**

A majority of the subject property is mapped within SJRWMD FLUCCS codes 4350-Upland Scrub, Pine and Hardwoods, and 4110 – Pine Flatwoods. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are included in these FLUCCS codes, and are likely found on 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. A tree survey will be required at time of site plan submittal, and is recommended prior to any site plan design in order include preservation of any robust Specimen Trees. 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**

The subject property has a large mapped Florida Scrub Jay polygon over the site as shown on the Florida Scrub Jay Occupancy Map. The ACES report indicated that Florida Scrub Jays were not found onsite; however, gopher tortoises were found onsite. 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.