



**Planning and Development Department**

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BOARD OF COUNTY COMMISSIONERS

**STAFF COMMENTS**

**20Z00015**

**Brevard Tower Communications Inc.**

**GU to BU-2 with removal of CUP for Towers and Antenna**

Tax Account Number: 2802674 & 2802676  
 Parcel I.D.: 28-36-13-00-756 and 758  
 Location: North side of Norfolk Parkway, 1,200 feet west of Minton Road (District 5)  
 Acreage: 17.5 acres

Planning and Zoning Board: 01/11/2021  
 Board of County Commissioners: 02/04/2021

**Consistency with Land Use Regulations**

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can NOT be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would NOT maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	GU with CUP for towers and antenna	BU-2 with removal of CUP
<b>Potential*</b>	Two single-family lots	213,444 square feet
<b>Can be Considered under the Future Land Use Map</b>	Yes NC & RES 2	No NC & RES 2 Yes** Community Commercial

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. \*\*There is a Large-Scale Future Land Use Map (FLUM) amendment companion application under **20PZ00072** which proposes to change the NC and RES 2 Future Land Use (FLU) designations to Community Commercial FLU.

**Background and Purpose of Request**

The applicant is requesting a change of zoning classification from GU (General Use) with a Conditional Use Permit (CUP) for Towers and Antenna to BU-2 (Retail, Warehousing and Wholesale Commercial) and the removal of the CUP for Towers and Antenna.

The CUP for towers and antenna approved under **Z-6769** was adopted on July 12, 1984. The existing tower (480-foot tall) is located to the north and outside of this zoning action’s legal description. The applicant does not wish to retain the CUP over this property description. The GU zoning is original zoning dating back to May 22, 1958. The property is also known to have had an

unlicensed landfill at this location. Brevard County entered into a settlement Agreement on March 25, 1991 to close the site. The landfill operation activity started in January, 1984 and was terminated on December 31, 1991.

## **Land Use**

The subject property contains the Neighborhood Commercial (NC) and Residential 2 (RES 2) FLU designations. Although the existing GU zoning is consistent with both FLU designations, the proposed BU-2 zoning requires the Community Commercial (CC) FLU designation. A companion request proposed under **20PZ00072** will attempt to amend the current FLU designations to the CC FLU. If that request is approved, this request can be heard. If the FLUM request is denied, this action should be withdrawn by the applicant or denied by the Board.

## **Environmental Constraints**

No noteworthy land use issues were identified. 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 Minton Road, between Hield Road to Eber Boulevard, which has a Maximum Acceptable Volume (MAV) of 39,800 trips per day, a Level of Service (LOS) of D, and currently operates at 80.65% of capacity daily. The maximum development potential from a proposed shopping center use would increase the percentage of MAV utilization by 22.85%. With the maximum development potential from the proposed rezoning, the corridor is anticipated to operate at 103.5% of capacity daily (LOS F). The proposal is anticipated to create a deficiency in LOS. If the applicant binds the property under a Binding Development Plan to mini-storage use only, the traffic potential would increase only 1.29% thereby reducing potential traffic demand to 81.94% capacity (LOS C).

No school concurrency information has been provided as the project is not intended for residential uses.

The parcels currently do not have access to either potable water or sanitary sewer. In the future, the parcels may be able to obtain potable water from the City of West Melbourne. If they can connect to the main located on the south side of the Norfolk Parkway.

## **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 site contains the RES 2 (3.5 acres) and NC (14.0 acres) FLU designations from Brevard County. If the accompanying request under **20PZ00072** which proposes to change the NC and RES 2 Future Land Use (FLU) designations to Community Commercial FLU is approved, the BU-2 zoning classification would become a potential option for Board approval.

The BU-2 retail, warehousing and wholesale commercial zoning classification encompasses lands devoted to general retail and wholesale business, contracting and heavy repair services and warehousing activities. The adjacent county zoning is residential, AU and GU zoned parcels.

The AU zoning 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.

The GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet.

Adjacent city zoning is a mixture of RLS, R-1A, P-1 and C-1. RLS use allows single-family dwellings and may include duplexes, townhomes, garden apartments and similar low to medium density residential dwelling units. The principal use in the R-1A single-family residential district are single-family dwellings. The principal uses in the P-1 institutional district are as follows: (1) Public and semipublic buildings and activities. (2) Public elementary, junior, middle, and high schools and learning centers. (3) Health institutions, including hospitals, clinics, nursing and convalescent homes, homes for the elderly, children's homes and adult congregate living facilities. (4) Cultural institutions. The C-1 low density commercial district allows the following uses: (1) Retail stores, sales and display rooms, except automotive and similar uses, including places in which goods are produced and sold at retail upon the premises. (2) Personal service establishments such as beauty shops and barbershops, laundry and dry cleaning pickup stations, tailor shops and similar uses. (3) Professional offices, studios, clinics, laboratories, general offices, business schools and similar uses. (4) Hotels, motels and guest cottages. (5) Eating and drinking establishments. (6) Vocational and trade schools not involving operations of an industrial nature. (7) Banks and financial institutions. (8) Public and private parking lots and garages. (9) Telephone switching stations, electrical substations, and similar operational equipment used by public utilities.

There does not appear to be any emerging development trends in the existing area located north or east of this site.

**Analysis of Administrative Policy #4 - Character of a neighborhood or area.** The subject parcel abuts a large retention tract/lake to the west. A developed single-family residence is located to the north together with an abutting site developed with a communication tower. To the east are multiple properties that are/may be used as a private school/learning center.

Buffering the proposed development from adjacent residential sites, a site plan condition, can be performed by providing a six-foot high masonry wall. The Board can request additional buffers and/or setbacks to assist in buffering existing development from any negative effects of this site's development.

### **Surrounding Properties**

The developed character of the surrounding area is mostly vacant/unimproved land. To the north is a developed single-family lot zoned Agricultural Residential (AU). There is also a developed communication tower on General Use (GU) zoning. To the east is a vacant GU zoned parcel and city zoned parcels which mostly seem to be vacant/unimproved. To the south is the Norfolk Parkway road right-of-way. To the west is a large retention tract/lake for the Sawgrass Lakes community.

The applicant's request is for the development of a storage facility which could be performed under the BU-2 request pursuant to Section 62-1833.5 Contractors' offices, plants and storage yards. This use identified under subsection (a) requires: Storage yards to be enclosed with a six-foot wall, louvered fence or chain-link fence (outside of structures).

The four adjacent city zonings abutting this area allow for residential, institutional and commercial use. The 2016-2020 aerials do not reflect any current development pattern except for the residential subdivision buildout (west) of this parcel in the immediate neighborhood.

There have been no recent county zoning actions within a half-mile of the subject property within the last three years.

### **For Board Consideration**

The Board may wish to consider whether this request is consistent and compatible with the surrounding area and the history of the property.

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

**Item # 20Z00015**

**Applicant:** Andy Gardner for Jack Hunt

**Zoning Request:** GU to BU-2; Removal of CUP for Tower & Antenna

**Note:** Applicant wants RV and boat storage facility.

**P&Z Hearing Date:** 01/11/21; **BCC Hearing Date:** 02/04/20

**Tax ID Nos:** 2802676 & portion of 2802674

- 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:**

- National Wetland Inventory (NWI) Wetlands
- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

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

**Land Use Comments:**

**Wetlands**

The subject parcel contains mapped NWI (Freshwater emergent wetlands) as shown on the NWI Wetlands map, an indicator that wetlands may be present on the property. A wetland delineation was performed in December 2019 by Andrew Conklin Environmental Services, LLC (ACES), and found approximately 0.22 acres of wetlands in the northeast corner of the parcel.

Per Section 62-3694(3), commercial and industrial land development activities shall be prohibited in wetlands contained in properties designated on the Future Land Use Map as commercial or industrial, and in surrounding upland buffers for such wetlands, except as provided below for I-95 interchanges, mitigation qualified roadways, abutting properties, and access to uplands. In no instance shall a proposed land development activity result in increased flooding on adjacent properties. Where the State does not require a buffer, wetland buffers shall be established in accordance with Section 62-3694(c)(10). Where impacts are permitted, the applicant is encouraged to propose innovative wetland preservation alternatives. Where the State does not require mitigation for any wetland impact, mitigation shall be provided to meet the County's no net loss policy as defined in Section 62-3696. 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.

### **Aquifer Recharge Soils**

A small area of the parcel contains mapped aquifer recharge soils (Palm Beach 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**

Aerials indicate that Protected (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) may reside on subject property. 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. 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.

### **Other**

According to Florida Department of Environmental Protection (FDEP) records, the subject property was utilized as a construction and demolition debris landfill site from approximately 1984 to 1992. The applicant should contact FDEP at (407) 897-4313 for guidance regarding disturbing/developing old landfill sites to ensure that public health and the environment will not be harmed by the disturbance of the waste at the site.