



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

20Z00041

Preferred Leasing, LLC

BU-1 (General Retail Commercial) and AU (Agricultural Residential) to all BU-1

Tax Account Number: 2103397 & 2103387
Parcel I.D.: 21-35-17-00-524 & 533
Location: NE corner of Cuyler Street and U.S. Highway 1 (District 1)
Acreage: 8.51 acres

Planning and Zoning Board: 2/08/2021

Board of County Commissioners: 3/04/2021

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)

	CURRENT	PROPOSED
Zoning	BU-1 & AU	all BU-1
Potential*	86,243 square feet of commercial use and 2 single-family lots	370,695.6 square feet of commercial use
Can be Considered under the Future Land Use Map	YES CC, NC & RES 4	YES** CC

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. **There is a Small-Scale Future Land Use Map (FLUM) amendment companion application under **20PZ00116** which proposes to change the NC and RES 4 Future Land Use (FLU) designations to Community Commercial FLU.

Background and Purpose of Request

The applicant is requesting a change of zoning classification from BU-1 (General Retail Commercial) and AU (Agricultural Residential) to all BU-1 for the purpose of expanding an existing tractor supply store which sells farm equipment.

The current BU-1 zoning was adopted on May 4, 1978, in conjunction with a conditional use permit request for Farm Machinery Sales and Service. That particular CUP has been retired from the code and replaced as a permitted with conditions use under Ordinance 95-49, adopted on October 19, 1995. The AU zoning is original zoning for this parcel.

Land Use

The subject property is currently designated as Community Commercial (CC), Neighborhood Commercial (NC) and Residential 4 (RES 4). The companion application **20PZ00116** proposes to change the NC and RES 4 FLUs to the CC Future Land Use designation. The BU-1 zoning classification is consistent with the CC FLUM and the AU zoning is consistent with both of the NC and RES 4 FLU.

Environmental Constraints

The subject property may contain mapped Type 2 aquifer recharge soils that are found within aquifer recharge areas with elevations greater than or equal to 30 feet mean sea level (NGVD 1929). Per Section 62-3636, within Type 2 aquifer recharge soils, the maximum impervious surface shall be 35 percent, private lakes shall be prohibited, and land alteration shall not alter the recharge or storage characteristics of the area. A topographic survey will be required to at time of site plan review to determine elevations in aquifer recharge areas. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US Highway 1, between Dairy Road and SR Highway 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 does increase the percentage of MAV utilization by 30.75%. The corridor is anticipated to continue to operate at 71.33% of capacity daily. 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 falls below the minimum number of new residential lots that would require a formal review.

The parcel is provided public water by Brevard County. The closest sewer connection is 2,250 feet north of the parcel lying north of E. Main Street.

Applicable Land Use Policies

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.

This request is within the Mims Area Small Area Study, approved by the Board on April 10, 2007. The location is the NE corner of Cuyler Street and U.S. Highway 1. The existing business is located within the Community Commercial FLU. The applicant wishes to expand the site to cover the additional lot area to the north and eastern boundaries. Those FLU designations are NC and RES 4. Expanding the CC FLU could be reviewed under FLU Policy 2.11. The FLUM for the property north of this site transitions from CC to NC to RES 4 (same as this parcel). Property lying south of Cuyler Street is designated CC for the full depth of the parcel under this zoning action. The applicant has requested a Small-Scale Comprehensive Plan amendment # **20PZ00116**.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The developed character of the surrounding area is a mix of commercial BU-1 zoned land, single family detached dwellings and a nonconforming mobile home park. The adjacent zonings are: BU-1, TR-3, RU-2-4, RU-2-6 and AU. The proposed expansion area is undeveloped AU zoned area.

The BU-1 general retail commercial zoning classification encompasses land devoted to general retail shopping, offices and personal services to serve the needs of the community. The TR-3 mobile home park zoning classification encompasses land devoted to mobile home parks. The RU-2-4 and RU-2-6 low-density multiple-family residential zoning classifications encompass lands devoted to low-density multifamily residential purposes, together with such accessory uses as may be necessary or are normally compatible with residential surroundings. The AU agricultural residential zoning classification encompasses lands devoted to agricultural pursuits and single-family residential development of spacious character.

The BU-1 zoning classification requires that all business uses and all material and products shall be confined within substantial buildings completely enclosed with walls and a roof; however, retail items of substantial size or which of necessity must remain outside of a building may be permitted to be displayed outside the buildings. However, the BU-1 zoning classification does not qualify any use as a storage yard. A storage yard is a permitted use with conditions under the BU-2 zoning classification's list of uses (Contractor's offices, plants and storage yard pursuant to Section 62-1833.5 of Brevard County Code).

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 of the Future Land Use Element.

Surrounding Area

The abutting parcels to the north and east are mostly developed parcels except for two vacant residential lots located to the east. The proposed expansion area for rezoning is currently unimproved. This lot has road frontage along its western and southern boundaries. Expansion into this area will require the construction of a masonry wall and buffering from the existing residential zoned properties.

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.

There has been only two zoning actions within a half-mile radius of the subject property within the last three years. The first action, **18PZ00147**, was for a change of zoning from Single-family residential (RU-1-7) to Suburban Residential (SR) adopted on March 7, 2019. This location lies 1,560 feet due west of the proposed commercial site expansion abutting the east side of N. Singleton Avenue and located 165 feet north of Parker Street. The second action, **19PZ00066**, was for a conditional use permit for on-premise alcoholic beverage consumption for the wedding venue at the Think Green site located 2,000 feet south of this property lying at the NW corner of U.S. Highway 1 and Parrish Road.

For Board Consideration

The Board may wish to consider whether the request is consistent and compatible with the surrounding neighborhood.

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

Item # 20Z00041

Applicant: JT Realty Holdings for Preferred Leasing

Zoning Request: BU-1 & AU to BU-1

Note: Applicant wants to expand farm machinery sales and service store.

P&Z Hearing Date: 02/08/21; **BCC Hearing Date:** 03/04/21

Tax ID Nos: 2103397 & 2103387

- 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
- Land Clearing & Landscape Requirements
- Protected Species

The subject property may contain mapped Type 2 aquifer recharge soils that are found within aquifer recharge areas with elevations greater than or equal to 30 feet mean sea level (NGVD 1929). Per Section 62-3636, within Type 2 aquifer recharge soils, the maximum impervious surface shall be 35 percent, private lakes shall be prohibited, and land alteration shall not alter the recharge or storage characteristics of the area. A topographic survey will be required to at time of site plan review to determine elevations in aquifer recharge areas. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

Land Use Comments:

Aquifer Recharge Soils

A large area of the subject parcel contains mapped aquifer recharge soils (Candler fine sand and Tavares fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. Topographic maps available to NRM indicate elevations greater than or equal to 30 feet mean sea level (NGVD 1929) in portions of the aquifer recharge areas. Per Section 62-3636, Type 2 aquifer recharge areas, the maximum impervious surface shall be 35 percent of the Type 2 aquifer recharge area on the site. Private lakes as described in article XIII, division 5, of this chapter shall be prohibited. Land alteration shall not alter the recharge or storage characteristics of the area. This includes the removal high permeability soils or replacement with lower-permeability soils. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Land Clearing & Landscape Requirements

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 tortises 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.