



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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**STAFF COMMENTS
 21Z00003**

Kaydenlew, LLC

BU-1 (General Retail Commercial) to BU-2 (Retail, warehousing and wholesale commercial)

Tax Account Number: 2605988
 Parcel I.D.: 26-37-18-00-511 (western portion)
 Location: 280 feet south of Anderson Way on west side of U.S. Highway 1
 (District 4)
 Acreage: 1.34 acres

Planning and Zoning Board: 3/08/2021
 Board of County Commissioners: 4/15/2021

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 not maintain acceptable Levels of Service (LOS) (XIII 1.6.C)**

	CURRENT	PROPOSED
Zoning	BU-1	BU-2
Potential*	58,370.4 square feet of commercial use	58,370.4 square feet of commercial use**
Can be Considered under the Future Land Use Map	YES CC	YES CC

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. **A Binding Development Plan would be needed to limit the scope of uses and square footage of the commercial development.

Background and Purpose of Request

The applicant is requesting a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, warehousing and wholesale commercial) zoning for the purpose of developing a warehouse and mini-warehouse use upon the western portion of the overall lot.

The current BU-1 zoning was adopted on August 18, 1986 under zoning action **Z-7533**. This zoning request changed the original zoning from GU (General Use) to BU-1 zoning. There was also a stipulation within that resolution requiring the applicant to construct a wall abutting the residential property. This condition is a current requirement identified in the site plan development code where commercial use abut residential sites.

Future Land Use Policy 2.14 A, states that non-retail commercial land uses shall be limited to those areas where non-retail commercial or industrial characteristic are established or planned so as to protect residential areas from their influence. Additionally, under the roadway access requirements subsection, the policy states: Convenient access to a major transportation corridor or along a railroad corridor with visual buffering from such corridors. The applicant proposes to limit the zoning request to the western portion of the overall lot as a way to satisfy the required visual buffer. The applicant/owner may also propose future BU-1 commercial improvements onto the retained BU-1 frontage which would further assist in buffering the storage uses allowed within the BU-2 zoning request. The retained BU-1 area meets the code requirements for minimum lot width, depth and minimum lot area.

Land Use

The subject property is currently designated as Community Commercial (CC). Both BU-1 and the proposed BU-2 zoning classifications are consistent with the CC FLU designation.

Applicable Land Use Policies

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

This parcel is located with frontage along the west side of U.S. Highway 1, a distance of 280 feet south of Anderson Way. The vicinity contains multiple land use designations. To the north are the Community Commercial (CC) and Neighborhood Commercial (NC) designations. To the south are the CC and Heavy/Light Industrial designations (IND). To the west is the Planned Industrial designation (PI). This mixture of FLU designations seems to be consistent with the administrative criterion (C) of Policy #3 as no re-zonings or FLU amendments have been processed in this immediate area over the last three years. The proposed warehouse use is an activity which would be permitted within the CC, PI and IND FLU designations.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The developed character of the surrounding area is a mixture of BU-1, BU-2, Industrial (IU) zoned land together with remnant single-family detached dwellings located in the General Use (GU) zoning classification lying to the north and south of this parcel. There is also a large mobile home and RV community located 550 feet to the north of this site. The proposed warehouse use appears to be consistent with the commercial/industrial character of the area. The proposed activity will be operated from the proposed BU-2 portion, which if approved, creates a limited buffer between the adjacent residence located along the northeastern property boundary. Review of Policy #4 B. 3. may justify that the area may be presumed to be a transitional area due to multiple commercial , industrial or other non-residential uses existing in the immediate area.

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 residential lots. The two properties to the south are developed with a warehouse use and office flex space. The southeastern lot similarly has split zoning of BU-1 along the roadway with BU-2 zoning to the west, which this owner wishes to emulate. Lying to the west of this site, abutting Andersen Way, is a retention pond.

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.

The BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots.

The IU zoning classification permits light industrial land uses within enclosed structures. The minimum lot size is 20,000 square feet, with a minimum width of 100 feet and a minimum depth of 200 feet.

There has been six zoning actions within a half-mile radius of the subject property within the last three years. The most recent action, **20Z00014**, was for a change of zoning from PUD and PIP to all PUD with retention of a CUP for alcoholic beverages at an Assisted Living Facility adopted on September 30, 2020. This location lies 1,720 feet in a northwesterly direction of the proposed commercial site. The second action, **20Z00007**, was for a CUP for alcoholic beverages accessory to an indoor family entertainment center adopted on August 06, 2020. This location lies 2,550 feet in a northerly direction of the proposed commercial site lying upon the western U.S. Highway 1 right-of-way. The third action, **19PZ00064**, was for a conditional use permit for mitigating a nonconforming mobile home park adopted on July 31, 2019. This location lies less than 100 feet in a northwesterly direction. The fourth action, **19P00004**, was for a CUP for on-premise alcoholic beverage consumption in conjunction with an Assisted Living Facility. This action was the precursor to **20Z00014**. **19PZ00004** was adopted on April 4, 2019. This location lies 1,720 feet in a northwesterly direction of the proposed commercial site. The fifth action, **18PZ00059**, was for a change of zoning from RU-2-15 to BU-1 with Binding Development Plan adopted on January 9, 2019 and recorded in ORB 8345, Pages 662 - 666. It is located 1,050 feet in a southwesterly direction from this property located on the east side of Wickham Road. The sixth action, **17PZ00109**, was for a change of zoning from PIP to RU-2-15 with Binding Development Plan adopted on April 25, 2019 and recorded in ORB 8148, Pages 974 – 982. This action was the precursor to **18PZ00059** adopted on January 9, 2019. It is located 770 feet in a southwesterly direction from this property located on the east side of Wickham Road.

Environmental Constraints

Aerials indicate the subject parcel may contain wetlands. Section 6210--3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). U.S. Highway 1 is an MQR at this location. A wetland determination may be required. The applicant is encouraged to contact NRM at 321-633-2016 prior to any land clearing activities, plan or permit submittal.

Preliminary Concurrency

The closest concurrency management segment to the subject property is U.S. Highway 1, between Pineda Causeway and Suntree Boulevard, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 89.83% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 69.29%. The corridor is anticipated to operate at 159.12% of capacity daily. The proposal is anticipated to create a deficiency in LOS. If limited by Binding Development Plan (BDP) to warehouse use, the trip generation is reduced from 41,790 to 208 daily trips which potentially increases MAV utilization 0.5% which would allow the corridor to continue to operate at 90.33% of capacity daily. Under the BDP for warehouse use, the proposal is anticipated to not create a deficiency in LOS. Concurrency will be addressed at the site plan review.

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 could be provided public water by Cocoa Utilities. The potential sewer connection is on the east side of the U.S. Highway 1 right-of-way.

For Board Consideration

The Board may wish to consider whether the request is consistent and compatible with the surrounding neighborhood given that BU-2 abuts the north and south portions of this lot.

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

Item # 21Z00003

Applicant: Menzel for Lew

Zoning Request: BU-1 to BU-2

Note: Applicant wants warehouse use.

P&Z Hearing Date: 03/08/21; **BCC Hearing Date:** 04/15/21

Tax ID No: 2605988

- 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:

- Wetlands
- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

Aerials indicate the subject parcel may contain wetlands. Section 6210--3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). U.S. Highway 1 is an MQR at this location. A wetland determination may be required. The applicant is encouraged to contact NRM at 321-633-2016 prior to any land clearing activities, plan or permit submittal.

Land Use Comments:

Wetlands

Aerials indicate the subject parcel may contain wetlands on the west side of the parcel. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along MQRs. U.S. Highway 1 is

an MQR at this location. If wetlands exist, the applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any wetland impacts. 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.

Aquifer Recharge Soils

The entire parcel contains mapped aquifer recharge soils (Candler 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

The entire parcel is overlaid within a mapped polygon of SJRWMD FLUCCS code 4340-Upland Mixed Coniferous/Hardwood Native trees. 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 this FLUCCS code 4340 and are likely found on the parcel. 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. The applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities. 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.