



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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**STAFF COMMENTS**

**21Z00012**

**CBH Properties Melbourne, LLC**

**BU-1 (General Retail Commercial) with BDP to BU-2 (Retail, warehousing and wholesale commercial) with amendment to BDP**

Tax Account Number: 3022324  
Parcel I.D.: 26-37-19-XN-A-1  
Location: 700 feet south of Jordan Blass Drive on east side of Wickham Road  
(District 4)  
Acreage: 1.15 acres

Planning and Zoning Board: 7/12/2021

Board of County Commissioners: 8/05/2021

**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	BU-2
<b>Potential*</b>	50,094 square feet of commercial use	50,094 square feet of commercial use
<b>Can be Considered under the Future Land Use Map</b>	YES CC	YES CC

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

**Background and Purpose of Request**

The applicant is requesting a change of zoning classification from BU-1 (General Retail Commercial) with a Binding Development Plan (BDP) to BU-2 (Retail, warehousing and wholesale commercial) zoning with an amended BDP for the purpose of expanding the use of minor automotive repairs to include major automotive repairs.

The BU-1 zoning classification limits automobile repair to minor repairs only unless performed in conjunction with an automobile sales dealership. The applicant is in the automotive repair business and does not hold a dealer's license.

The current zoning BU-1 with BDP zoning action was adopted under zoning action # **18PZ00059** on January 9, 2019 and the BDP was recorded in Official Record Book (ORB 8345, Pages 662-666).

This zoning action was discussed at 5 public meetings. It was originally heard at the August 2, 2018, BCC meeting and tabled to the September 6, 2018, BCC meeting and again tabled to the October 4, 2018, BCC meeting where a new traffic study was submitted by the applicant and again was tabled to the November 1, 2018, BCC meeting. The item was approved pending a BDP which was heard on December 18, 2018 and finally approved at the January 9, 2019, BCC hearing as a Consent item. The existing BDP stipulates that the developer/owner shall provide:

- A cross-access easement and construct a driveway to connect to the existing cross-access easement to the north in the event that the property be subdivided in the future. The cross-access easement and driveway shall connect to all of the created development lots within the boundaries of the parent tract (Original area has been divided into 3-lots);
- Limits uses to no gas stations and/or convenience stores; fast food restaurants shall be limited to no more than 10,000 square feet of total cumulative floor area over the entire original area; the overall Floor Area Ratio shall be limited to 0.3;
- Traffic access improvements shall be provided relative to the existing median openings in Wickham Road that is within the property frontage to a directional median opening, other median modification improvements, and/or driveway limitations per acceptable engineering access standards, as approved by county staff, as warranted, based upon current and projected traffic patterns;
- A pedestrian easement and connection to the remaining multi-family residential parent property shall be provided.

The applicant confirms by inclusion of Condition #2 in the proposed BDP that the property shall remain in conformance with the terms and provisions of the existing Binding Development Plan as recorded in ORB 8345, Page 662. The proposed BDP also states in Condition #3, that the approved uses shall be limited to those permitted uses of BU-1 and major automotive repairs only. The BDP also stipulates in Condition #4, that parts and materials shall be stored in the rear of the shop, out of view from Wickham Road. The Applicant has not provided staff with a concept plan or a BDP with provisions that could mitigate any potential off-site impacts to the adjacent residential property to the South.

Prior zoning requests on this property include **17PZ00109**, an approved rezoning from PIP to RU-2-15 with a BDP recorded in ORB 8148, Pages 974 – 982 dated April 24, 2018. This site's history also includes the denial of a request under **15PZ00056** which was a prior request from PIP to RU-2-15 which was resolved by the Findings of Fact determined in regular session of the Board of County Commissioners on April 19, 2016, adopted by Resolution No. 16-050.

## 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.

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 keep all materials inside

the shop building thereby reducing the visual impact of the proposed business; however, nothing has been proposed to mitigate the potential noise issues from the proposed heavy automobile usage.

### **Applicable Land Use Policies**

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.**

This parcel is located with frontage along the east side of Wickham Road, 700 feet south of Jordan Blass Drive. This site and the area lying north and west of Wickham Road are all within the Community Commercial (CC) Future Land Use (FLU) designation. To the east and south is Residential 15 (RES 15) FLU designation. This FLU designation allows for some commercial and multi-family. The applicant has not identified protective measures from the adjacent multi-family site and only provided some visual buffering as seen from the Wickham Road right-of-way.

**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, and Medium-density Multi-family Residential (RU-2-15) zoning. The recent trend in this area is the development of an adjacent shopping center to the north with two future commercial outparcels and an abutting multi-family residential site, under construction, which abuts the eastern and southern boundary of this site. Currently, there are no other properties zoned BU-2 fronting North Wickham Rd.

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 and prohibits outdoor storage.

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

RU-2-15 classification permits multiple-family residential uses or single-family residences at a density of up to 15 units per acre on 7,500 square foot lots.

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 directly to the north and is the current zoning for this site. 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 adjacent and to the south from this property located on the east side of Wickham Road.

### **Surrounding Area**

The abutting parcels to the North, and West are zoned BU-1. The properties to the North are being developed as retail and restaurant. The property lying West of Wickham Road is the long-standing commercial center identified as Suntree's Healthplex Center developed in the 1990s. Property to the East and South is zoned RU-2-15 and is being developed as an apartment complex.

### **Environmental Constraints**

No noteworthy land use issues were identified. The site was issued an approved site plan development order on October 14, 2020. The zoning request does affect natural resources previously addressed during the site plan review process. 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 Wickham Road, between Pineda Causeway and Jordan Blass Drive, which has a Maximum Acceptable Volume (MAV) of 39,800 trips per day, a Level of Service (LOS) of D, and currently operates at 59.27% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 5.37%. The corridor is anticipated to operate at 64.64% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

Current traffic capacity under review for this request at the Wickham Road (Pineda Causeway to Jordan Blass) segment has 23,589 daily trips. The prior level under review for **17PZ00109** (2018 levels) used the larger road segment # 370F Wickham Road which included the area from Pineda Causeway to Suntree Boulevard and had a daily trip volume of 29,657 trips. The previous level under review for **15PZ00056** (2015 levels) also used the 370F Wickham Road segment and had a daily trip volume of 29,863 trips.

No school concurrency information has been provided as this site is commercial in nature.

The parcel is provided public water by Cocoa Utilities. A sewer connection can be provided by Brevard County.

### **For Board Consideration**

The Board may wish to consider whether the request is consistent and compatible with the surrounding are given that the majority of properties fronting Wickham are zoned BU-1. The Board may wish to request additional measures in the BDP to limit any off-site impacts.

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

**Item # 21Z00012**

**Applicant:** Moia for Carr

**Zoning Request:** BU-1 to BU-2 with amended BDP

**Note:** Applicant wants heavy auto repairs

**P&Z Hearing Date:** 07/12/21; **BCC Hearing Date:** 08/05/21

**Tax ID No:** 3022324

- 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. The site was issued an approved site plan development order on October 14, 2020. The zoning request does affect natural resources previously addressed during the site plan review process. Natural Resources Management (NRM) reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.