



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.3.

5/5/2022

Subject:

Rotation Holdings, LLC, requests an amendment to an existing BDP in a BU-2 zoning classification. (3640 N. U.S. Hwy 1, Cocoa) (22Z00007) (Tax Account 2411214) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider an amendment to an existing BDP (Binding Development Plan) in a BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification.

Summary Explanation and Background:

The applicant requests to amend an existing BDP in order to allow the expansion of the existing 4,464 square-foot sales building and to remove the outdoor RV/boat storage prohibition. The proposed change is to Condition 2 with the removal of Condition 4 of the existing BDP. The changes are as follows:

Existing Condition No. 2: Developer/Owner shall provide a 20 foot buffer along the east property line.

Proposed Condition No. 2: Developer/Owner shall provide a 50-foot buffer on the east property line and increase vegetation by adding Bald Cypress trees every 25 feet, Wax Myrtle every 5 feet, and Muhly Grass every 3 feet.

Existing Condition No. 4: Developer/Owner shall limit usage of the area measuring from the west edge of the 20' buffer described in section 2, extending westward for 220', for long term secured recreation vehicles, boats, trailers, vehicles storage parking lot.

Proposed: Remove condition 4 in its entirety.

The proposal would decrease the amount of boat and RV storage and increase the amount square footage and building footprint of motorcycle/auto parts sales by expanding the building to the east. The applicant has not provided hours of operation, a lighting plan, or a traffic analysis. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the BDP amendment be approved.

In general, the character of the area is defined by a mix of developed and undeveloped commercial parcels along Highway 1 with an established residential area directly to the east of the subject property.

The Board may wish to consider whether the request to amend the existing BDP stipulations mitigates potential impacts and is consistent and compatible with the surrounding area.

On April 18, 2022, the Planning & Zoning Board heard the request and unanimously recommended approval with a BDP containing the following conditions: 1.) Developer/owner shall provide a 50-foot buffer on the east property line and increase vegetation by adding Bald Cypress trees every 25 feet, Wax Myrtle every 5 feet, and Muhly grass every 3 feet; 2.) Developer/owner shall construct an 8-foot tall CMU (concrete masonry unit) wall along the east property line.; and 3.) Automobile repair on the Property shall be limited to minor automotive repair only, as defined in 62-1102.

Clerk to the Board Instructions:

Once resolution is received, please execute and return a copy to Planning & Development.

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

Administrative Policies in the Future Land Use Element establish the expertise of staff with regard to zoning land use issues and set forth criteria when considering a rezoning action or request for Conditional Use Permit, as follows:

Administrative Policy 1

The Brevard County zoning official, planners and the director of the Planning and Development staff, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

Upon Board request, members of the Brevard County Planning and Development staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for development approval that come before the Board of County Commissioners for quasi-judicial review and action. The Board may table an item if additional time is required to obtain the analysis requested or to hire an expert witness if the Board deems such action appropriate. Staff input may include the following:

Criteria:

- A. Staff shall analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.
- B. Staff shall conduct site visits of property which are the subject of analysis and recommendation. As part of the site visit, the staff shall take a videotape or photographs where helpful to the analysis and conduct an inventory of surrounding existing uses. Aerial photographs shall also be used where they would aid in an understanding of the issues of the case.
- C. In cases where staff analysis is required, both the applicant and the staff shall present proposed findings of fact for consideration by the Board.
- D. For re-zoning applications where a specific use has not been proposed, the worst case adverse impacts of potential uses available under the applicable land use classification shall be evaluated by the staff.

Administrative Policy 3

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered. Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.
- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:

1. historical land use patterns;
 2. actual development over the immediately preceding three years; and
 3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Administrative Policy 4

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types of intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, et cetera), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.
- B. In determining whether an established residential neighborhood exists, the following factors must be present:
 1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.
 2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.
 3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

Administrative Policy 5

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following criteria:

Criteria:

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

- C. Whether the surrounding existing road system is of sufficient width and construction quality to serve the proposed use(s) without the need for substantial public improvements;
- D. Whether the surrounding existing road system is of such width and construction quality that the proposed use(s) would realistically pose a potential for material danger to public safety in the surrounding area;
- E. Whether the proposed use(s) would be likely to result in such a material and adverse change in traffic capacity of a road or roads in the surrounding area such that either design capacities would be significantly exceeded or a de facto change in functional classification would result;
- F. Whether the proposed use(s) would cause such material and adverse changes in the types of traffic that would be generated on the surrounding road system, that physical deterioration of the surrounding road system would be likely;
- G. Whether projected traffic impacts of the proposed use(s) would materially and adversely impact the safety or welfare of residents in existing residential neighborhoods.

Administrative Policy 6

The use(s) proposed under the rezoning, conditional use or other application for development approval must be consistent with, (a), all written land development policies set forth in these administrative policies; and (b), the future land use element, coastal management element, conservation element, potable water element, sanitary sewer element, solid waste management element, capital improvements element, recreation and open space element, surface water element, and transportation elements of the comprehensive plan.

Administrative Policy 7

Proposed use(s) shall not cause or substantially aggravate any, (a), substantial drainage problem on surrounding properties; or (b), significant, adverse and unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.

Administrative Policy 8

These policies, the staff analysis based upon these policies, and the applicant's written analysis, if any, shall be incorporated into the record of every quasi-judicial review application for development approval presented to the Board including rezoning, conditional use permits, and vested rights determinations.

Section 62-1151(c) of the Code of Ordinances of Brevard County directs, "The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.

- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.

The minutes of the planning and zoning board shall specify the reasons for the recommendation of approval or denial of each application."

CONDITIONAL USE PERMITS (CUPs)

In addition to the specific requirements for each Conditional Use Permit (CUP), Section 62-1901 provides that the following approval procedure and general standards of review are to be applied to all CUP requests, as applicable.

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.
- (c) General Standards of Review.
 - (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
 - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
 - c. Noise levels for a conditional use are governed by Section 62-2271.

- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

Section 62-1151(c) sets forth factors to consider in connection with a rezoning request, as follows:

"The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.

- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.”

These staff comments contain references to zoning classifications found in the Brevard County Zoning Regulations, Chapter 62, Article VI, Code of Ordinances of Brevard County. These references include brief summaries of some of the characteristics of that zoning classification. Reference to each zoning classification shall be deemed to incorporate the full text of the section or sections defining and regulating that classification into the Zoning file and Public Record for that item.

These staff comments contain references to sections of the Code of Ordinances of Brevard County. Reference to each code section shall be deemed to incorporate this section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County Comprehensive Plan. Reference to each Policy shall be deemed to incorporate the entire Policy into the Zoning file and Public Record for that item.

These staff comments refer to previous zoning actions which are part of the Public Records of Brevard County, Florida. These records will be referred to by reference to the file number. Reference to zoning files are intended to make the entire contents of the cited file a part of the Zoning file and Public Record for that item.

DEFINITIONS OF CONCURRENCY TERMS

Maximum Acceptable Volume (MAV): Maximum acceptable daily volume that a roadway can carry at the adopted Level of Service (LOS).

Current Volume: Building permit related trips added to the latest TPO (Transportation Planning Organization) traffic counts.

Volume with Development (VOL W/DEV): Equals Current Volume plus trip generation projected for the proposed development.

Volume/Maximum Acceptable Volume (VOL/MAV): Equals the ratio of current traffic volume to the maximum acceptable roadway volume.

Volume/Maximum Acceptable Volume with Development (VOL/MAV W/DEV): Ratio of volume with development to the Maximum Acceptable Volume.

Acceptable Level of Service (CURRENT LOS): The Level of Service at which a roadway is currently operating.

Level of Service with Development (LOS W/DEV): The Level of Service that a proposed development may generate on a roadway.



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

22Z00007

Rotation Holdings, LLC

Amendment to Existing Binding Development Plan (BDP) for Property Zoned BU-2 (Retail, Warehousing, and Wholesale Commercial)

Tax Account Numbers: 2411214
Parcel I.D.s: 24-36-08-00-259.1
Location: 3640 North US Highway 1, Cocoa, Florida 32926 (District 1)
Acreage: 1.37 acres

Planning & Zoning Board: 4/18/2022

Board of County Commissioners: 5/05/2022

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-2 with BDP	BU-2 with Amended BDP
Potential*	4,464 square foot of retail & 33,979 square foot of outdoor storage	60,113 square foot of retail
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.

Background and Purpose of Request

The applicant requests to amend an existing Binding Development Plan (BDP) in order to allow the expansion of the existing 4,464 square foot sales building and remove the stipulation for long term secured recreation vehicles, boats, trailers, vehicles storage parking lot extending 220' westward.

. Conditions (2-5) of the existing BDP are as follows:

2. Developer/Owner shall provide a 20 foot. buffer along the east property line.

3. *The Developer/Owner shall construct an 8 foot tall cmu block (concrete masonry unit) wall along the east property line.*

4. *The Developer/Owner shall limit usage of the area measuring from the west edge of the 20' buffer described in section 2, extending westward for 220', for long term secured recreation vehicles, boats, trailers, vehicles storage parking lot.*

5. *The site will NOT be able to perform motorcycle repairs, as listed in section 62-1102, that is part of the BU-2 zoning classification.*

The proposed amended BDP would:

- Amend condition #2 to read: **"2. Developer/Owner shall provide a 50-foot buffer on the East Property Line and increase vegetation by adding Bald Cypress trees every 25 ft, Wax Myrtle every 5', and Muhly Grass every 3 ft";**
- Delete condition #4 in its entirety, and;
- Keep all other conditions unchanged.

The original zoning classification of the property was General Retail Commercial (BU-1). Per **Resolution 15PZ00047**, approved a rezoning from BU-1 to Retail, Warehousing, and Wholesale Commercial (BU-2) with a BDP approved on October 1, 2015.

Land Use

The subject property is currently designated Community Commercial (CC) FLU. The existing and proposed BU-2 zoning, with BDP's addressing compatibility with adjacent properties, could be considered consistent with the CC FLU designation.

Applicable Land Use Policies

Policy 2.2 – The zoning process regulates the types and intensities of uses for a parcel of land. Criteria which aid in assessing zoning compatibility, shall include consideration of the following standards:

Criteria:

A. Permitted/prohibited uses;

With the exception of motorcycle repairs, the proposed amended BDP would allow all permitted and permitted with conditions uses listed in Section 62-1483 under BU-2 zoning on the unbuffered portion of the property. These uses include, but are not limited to retail, wholesale, and warehousing uses.

B. Existing commercial zoning trends in the area;

There has been one zoning action in the surrounding area within the last three years. Per Resolution 21Z00034, approved December 2, 2021, an approximately 3.8 acre property on the west side of US-1, approximately 140 feet southwest of the subject property, was rezoned from BU-1 to BU-2 for construction of a mini-storage warehouse.

Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;

The property is adjacent to BU-2 zoned and developed property to the north, a BU-1 zoned and developed property to the south, and US-1 right-of-way (ROW) with BU-2 zoned and developed properties across US-1. Abutting the property to the east is one residential lot in a subdivision with lots just over 1/3 acre in size and living areas in excess of 3,000 square feet. The zoning and proposed use could be considered to be consistent with adjacent and nearby properties fronting the US-1 corridor. The purpose of the enhanced landscape buffer is to buffer impacts of the property on the residential properties to the east and northeast.

The Board may wish to consider whether the expanded and enhanced buffer in the amended BDP proposed by the applicant adequately buffers abutting and nearby residential properties.

- C. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;

The preliminary concurrency analysis did indicate that the proposed development does not have the potential to cause a deficiency in the transportation adopted level of service. The subject site is within the City of Cocoa's service area for potable water. The subject property utilizes septic system. Specific concurrency issues will be addressed at the time of Site Plan review.

- D. Impact upon natural resources, including wetlands, floodplains, and endangered species, and;

NRMD expressed concern with the adequacy of the buffer in the BDP originally submitted with the proposed action. After meeting with a representative of NRMD, the applicant voluntarily submitted a revised proposed BDP which is under consideration by this application. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

- E. Other issues which may emerge specific to a particular property which may be addressed through performance-based zoning criteria.

This property will need to comply with Brevard County Performance Standards as noted within Section Sections 62-2251 through 62-2272 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.

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

Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use;

The applicant has stated a specific commercial use of motorcycle/auto part sales facility with outdoor boat and RV storage. The proposal would decrease the amount of boat and RV storage and increase the amount square footage and building footprint of motorcycle/auto parts sales by expanding the building to the east. The applicant has not provided hours of operation, a lighting plan, or a traffic analysis. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the BDP amendment be approved.

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.

Only a certified MAI appraisal can determine if material reduction has or will occur due to the proposed use.

- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:

1. historical land use patterns;

U.S. Highway 1 is a commercial corridor with CC Future Land Use designations along the majority of it to provide an array of services for local, sub-regional and regional neighborhoods.

2. actual development over the immediately preceding three years; and

There has been no other actual development within this area in the preceding three (3) years.

3. development approved within the past three years but not yet constructed.

The dilapidated furniture store across US-1 from the subject property recently had a site plan 21SP00028 approved to redevelop the building/site as a mini-warehouse storage facility.

Analysis of Administrative Policy #4 - Character of a neighborhood or area.

In general, the character of the area is defined by a mix of developed and undeveloped commercial parcels along Highway 1 with an established residential area directly to the east of the subject property. The commercial development on the eastern side of S. Highway 1, where the subject property is located, consists primarily of more intense commercial uses, including landscaping business, retail and wholesale uses, and outdoor storage of boats and RV's.

The Sabal Chase residential subdivision directly abuts the subject property to the east. The lots vary in size, but are mostly one-third-acre or larger, and are zoned EU. The EU zoning was approved November 20, 1997 with FLU of Residential with Urban Fringe overlay (density = 4 units/acre). The property at the southeastern corner is Indian River Estates Unit No 1 subdivision, also with one-third-acre lots, which are zoned RU-1-13. This subdivision was rezoned to RU-1 July 5, 1962 per Z-768. It was administratively rezoned RU-1-13 by blanket rezoning Z-2980, approved May 30, 1972. As this subdivision was platted and all associated zoning actions approved prior to adoption of the first Comprehensive Plan by the Board, the zoning is nonconforming to the FLU designation. The subject property currently has BU-2 zoning with a BDP.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	4,000 square foot developed single-tenant retail building	BU-2	CC
South	Single-wide and Double-wide manufactured homes utilized as mixed use residential/commercial landscaping/plant nursery, including outdoor storage.	BU-1 with Binding Site Plan (BSP)	CC
East	Developed single-family residential subdivision with lot sizes in excess of 1/3 acre	EU (east) Note: zoning appears to be nonconforming to current FLU RU-1-13 (southeast) Note: EU and RU-1-13 zoning is nonconforming to FLU	RES 2
West	US-1 right-of-way	BU-1	CC

The subject property is currently zoned BU-2, with a Binding Development Plan (BDP). The amended BDP will increase the eastern buffer from 20' to 50' and add trees and shrubs as specifically outlined in condition #2 of the proposed BDP in an effort to buffer residential properties to the east.

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.

BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. Possible incompatibilities are due to the intensive nature of commercial activities permitted by the BU-2 classification and possible noise, light, traffic and other nuisance factors potentially associated with BU-2 activities.

EU zoning classification is an estate single family residential zoning classification. The minimum lot size is 15,000 square feet with a minimum lot width and depth of 100 feet. The minimum living area is 2,000 square feet.

RU-1-13 permits single-family residences on minimum 7,500 square foot lots, with minimum widths and depths of 75 feet. The minimum house size is 1,300 square feet. RU-1-13 does not permit horses, barns or horticulture.

There has been one request for zoning actions within a half-mile radius of the subject property within the last three years. Resolution 21Z00034, adopted December 2, 2021, rezoned a 3.8 acre property, located on the west side of US-1, approximately 140 feet southwest of the subject property, from BU-1 to BU-2.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US-1, from SR-528 to Canaveral Groves 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 67.18% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 19.79%. The corridor is anticipated to operate at 86.97% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development proposal will not impact school enrollment.

The parcel is connected to City of Cocoa Water Utilities. The parcel is not connected to sanitary sewer. The closest Brevard County sanitary sewer line is approximately 3.6 miles south of the subject property. The property utilizes an on-site septic system.

Environmental Constraints

- Aquifer Recharge Soils
- Land Clearing and Landscape Requirements
- Protected Species

The property was previously developed under site plan number 15SP00013. Any revisions to the development would require a site plan submittal. Mapped natural resources would be reviewed at that time.

For Board Consideration

The Board may wish to consider whether the request to amend the existing BDP stipulations mitigates potential impacts and is consistent and compatible with the surrounding area.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item # 22Z00007**

Applicant: Don Smith

Zoning Request: Amend BDP with zoning of BU-2

Note: Applicant wants to expand building eastward which conflicts with current BDP.

P&Z Hearing Date: 04/18/22; **BCC Hearing Date:** 05/05/22

Tax ID No: 2411214

- 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 Natural Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Land Clearing and Landscape Requirements
- Protected Species

The property was previously developed under site plan number 15SP00013. Any revisions to the development would require a site plan submittal. Mapped natural resources will be reviewed at that time.

Land Use Comments:

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Paola fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Type 2 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Land Clearing and Landscape Requirements

The revised BDP proposes to provide a 50-foot buffer on the east property line and increase the vegetation by adding a Bald Cypress tree every 25 feet, Wax Myrtle every 5 feet and Muhly Grass every 3 feet. The proposed vegetation meets Type A buffer requirements where residential use abuts commercial use.

Aerials indicate that one or more trees requiring preservation during the site plan review may have been removed, and thus may require mitigation. 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.

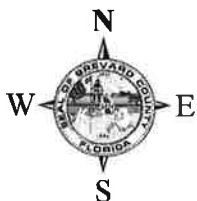
Protected Species

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.

LOCATION MAP

ROTATION HOLDINGS, LLC

22Z00007



1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 500 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

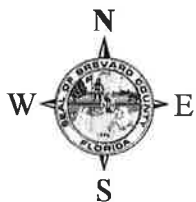
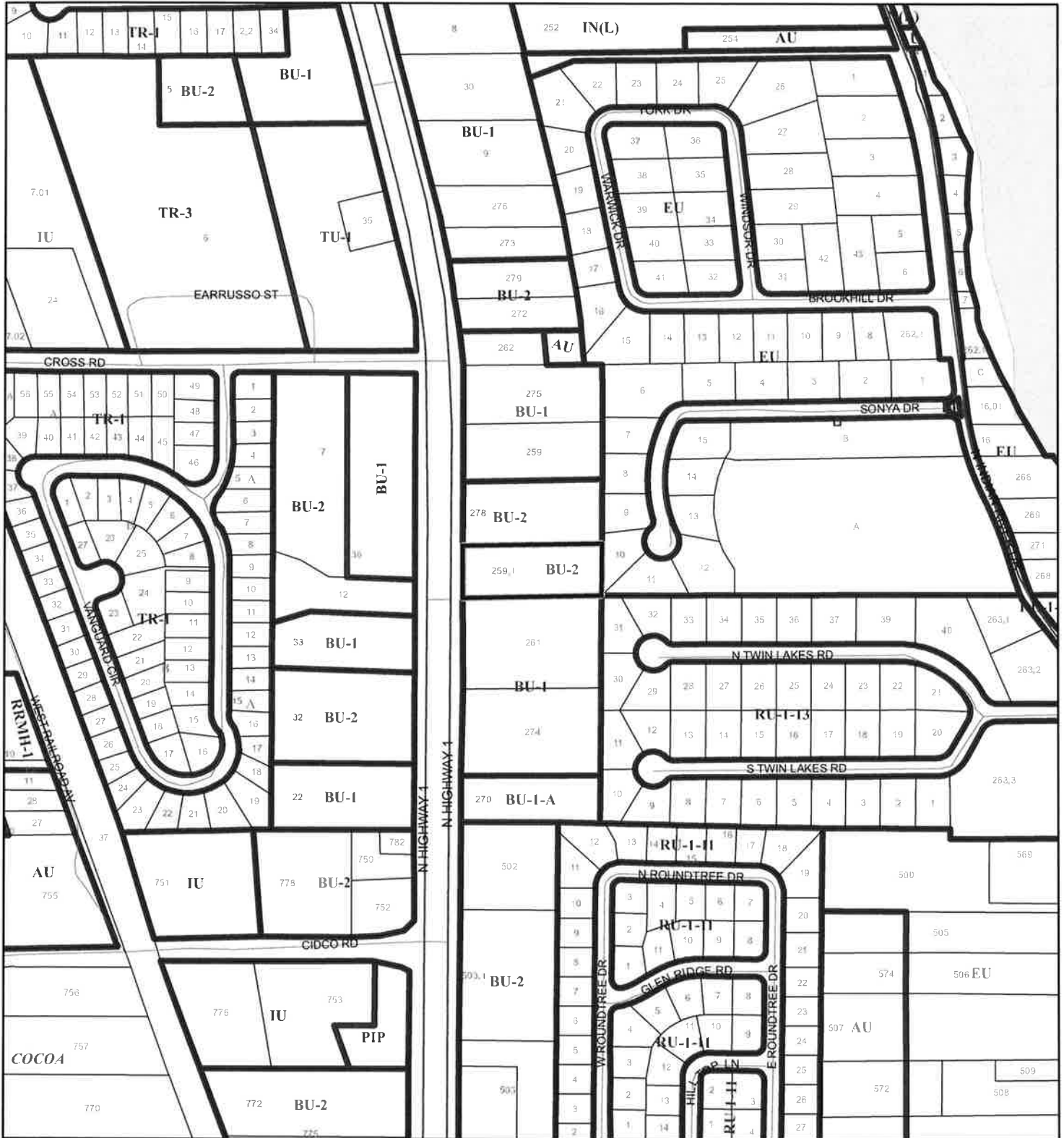
Produced by BoCC - GIS Date: 2/11/2022

Buffer
Subject Property

ZONING MAP

ROTATION HOLDINGS, LLC

22Z00007



1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 2/11/2022

— Subject Property

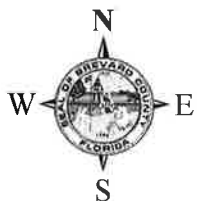
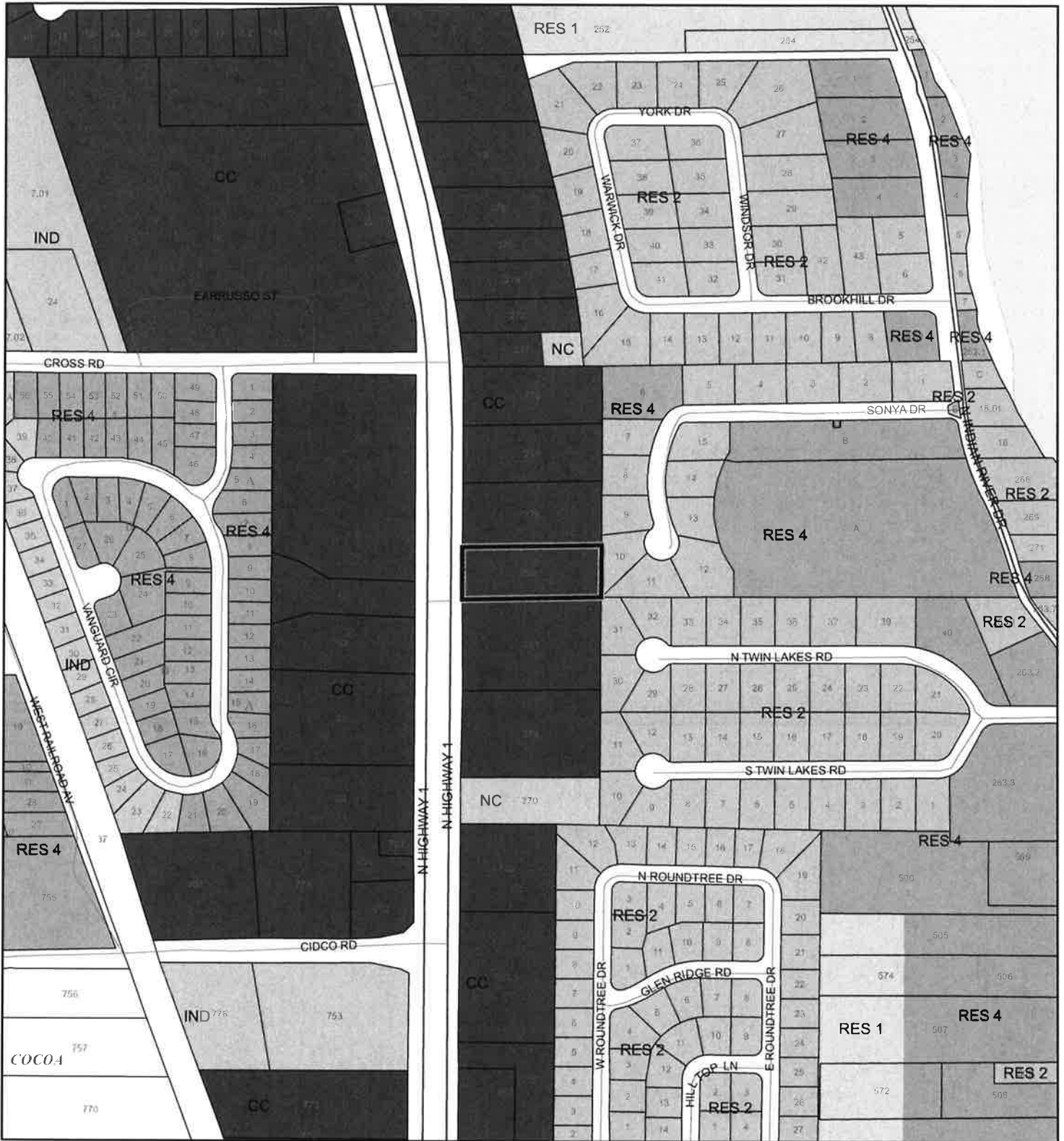
□ Parcels

□ Zoning

FUTURE LAND USE MAP

ROTATION HOLDINGS, LLC

22Z00007



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

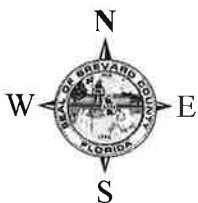
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 2/11/2022

AERIAL MAP

ROTATION HOLDINGS, LLC

22Z00007



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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Produced by BoCC - GIS Date: 2/11/2022

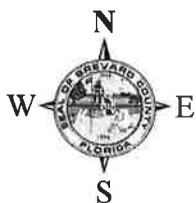
— Subject Property

□ Parcels

NWI WETLANDS MAP

ROTATION HOLDINGS, LLC

22Z00007













1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/11/2022

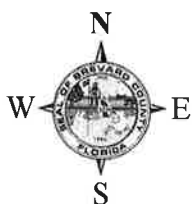
National Wetlands Inventory (NWI)

 Estuarine and Marine Deepwater	 Freshwater Pond
 Estuarine and Marine Wetland	 Lake
 Freshwater Emergent Wetland	 Other
 Freshwater Forested/Shrub Wetland	 Riverine
 Subject Property	
 Parcels	

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

ROTATION HOLDINGS, LLC

22Z00007



1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 2/11/2022

SJRWMD FLUCCS WETLANDS

- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

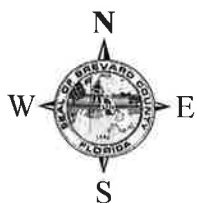
Subject Property

Parcels

USDA SCSSS SOILS MAP

ROTATION HOLDINGS, LLC

22Z00007



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/11/2022

USDA SCSSS Soils

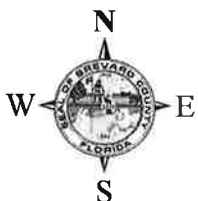
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

ROTATION HOLDINGS, LLC

22Z00007



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/11/2022

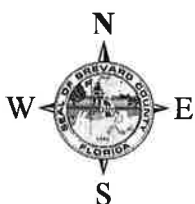
FEMA Flood Zones

	A		AO		X
	AE		Open Water		VE
	AH		Subject Property		Parcels

COASTAL HIGH HAZARD AREA MAP

ROTATION HOLDINGS, LLC

22Z00007



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/11/2022

 Subject Property

 Parcels

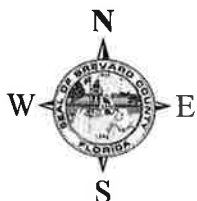
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

ROTATION HOLDINGS, LLC

22Z00007



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/11/2022

Subject Property

Parcels

Septic Overlay

40 Meters

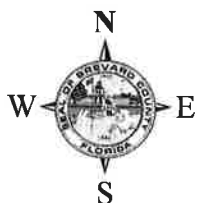
60 Meters

All Distances

EAGLE NESTS MAP

ROTATION HOLDINGS, LLC

22Z00007



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/11/2022

 Subject Property

 Parcels

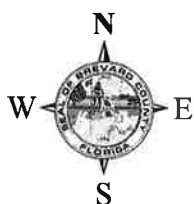


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

ROTATION HOLDINGS, LLC




22Z00007



1:4,800 or 1 inch = 400 feet

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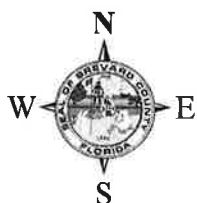
Produced by BoCC - GIS Date: 2/11/2022

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

ROTATION HOLDINGS, LLC

22Z00007





1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 2/11/2022

SJRWMD FLUCCS Upland Forests

-  Upland Coniferous Forest - 4100 Series
-  Upland Hardwood Forest - 4200 Series
-  Upland Mixed Forest - 4300 Series
-  Tree Plantations - 4400 Series

 Subject Property

 Parcels

Prepared by: Rotation Holdings, LLC
Address: 150 Venetian Way STE 103 Merritt Island, FL 32953

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 12 day of January, 2016 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Rotation Holdings, a LLC corporation (hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner has requested the BU-2 zoning classification, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impact on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
2. Developer/Owner shall provide a 20 foot buffer along the east property line.
3. The Developer/Owner shall construct an 8 foot tall cmu block (concrete masonry unit) wall along the east property line.
4. The Developer/Owner shall limit usage of the area measuring from the west edge of the 20' buffer described in section 2, extending westward for 220', for long term secured recreation vehicles, boats, trailers, vehicles storage parking lot.
5. The site will NOT be able to perform motorcycle repairs, as listed in section 62-1102, that is part of the BU-2 zoning classification.

6. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This agreement provides no vested rights against changes to the Comprehensive Plan or land development regulations as they may apply to this Property.

7. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in the Public Records of Brevard County, Florida.

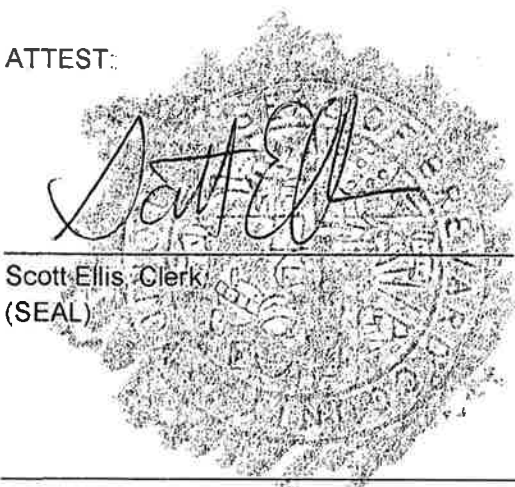
8. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and be subject to the above referenced conditions as approved by the Board of County Commissioners on 1/12/16. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.

9. Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as may be amended.

10. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and must be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 9 above.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:



Scott Ellis, Clerk
(SEAL)

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
2725 Judge Fran Jamieson Way
Viera, FL 32940



JIM BARFIELD, CHAIRMAN
As approved by the Board on January 12, 2016

(Please note: You must have two witnesses and a notary for each signature required. The notary may serve as one witness.)

WITNESSES:

Erin D. Meeks

Erin D. Meeks

(Witness Name typed or printed)

Kathryn Steele

Kathryn Steele

(Witness Name typed or printed)

DEVELOPER/OWNER

Rotation Holdings, LLC

150 Venetian Way STE 103 Merritt Island FL 32953

Don Smith

(President)

Don Smith

(Name typed, printed or stamped)

STATE OF Florida §

COUNTY OF Brevard §

The foregoing instrument was acknowledged before me this 4th day of November, 2015, by
President of Rotation Holdings LLC, who is personally known to me or who has produced FL Driver License as
identification.

My commission expires : 9-21-2019

SEAL

Commission No.: FF 920534

Stacey-Ann Joseph

Notary Public

Stacey-Ann Joseph

(Name typed, printed or stamped)



Exhibit A

A rectangular parcel of land located in Section 8, Township 24 South, Range 36 East, having 150 feet of frontage on the easterly right-of-way of U.S. Highway 1, and a depth at right angles from U.S. Highway 1 of 400 ft.; and being the south 150 ft. of the property described in ORB 188, Page 193, of the Public Records of Brevard County, Florida.

STATE OF FLORIDA
COUNTY OF BREVARD

Donald Smith, after being duly sworn, deposes and says:

The undersigned is the owner of the real property described as follows:

S 150 FT OF NORTH 660 FT OF WEST
400 FT LYING EAST OF US HWY NO 1
AS DES IN ORB 188 PG 193

There are no mortgages on the above described property

Dated this 4th day of November 2015

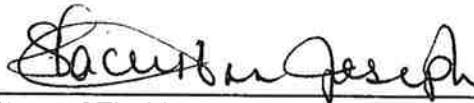
Signature



STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was sworn to before me this 4th day of November 2015 by
Donald Smith, who is personally known to me or who has
produced FL Driver License as identification, and who did take an oath.

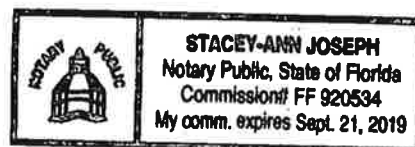
Notary Public:



State of Florida at Large

My Commission Expires: 09-21-2019

(SEAL)



Prepared by: Rotation Holdings, LLC
Address: 3640 N Hwy 1, Cocoa FL, 32926

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this _____ day of _____, 2022 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Rotation Holdings, a LLC corporation. (hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner has requested the BU-2 zoning classification, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impacts on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
2. Developer/Owner shall provide a 50-foot buffer on the East Property Line and increase vegetation by adding Bald Cypress trees every 25ft, Wax Myrtle every 5ft, and Muhly Grass every 3ft.
3. The Developer/Owner shall construct an 8-foot tall cmu black (concrete masonry unit) wall along east property line.
4. The site will NOT be able to perform major motorcycle repairs, as listed in section 62-1102, that is part of the BU-2 zoning classification.
5. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in

developing the Property. This Agreement provides no vested rights against changes to the Brevard County Comprehensive Plan or land development regulations as they may apply to this Property.

6. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court all costs of recording this Agreement in the Public Records of Brevard County, Florida.
7. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and shall be subject to the above referenced conditions as approved by the Board of County Commissioners on _____. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
8. Violation of this Agreement shall constitute a violation of the zoning classification and of this Agreement. This Agreement may be enforced by Sections 1-7 and 62-5 of the Code of Ordinances of Brevard County, Florida, as may be amended.
9. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and shall be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any condition is a violation of this Agreement and constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 9 above.
10. Severability clause. If any provision of this BDP is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision shall continue in full force and effect without being impaired or invalidated in any way.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
2725 Judge Fran Jamieson Way
Viera, FL 32940

Rachel M. Sadoff, Clerk of Court
(SEAL)

Rita Pritchett, Chair
As approved by the Board on _____

serve as one witness.)

WITNESSES:

(INSERT BUSINESS NAME or INDIVIDUAL NAME(s))
as DEVELOPER/OWNER

(Witness Name typed or printed)

(Address)

(President)

(Witness Name typed or printed)

(Name typed, printed or stamped)

STATE OF _____ §

COUNTY OF _____ §

The foregoing instrument was acknowledged before me, by means of _____ physical presence or
_____ online notarization, this _____ day of _____, 20 __, by
_____, President of _____, who is
personally known to me or who has produced _____ as identification.

My commission expires
SEAL
Commission No.:

Notary Public

(Name typed, printed or stamped)



PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, April 18, 2022**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Brian Hodgers (D2); Robert Sullivan (D2); Ben Glover (D3); Mark Wadsworth, Chair (D4); Liz Alward (D4); Logan Luse (Alt. D4); Bruce Moia (D5); David Bassford (Alt. D5); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Peter Martin, Planner II; George Ritchie, Planner III; Alex Esseesse, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

Rotation Holdings, LLC

An amendment to an existing BDP (Binding Development Plan) in a BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification. The property is 1.38 acres, located on the east side of N. U.S. Highway 1, approx. .20 miles north of Cidco Rd. (3640 N. U.S. Hwy 1, Cocoa) (Tax Account 2411214) (District 1)

Don Smith, 3640 U.S. Highway 1, Cocoa, when he originally did the BDP he was doing outdoor boat and RV storage on the back two-thirds of the property and now he wants to extend the building further to the back, so he would like to remove that restriction of having only the outdoor storage back there so that he can add on to the current building.

Henry Minneboo asked when was the BDP put on the property. Mr. Ball replied 2016.

Mr. Minneboo asked if the BDP was put on the property because of the abutting residential.

Mr. Smith replied yes, he agreed to the 8-foot masonry wall along the back line and the 20-foot buffer along the back line, and then he also had major motorcycle repair in there to make sure they weren't doing anything major. He said what he wants to do is remove the restriction of the outdoor storage so he can add on to the building, and because of that he's offering to make the buffer 50 feet along the rear of the property, instead of 20 feet. He added, Natural Resources suggested he do more plantings along the back line, so he's offering to do that as well.

Mr. Ball stated the concept plan provided by the applicant has not been reviewed by staff for consistency and compliance.

Public comment:

Dusty Michelle Parker, 142 N. Twin Lakes Road, Cocoa, stated she lives adjacent to the subject property. She said they have been a fantastic commercial building to have behind them. She said when the applicant was before the board in 2016 for the BDP, Mr. Smith was generous enough to increase the height of the concrete wall to his immediate neighbor, to 8 feet as opposed to 6 feet. She sated the issue she has with removing the conditions is the noise. She said the BDP allows minor motorcycle repair, but it is loud, and if he expands his building to do more work it will be closer to her backyard. She noted they have Saturday hours from 9:00 a.m. to 2:00 p.m. She said a 20-foot

vegetative buffer is nothing, and it's basically for visual. The placement of the block wall, even though he has it there, it's at the very back of the property on the eastern side, so there is a lot of noise. She stated they have been very considerate with the lighting. They have RV and boat storage in the back and people have 24-hour access to it, but she doesn't experience a lot of issues with that. She said the main thing she and other neighbors are concerned with is the motorcycle noise; the BDP says he is not to do motorcycle repair work there, and he's doing it now, which may be the reason he wants to expand his building.

Mr. Smith stated the BDP allows him to do minor repairs, which is service work on motorcycles. That's the noise she's referring to, but he's not requesting to do major work. He said the reason for the extension of the building is for his online business, so the warehouse is going to be about 80% of that space. As far as traffic to the site, whether it's motorcycles, the RVs will be limited, but he doesn't expect any more traffic to the retail side. He reiterated the extension is purely for the online business because 90% of what Rotation Holdings does is boxing and shipping. He added that minor motorcycle repairs are only done Monday through Friday from 9:00 a.m. to 5:00 p.m.

Bruce Moia asked if the new BDP states that he would keep the minor repair in the same location.

Mr. Smith replied yes, the only changes to the BDP is adding to the 20-foot buffer to make it a 50-foot buffer along the property line and removing the restrictions of only having the boat and RV storage in the back. The buffer is currently water retention and plants, so the 20 feet is trees, but there is a 50-foot area there where he is never going to build, so he is offering that to make sure he never builds there.

Ben Glover asked about the noise impact. Mr. Smith replied it is probably the motorcycle traffic from people coming in and out. All of the motorcycle repairs are done inside, and he's not asking to remove the minor repair from the BDP. Mr. Glover asked if there is a way to make it so the back warehouse is only for storage.

Mr. Moia added, with no repair of any kind to be done in the new warehouse.

Mr. Ball stated the language in the existing BDP states, "The site shall not be able to perform motorcycle repairs as listed in 62-1102 that is part of the BU-2 zoning classification." That condition is still being proposed as-is. The proposed conditions to the BDP are to amend condition 2 to read, "Developer/Owner shall provide a 50-foot buffer on the east property line and increase vegetation by adding Bald Cypress trees every 25 feet, Wax Myrtle every 5 feet, and Muhly grass every 3 feet."

Mr. Moia noted the whole property is zoned BU-2, and there is nothing that he sees that shows he would limit his minor repair to the front building. He asked if it would be acceptable to add that condition.

Mr. Smith stated in the current plan, the shop ends up being more so in the middle, about where it is right now, but it would extend somewhat into the new building. The current boat storage would be a warehouse.

Mr. Moia asked if the board could add a stipulation that says not within 100 feet of the rear property line.

Mr. Smith stated he's going to be keeping 103 feet of boat and RV storage, and added in with the buffer along the back, it is about 150 feet from the property line to the new building, so the very edge of the building will be 150 feet.

Mr. Glover stated that's a good distance and he's good with it.

Mr. Hopengarten asked the size of the new warehouse. Mr. Smith replied the entire building that he's adding on is 48' x 100', so he's basically doubling the building size.

Mr. Ball noted the code doesn't have a definition for motorcycle repair, it falls under the automotive repair, minor and major, and suggested the board limit it to minor repair so it's clear.

Motion by Mr. Moia, seconded by Ben Glover, to recommend approval of an amendment to an existing BDP in a BU-2 zoning classification, with the following conditions: 1.) Developer/owner shall provide a 50-foot buffer on the east property line and increase vegetation by adding Bald Cypress trees every 25 feet, Wax Myrtle every 5 feet, and Muhly grass every 3 feet; 2.) Developer/owner shall construct an 8-foot tall cmu black (concrete masonry unit) wall along the east property line.; and 3.) The site shall be limited to minor automotive repair only. The motion passed unanimously.