



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.13.

5/4/2023

Subject:

Ranger Storage, LLC (Jim Trauger) requests an amendment to an existing BDP in a BU-2 zoning classification. (23Z00009) (Tax Account 2601558) (District 4)

Fiscal Impact:

None

Dept/Office:

Planning & 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 is requesting an amendment to an existing BDP to allow for a new site layout that is different than the previously approved BDP. Among other things, the proposed replacement BDP removes the use limitation of the existing BDP. The subject parcel is currently undeveloped with frontage on Freeman Lane which is a County paved and maintained road.

The BU-2 classification permits retail, wholesale, and warehousing commercial land uses on minimum 7,500 square-foot lots. BU-2 zoning is the county's most intense commercial zoning classification due to the intensive nature of commercial activities permitted. The BU-2 zoning classification allows outside storage of retail items including, but not limited to, motor vehicles, utility sheds, nursery items such as plants and trees, boats and mobile homes.

The developed character of the surrounding area is predominantly commercial in the vicinity of Freeman Lane and on the east side of Waelti Drive, with two single-family residences along the north side of Freeman Lane. There is an existing pattern of BU-2 zoning surrounding the subject parcel between Waelti Drive and Turner Road. The west side of Waelti Drive is a residential subdivision with PUD (Planned Unit Development) zoning.

The Board may wish to consider if the proposed BDP mitigates potential impacts on the surrounding area.

On April 17, 2023, the Planning and Zoning Board heard the request and unanimously recommended approval with a BDP retaining all BU-1 uses and limiting the BU-2 use to indoor RV storage only.

Clerk to the Board Instructions:

H.13.

5/4/2023

Once resolution is received, please execute and return a copy to Planning and 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, 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 zoning staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for zoning, conditional uses, comprehensive plan amendments, vested rights, or other 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 development 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:

- 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

23Z00009

Ranger Storage, LLC.

BU-2 (Retail, Warehousing and Wholesale Commercial) with an existing BDP to BU-2 (Retail, Warehousing and Wholesale Commercial) and Amendment of existing BDP

Tax Account Number: 2601558

Parcel I.D.: 26-36-12-DE-20-1

Location: South side of Freeman Lane. approximately 480 feet east of Waelti Dr.
(District 4)

Acreage: 2.21 acres

Planning & Zoning Board: 04/17/2023

Board of County Commissioners: 05/04/2023

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	BU-2
Potential*	96,267 sq. ft. commercial (using 1.0 FAR for CC)	96,267 sq. ft. commercial (using 1.0 FAR for CC)
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 is requesting an amendment to an existing BDP (Binding Development Plan) per zoning action **Z-11334** and recorded in ORB 5761, Page 7355 to allow for a new site layout that is different than the previously approved BDP located in a BU-2 (Retail, Warehousing and Wholesale Commercial) zoning classification. The new BDP removes the use limitation of the existing BDP. The subject parcel is currently undeveloped with frontage on Freeman Lane a County maintained road.

The existing Binding Development Plan Stipulates: Developer/Owner desire to develop the property as a mini warehouse/storage facility pursuant to the Brevard County Code, Section 62-1837.5 and

The County and the Developer/Owner agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way 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 vegetative buffer on three (3) sides of the property substantially in accordance with Exhibit "B" attached hereto (the "Plan").
3. The Developer/Owner shall limit use to a mini-warehouse facility only and with the open storage for boats and RVs to the rear.
4. The Developer/Owner shall limit ingress and egress to and from the property from Freeman Lane.
5. No Certificate of Occupancy or Certificate of Completion shall be issued for the operation of the mini-warehouse facility prior to the paving of Freeman Lane.
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.

The new requested Binding Development Plan proposes a new Exhibit "B" attached hereto (the "Plan") and

The proposed Binding Development Plan Stipulates: Developer/Owner desire to develop the property as RV/Boat Storage Facility and commercial storage facility pursuant to the Brevard County Code, Section 62-1837.5 and pursuant to the Brevard County Code, Section 62-1157; and the parties agree as follows:

1. The above recitals are true and correct and are incorporated into this Agreement by their reference.
2. 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.
Brevard County will not be or obligated in any way to maintain or participate in any way in the construction or maintenance of the improvements.

3. Developer/Owner shall provide a vegetative buffer on the North side of the property substantially in accordance with Exhibit "B" attached here to (the "Plan").
The existing BDP required Vegetative buffer on three (3) sides of the property per Exhibit "B". New BDP states Developer shall provide a vegetative buffer on the North side of the property.
4. The perimeter facing exterior walls of the proposed buildings meet the requirements for the screening requirements set forth in Section 62-1837.5(10). Vinyl coated chain link fence may be used as perimeter fencing on the west, east and south property lines, but is not allowed along the north property line, where adjacent to residential properties.
Screening requirements will be required for site plan review.
5. The Developer/Owner shall limit ingress and egress to Freeman Lane.
Freeman Lane a County maintained road and is the only road abutting the parcel.

The subject parcel was originally zoned GU (General Use).

On March 23, 2007 zoning action **Z-11334** rezoned the parcel from GU (General Use) to BU-2 with a Binding Development Plan (BDP) for a mini-warehouse facility only and amended the Future Land Use (FLU) designation per Small Scale Plan Amendment **06S.14** from Neighborhood Commercial (NC) to Community Commercial (CC).

Land Use

The subject property is currently designated as Community Commercial (CC) FLU. The existing BU-2 zoning can be considered consistent with the existing CC FLU designation.

Applicable Land Use Policies

FLUE Policy 2.2 - Role of Zoning Regulations in the Designation of Commercial Lands

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;
The BU-2 retail, warehousing and wholesale commercial zoning classification encompasses lands devoted to general retail and wholesale business, contracting and heavy repair services and warehousing activities. Retail items of substantial size or which of necessity must remain outside of a building may be permitted to be displayed outside the building. Storage yards must be enclosed with a six-foot wall, louvered fence or chain-link fence.
- B. Existing commercial zoning trends in the area;
There has been a commercial zoning trend in the immediate area. The developed character of the surrounding area is predominantly commercial in the vicinity of Freeman Lane and Waelti Drive, with two (2) single-family residences along the

north side of Freeman Lane. There is an existing pattern of BU-2 zoning surrounding the subject parcel.

- C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3; **This change to the existing BDP could be considered to be consistent with the immediate surrounding area as this is along a commercial corridor along with residential. The primary zoning classification in the surrounding area is BU-2 which is the current zoning classification of the subject property.**
- D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;
The preliminary concurrency analysis did not indicate that the proposed development has the potential to cause a deficiency in the transportation adopted level of service.

The closest Brevard County sewer is located 550 feet west along the west side of Waelti Drive. The closest City of Cocoa potable water is located directly across Freeman Lane.

- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and
The following land use issues were identified:

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

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Pomello sand and St. Lucie fine sand, 0 to 5 percent slopes) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations (~27 to 31 feet NAVD) 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.

- F. 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 noted within Section 62-1483 and 62-1833.5 of Brevard County Code.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 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 is requesting to amend the existing Binding Development Plan (BDP) in a BU-2 (Retail, Warehousing and Wholesale Commercial) zoning to develop the parcel for enclosed RV/Boat storage. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the proposed Binding Development Plan change be approved.

BDP states:

Developer/Owner shall provide a vegetative buffer on the North side of the property substantially in accordance with Exhibit "B" attached here to (the "Plan").

The perimeter facing exterior walls of the proposed buildings meet the requirements for the screening requirements set forth in Section 62-1837.5(10). Vinyl coated chain link fence may be used as perimeter fencing on the west, east and south property lines, but is not allowed along the north property line, where adjacent to residential properties.

The Developer/Owner shall limit ingress and egress to Freeman Lane.

- 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 request.

- 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;

The surrounding area is commercial in character. There are three (3) FLU designations within 500 feet of the subject site: Community Commercial (CC), Neighborhood Commercial (NC) and Public Conservation (PUB). The predominant FLU designation along Freeman Lane and Waelti Drive is CC.

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

There has not been any actual development within this area in the preceding three (3) years.

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

There has not been any development approved but not yet constructed within this area in the preceding three (3) years.

D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

No material violation of relevant policies has been identified.

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

The developed character of the surrounding area is predominantly commercial in the vicinity of Freeman Lane and on the east side of Waelti Drive, with two (2) single-family residences along the north side of Freeman Lane. There is an existing pattern of BU-2 zoning surrounding the subject parcel between Waelti Drive and Turner Road. The west side of Waelti Drive is a subdivision with PUD (Planned Unit Development) zoning.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Single-family north of Freeman Lane	GU	NC
South	Warehousing	BU-2	CC
East	Stormwater Pond	GML	PUB
West	Vacant Land	BU-2/GU	CC

To the north across Freeman Lane is a 2.06-acre parcel developed with a single-family residence with General Use (GU) zoning. To the south is a 13.13-acre parcel developed as a warehouse, distribution and trucking terminal with BU-2 zoning. To the east is a 1.29-acre Stormwater pond parcel with GML zoning. To the west, is a 1.09-acre vacant parcel with BU-2 and GU zoning.

The current BU-2 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. The BU-2 zoning classification allows outside storage of retail items including, but not limited to, motor vehicles, utility sheds, nursery items such as plants and trees, boats and mobile homes.

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

The purpose of the GML government managed lands zoning classification is to recognize the presence of lands and facilities which are managed by federal, state and local government, special districts, nongovernmental organizations (NGOs) providing economic, environmental and/or quality of life benefits to the county, electric, natural gas, water and wastewater utilities that are either publicly owned or regulated by the Public Service Commission, and related entities.

Preliminary Concurrency

The closest concurrency management segment to the subject property is N. Wickham Road, from Suntree Blvd. to N. Pinehurst Ave., which has a Maximum Acceptable Volume (MAV) of 39,800 trips per day, a Level of Service (LOS) of D, and currently operates at 73.72% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 9.27%. The corridor is anticipated to operate at 46.38% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be addressed at the time of site plan review. This is only a preliminary review and is subject to change.

The concurrency analysis provided above is preliminary and represents an estimate of impacts resulting from the maximum permissible uses under the proposed zoning classification. However, if a site plan for the property is submitted and the development proposal will cause a deficiency of the above mentioned levels of service, then the County reserves the right to exercise the following options: deny or defer the proposal; cause the proposal to be modified to achieve consistency with the minimum LOS; or process the proposal as a conditional development permit pursuant to Section 62-604 of the Brevard County Code of Ordinances.

No school concurrency information has been provided as the development proposal is for commercial and not residential use.

The parcel is within the Brevard County utilities service area for sewer. The parcel is within the City of Cocoa utilities service area for potable water.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Pomello sand and St. Lucie fine sand, 0 to 5 percent slopes) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations (~27 to 31 feet NAVD) 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.

For Board Consideration

The Board may wish to consider if the proposed BDP mitigates potential impacts on the surrounding area.

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #23Z00009**

Applicant: Ranger Storage LLC

Land Use Request: BDP amendment

Note: Site layout is different than the previously approved BDP.

P&Z Hearing Date: 04/17/23; **BCC Hearing Date:** 05/04/202

Tax ID No: 2601558

- 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

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Pomello sand and St. Lucie fine sand, 0 to 5 percent slopes) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations (~27 to 31 feet NAVD) 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 Use Comments:

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Pomello sand and St. Lucie fine sand, 0 to 5 percent slopes) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations (~27 to 31 feet NAVD) 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.

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees likely exist on the parcel. A tree survey will be required at time of a site plan submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. 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 preservation and canopy coverage requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

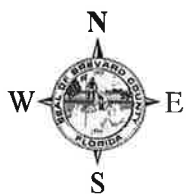
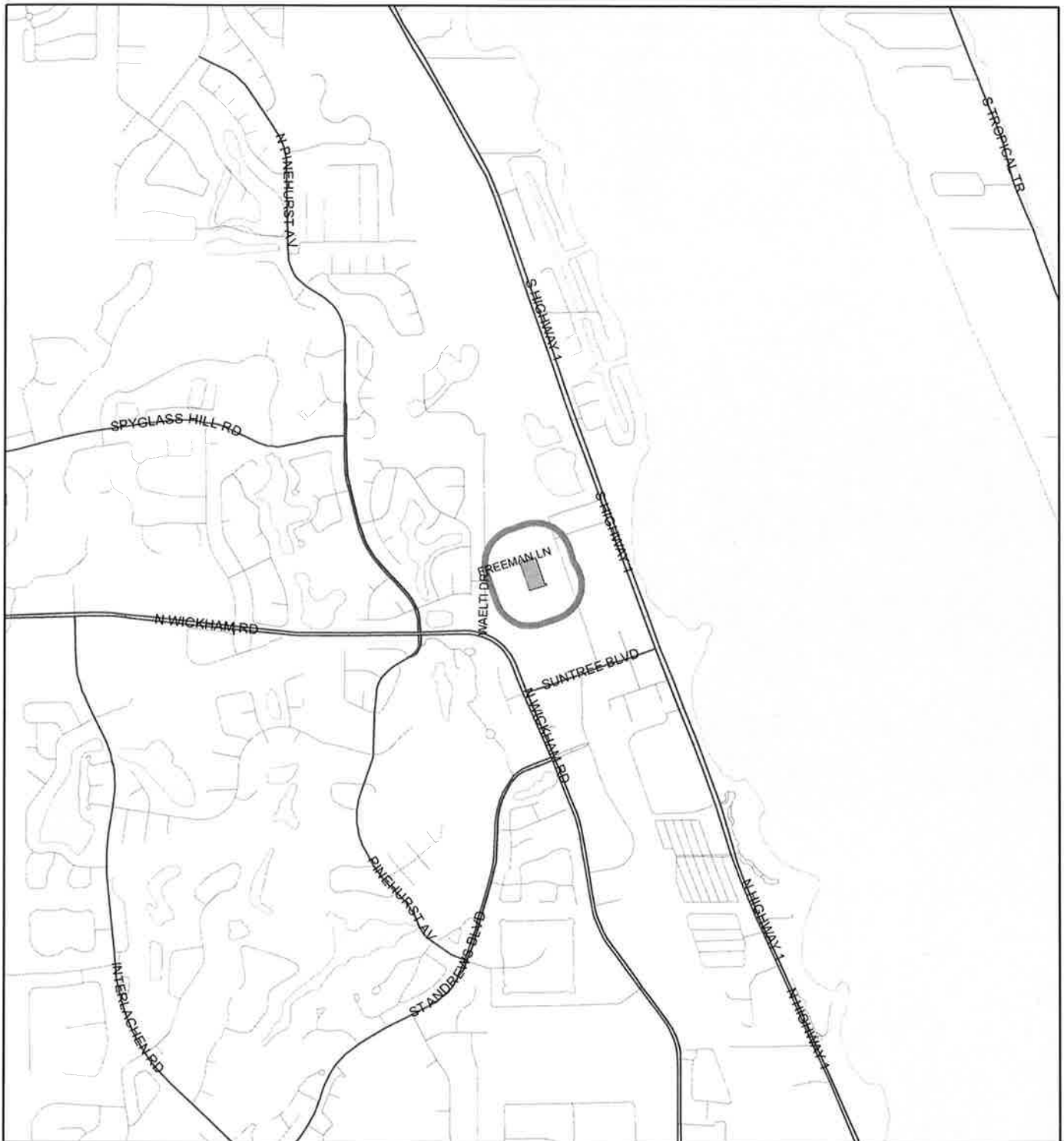
Protected Species

Information available to NRM indicates that federally and/or state protected species may be utilize the property (e.g., gopher tortoises). 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

RANGER STORAGE LLC

23Z00009



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.

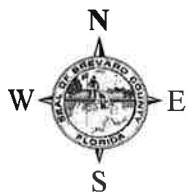
Produced by BoCC - GIS Date: 2/7/2023

— Buffer
 ■ Subject Property

ZONING MAP

RANGER STORAGE LLC

23Z00009



1:4,800 or 1 inch = 400 feet

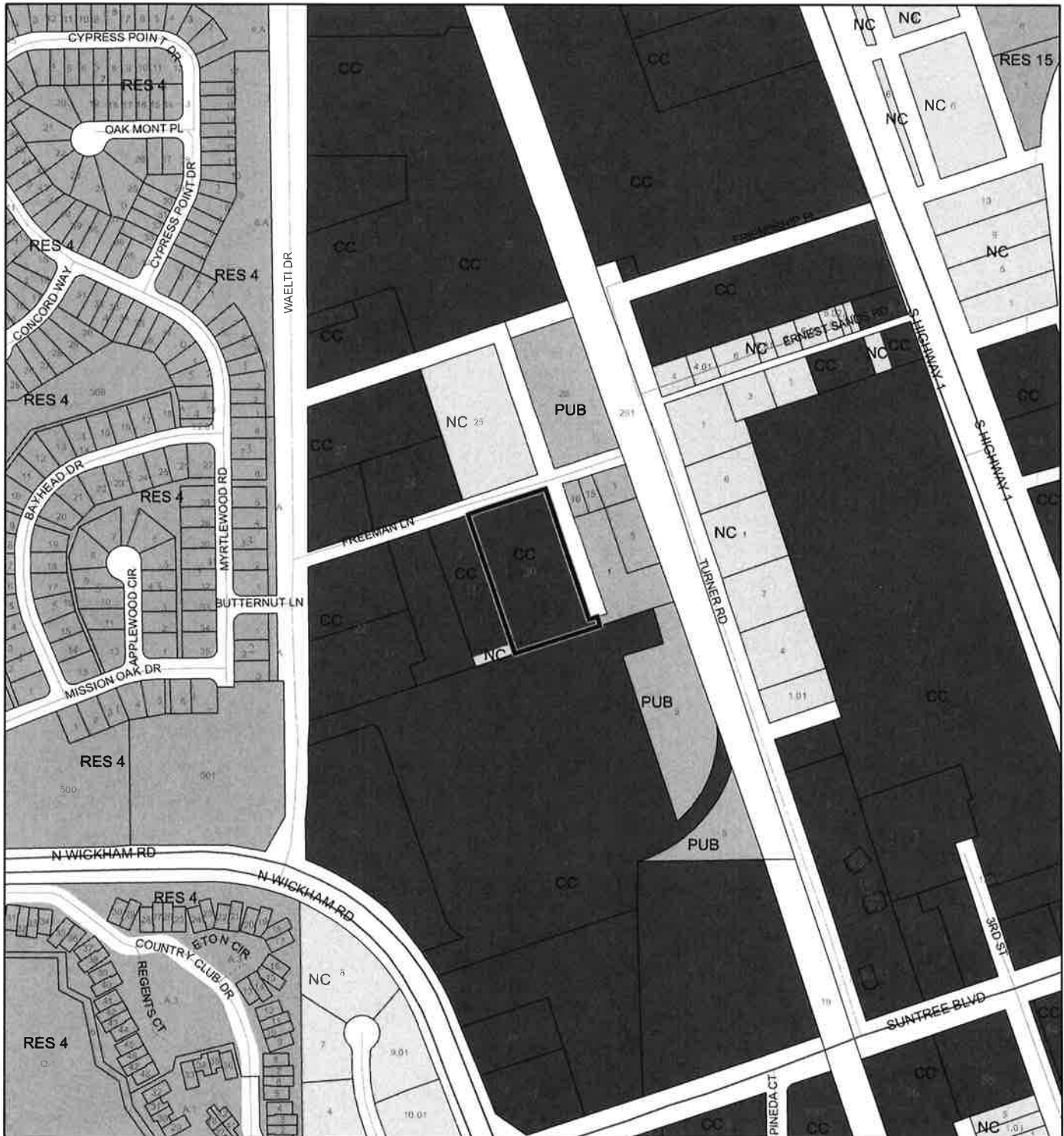
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 2/6/2023

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

RANGER STORAGE LLC
23Z00009



1:4,800 or 1 inch = 400 feet

— Subject Property
□ Parcels

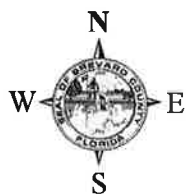
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 2/6/2023

AERIAL MAP

RANGER STORAGE LLC

23Z00009



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2022

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.

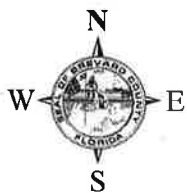
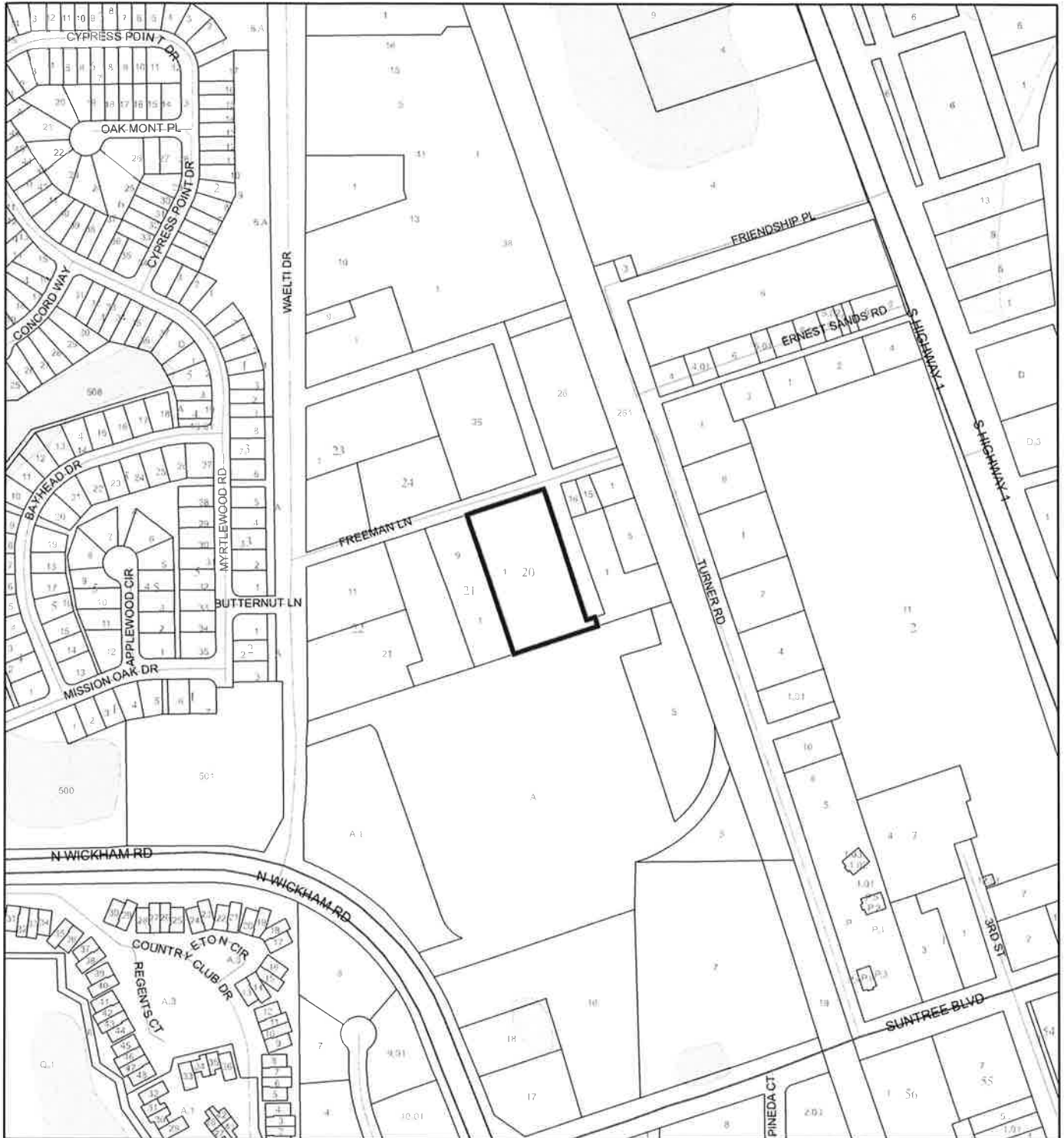
Produced by BoCC - GIS Date: 2/7/2023

— Subject Property
□ Parcels

NWI WETLANDS MAP

RANGER STORAGE LLC

23Z00009



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: 2/6/2023

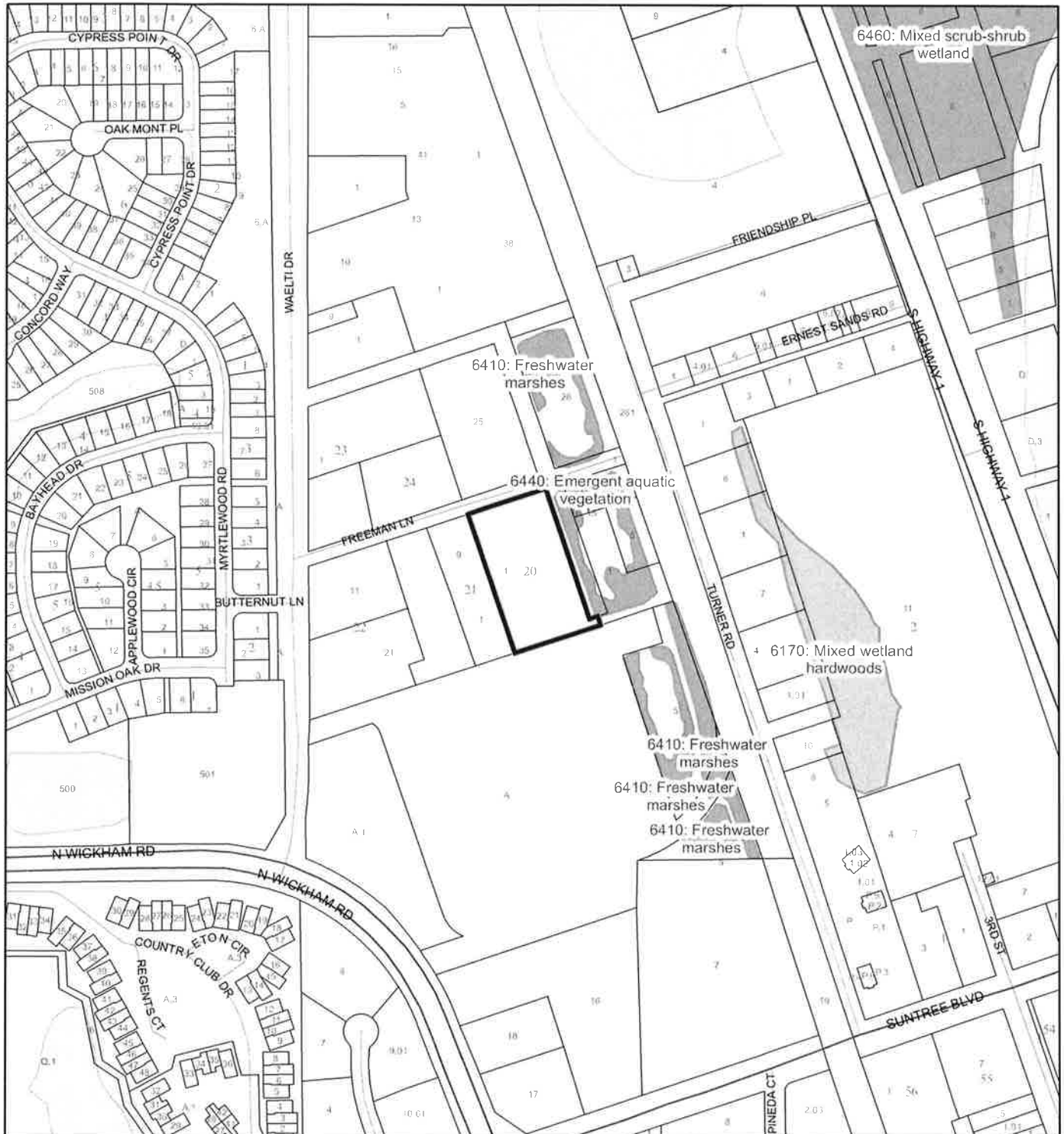
National Wetlands Inventory (NWI)

	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

RANGER STORAGE LLC

23Z00009



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: 2/6/2023

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

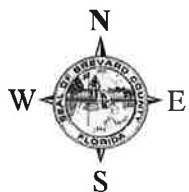
Subject Property

Parcels

USDA SCSSS SOILS MAP

RANGER STORAGE LLC

23Z00009



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: 2/6/2023

USDA SCSSS Soils

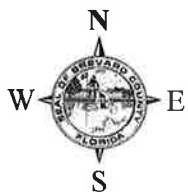
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

RANGER STORAGE LLC

23Z00009



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: 2/6/2023

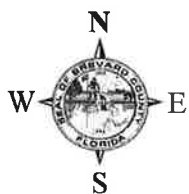
FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

RANGER STORAGE LLC

23Z00009



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: 2/6/2023

— Subject Property

□ Parcels

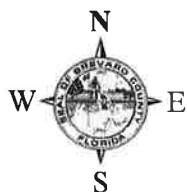
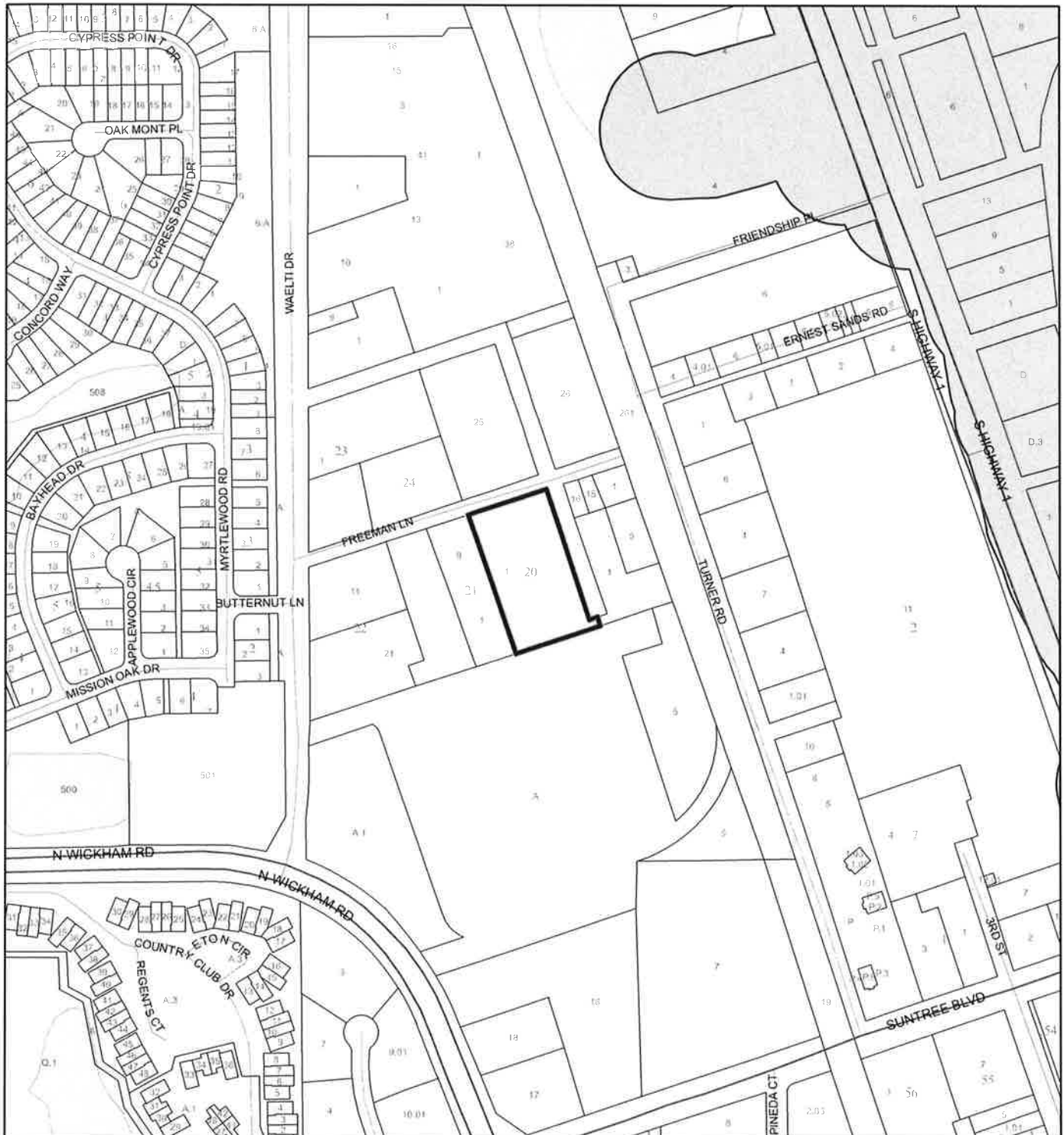
Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

RANGER STORAGE LLC


23Z00009



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: 2/6/2023

 Subject Property

 Parcels

Septic Overlay

 40 Meters

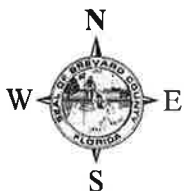
 60 Meters

 All Distances

EAGLE NESTS MAP

RANGER STORAGE LLC

23Z00009



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/6/2023

 Subject Property

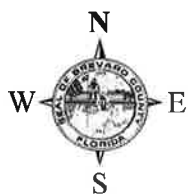
 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

RANGER STORAGE LLC

23Z00009




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: 2/6/2023

 Subject Property

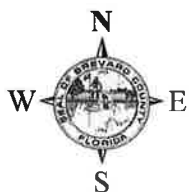
 Parcels

 Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

RANGER STORAGE LLC

23Z00009



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: 2/6/2023

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

Existing BDP
23Z00009
Ranger Storage

RETURN: Clerk to the Board #27

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 20 day of March, 2007, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and SUN HARBOR INVESTMENT GROUP, LLC, a Florida limited liability company (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 desire to develop the property as a mini warehouse/storage facility pursuant to the Brevard County Code, Section 62-1837.5 and

WHEREAS, as part of the plan for development of the property, Developer/Owner wishes to mitigate negative impact on abutting/and adjacent 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 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 vegetative buffer on three (3) sides of the property substantially in accordance with Exhibit "B" attached hereto (the "Plan").
3. The Developer/Owner shall limit use to a mini-warehouse facility only and with the open storage for boats and RVs to the rear.
4. The Developer/Owner shall limit ingress and egress to and from the property from Freeman Lane.
5. No Certificate of Occupancy or Certificate of Completion shall be issued for the operation of the mini-warehouse facility prior to the paving of Freeman Lane.

RETURN: Clerk to the Board #27

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 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 December 7, 2006. 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 it may be amended.

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)

STATE OF FLORIDA §
COUNTY OF BREVARD §

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

Jackie Colon
Jackie Colon, Chairperson
As approved by the Board on March 20, 2007

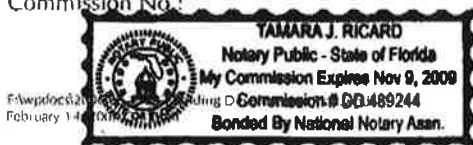
The foregoing instrument was acknowledged before me this 20 day of March, 2007, by Jackie Colon, Chairman of the Board of County Commissioners of Brevard County, Florida, who is personally known to me or who has produced _____ as identification.

My commission expires:

SEAL
Commission No.:

Tamara J. Ricard
Notary Public

Tamara J. Ricard
(Name typed, printed or stamped)



RETURN: Clerk to the Board #27

WITNESSES:

Allen B. Pontkowski
ALLEN B. PONTKOWSKI
(Witness name typed or printed)

Lori Ericsson
LORI ERICSSON
(Witness name typed or printed)

DEVELOPER/OWNER

SUN HARBOR INVESTMENT GROUP, LLC,
a Florida limited liability company
6155 North US Highway 1
Melbourne, Florida 32940

By: Antonio Z. Camara
Antonio Z. Camara as it's Managing Member

STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledge before me this 16 day of January, 2007, by Antonio Z. Camara as Managing Member of Sun Harbor Investment Group, LLC, a Florida limited liability company, who is personally known to me or who has produced driver's license as identification.

My commission expires:

SEAL
Commission No.:

Cathy Sorger
Notary Public

Cathy Sorger
(Name typed, printed or stamped)



RETURN: Clerk to the Board #27

Exhibit "A"

Legal Description:

Lots 1 thru 16, inclusive, Block 20, Plan of Town of Pineda, as recorded in Plat Book 1, Page 41, Public Records of Brevard County, Florida. Together with North 1/2 vacated Right of Way lying adjacent to and south of said Block 20.





BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

2725 Judge Fran Jamieson Way

Building A, Room 114

Viera, Florida 32940

(321)633-2070 Phone / (321)633-2074 Fax

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

ADDENDUM TO STAFF COMMENTS

23Z00009 (Item H.13.)

**Ranger Storage, LLC. requests an amendment to an existing BDP in a
BU-2 (Retail, Warehousing and Wholesale Commercial)**

Tax Account Number: 2601558
Parcel I.D.: 26-36-12-DE-20-1
Location: South side of Freeman Lane, approximately 480 feet east of Waelti Dr.
(District 4)

Acreage: 2.21 acres

Planning and Zoning Board: 4/17/23
Board of County Commissioners: 5/04/23

Background and Purpose of Request

During the Planning and Zoning Board meeting on April 17, 2023, P&Z unanimously recommended approval retaining all BU-1 uses and limiting the BU-2 use to indoor RV storage only. The applicant provided a revised BDP on April 20, 2023, in support of P&Z's recommendation. This Addendum provides an analysis of the proposed BDP stipulations for the Board's consideration. Staff responses are *italicized*.

The Recorded BDP stipulates:

- Developer/Owner shall provide a vegetative buffer on three (3) sides of the property substantially in accordance with Exhibit "B" attached hereto (the "Plan").
- Developer/Owner shall limit the use of the property to mini-warehouse facility with open storage for boats and RV's to the rear.
- Developer/Owner shall limit ingress/egress to and from the property from Freeman Lane.
- No Certificate of Occupancy or Certificate of Completion shall be issued for the operation of the mini-warehouse prior to the paving of Freeman Lane.

The proposed BDP stipulates:

- Developer/Owner shall provide a vegetative buffer on the North side of the property substantially in accordance with Exhibit "B" attached hereto (the "Plan").

Overall, this stipulation is less restrictive than the previous BDP stipulation as there was more vegetation proposed along each of the 4 (four property boundaries) with the north being more substantial. According to 62-4342, Landscape Buffers, the north property line requires a Type "B" landscape buffer. This buffer shall be landscaped, located adjacent to any public road, and have a minimum width of 15 feet. There shall be no parking or structures other than permitted signage located within this vegetated area. It appears the proposed plan meets this code requirement.

- The perimeter facing exterior walls of the proposed buildings meet the requirements for the screening requirements set forth in Section 62-1837.5(10). Vinyl coated chain link fence may be used as perimeter fencing on the west, east and south property lines, but is not allowed along the north property line, where adjacent to residential properties.

Commercially zoned properties have landscaping and screening requirements. Said buffer and screening strip shall consist of any combination of a berm, fencing and vegetation which will provide a six-foot high visual barrier. Where said property is contiguous to a parcel zoned residential, or used for residential purposes, the landscape buffer and screening strip shall be completely opaque to a height of six feet pursuant to chapter 62, articles VIII and XIII. The adjacent properties are not zoned or used for residential.

- The Developer/Owner shall limit ingress and egress to Freeman Lane.

Property only has access to Freeman Lane.

- The Developer/Owner shall limit uses to indoor RV and boat storage and those uses allowed in the BU-1 zoning classification.

*This stipulation could be considered less restrictive as the existing BDP only allowed for mini-warehouses and RV and boat storage. The proposed BDP would allow all the BU-1 zoning classification uses and indoor RV storage. However, the proposed BDP stipulation states "indoor", which means completely enclosed in a building. Where the existing BDP allows outdoor storage of RV's and boats to the rear. **Please note: The P&Z recommendation did not include boat storage.***

Please note: The "Plan" has not been reviewed for conformance to Brevard County codes and regulations. At the site plan review stage, plans must meet the minimum technical standards.

Prepared by: _____
Address: _____

H.13

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this _____ day of _____, 20__ between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and ___Ranger Storage_____, a Limited Liability Company (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 desires to develop the Property as _____RV/Boat Storage Facility_____, pursuant to the Brevard County Code, Section 62-1837.5 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. Recitals. The above recitals are true and correct and are incorporated into this Agreement by their reference.
2. 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

Rev. 4/18/23

- 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.
3. Developer/Owner shall provide a vegetative buffer on the North side of the property substantially in accordance with Exhibit "B" attached hereto (the "Plan").
 4. The perimeter facing exterior walls of the proposed buildings meet the requirements for the screening requirements set forth in Section 62-1837.5(10). Vinyl coated chain link fence may be used as perimeter fencing on the west, east and south property lines, but is not allowed along the north property line, where adjacent to residential properties.
 5. The Developer/Owner shall limit ingress and egress to Freeman Lane.
 6. The Developer/Owner shall limit uses to indoor RV and boat storage and those uses allowed in the BU1 zoning district.
 7. 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.
 8. 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.
 9. 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.
 10. 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.

11. 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.
12. 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 _____

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

WITNESSES:

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

(Witness Name typed or printed)

(Address)

(Witness Name typed or printed)

(President)

(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)

EXHIBIT A

Lots 1 through 6, Block 20, plus the north 1/2 of the vacated streets on the south, Plat of Town of Pineda, according to the plat thereof, as recorded in Plat Book 1, Page 41, public records of Brevard County, Florida

And

Lots 7 through 16, Block 20, Plat of Town of Pineda, according to the plat thereof, as recorded in Plat Book 1, Page 41, public records of Brevard County, Florida

RANGER RV STORAGE

MELBOURNE, FLORIDA

DATE: JANUARY 27, 2023

PREPARED FOR:

RANGER STORAGE, LLC

ADJACENT ZONING: GU
FUTURE LAND
USE: NC
NEIGHBORHOOD
COMMERCIAL

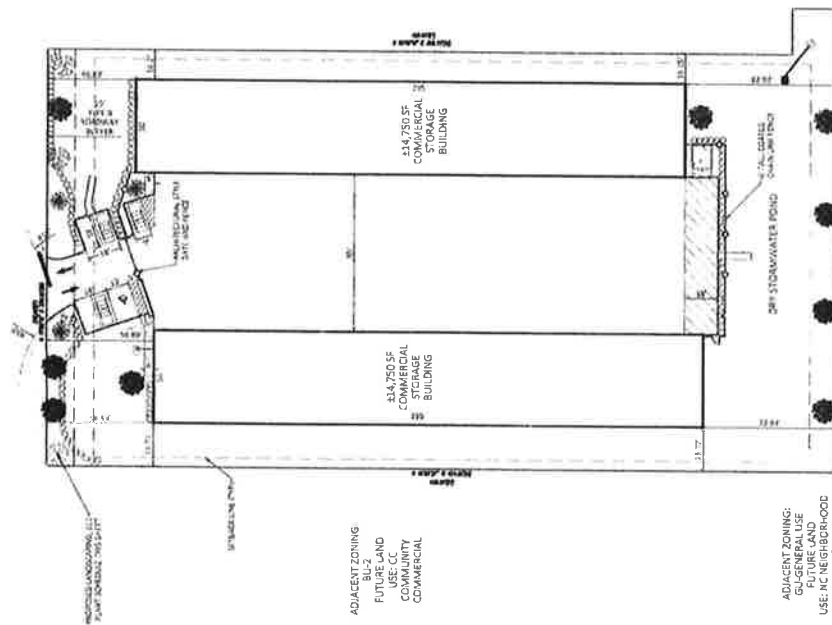
ADJACENT ZONING: BU-2
FUTURE LAND USE:
PUB - PUBLIC

SITE EXHIBIT 30

ADJACENT ZONING:
GU-GENERAL USE
FUTURE LAND
USE: NC NEIGHBORHOOD
COMMERCIAL

ADJACENT ZONING:
BU-2
FUTURE LAND
USE: PUB
PUBLIC

EXHIBIT B



PLANT SCHEDULE:

STAPLES	QUALITY	SPECIALTIES	COMMON NAME
	1	100 PC. 2" GALBROS JANUARY'S CLASS TRIANT	JAN DIA
	8	100 PC. 2" CAMPER	RED BARK
	1	100 PC. 2" CAMPER	CAMPER PLAIN
	122	100 PC. 2" CAMPER	CAMPER PLAIN

SITE DATA:

GENERAL STATEMENT

[illegible]

CONTACT INFORMATION

OWNER:
KANZER STORAGE, LLC
 2201 MARLIN
 2201 MARLIN WAY
 MILWAUKEE, WI 53209

CHALLENGER:
TRACER CONSULTING ENGINEERS
 JIM TRACER
 2110 FRONT STREET, SUITE 204
 MILWAUKEE, WI 53204
 TEL: 312-257-0045
 FAX: 312-257-0046

THE DATA

[illegible]

BUILDING DATA

MAXIMUM ALLOWED BUILDING HEIGHT PERMITTED: 60'
PROPOSED BUILDING HEIGHT: 60" SINGLE STORY

MAXIMUM ALLOWED FLOOR TO AREA RATIO (FAR): 1.0
PROPOSED FAR = 70,500 SF / 70,517 SF = 1.0

1. *Introduction*

WATER EX- POSURE	DEPTH	WATER TEMP.	WIND SPEED
SIDE (WEST)	5'	25.7°	16.2°
SIDE (EAST - ROW)	5'	16.2°	

TRAUGER
CONSULTING ENGINEERS
32100 HANES ST. #204 - BAYVIEW - MI 48064-1191
(313) 297-0325 FAX (313) 297-0325

RANGER RV STORAGE
MELBOURNE, FL
SITE EXHIBIT

DATE: 11-18-2022	SECTION: 12	SCALE: 1"=10'
DRAWING: 26	PROJECT: 100	EX-B
PROJECT: 100	PROJECT: 100	PROJECT: 100

From: maggieschultz321@gmail.com
To: jim@traugerconsulting.com; DaleMartin12@gmail.com
Cc: Kaye@suntreeflorida.com; [David Hoffman](#); [Jenna Bauden](#); [Jones, Jennifer](#)
Subject: Ranger Storage - Freeman Lane
Date: Monday, March 13, 2023 1:34:39 PM
Importance: High

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Lake Pointe Homeowners' Association, Inc.

Maggie Schultz, President

331 Myrtlewood Road

Melbourne, Florida 32940

March 13, 2023

Ranger Storage, LLC

c/o Mr. Jim Trauger

Trauger Consulting Engineers

2201 Front Street, Suite 204

Melbourne, FL 32901

Subject: Ranger Storage, LLC

Brevard County Zoning Application 23Z00009

Dear Mr. Trauger:

I write to you as representative of Lake Pointe Homeowners Association, a nearby neighbor of the referenced Ranger Storage site. My request to you, respectfully, is that you include some modest additional provisions in the proposed Binding Development Plan proffered with your current zoning application. While your parcel is not immediately across the street from us, your parcel is one of many undergoing transitions to heavy commercial use in the 'Waelti' area immediately adjacent to us.

As you know, Waelti Drive provides the only direct access from County thoroughfares to Freeman Lane and its entire surroundings. Impatient drivers have increasingly been finding an access alternative through our 'substandard' single-lane neighborhood streets to your

immediate east. We seek to minimize this growth in through-traffic, dangerous to us as we have no sidewalks and walk in our narrow streets. We are also highly motivated to ensure that the range of uses and intensity of development encroaching upon us, does not create excessive noise, glare, dust, odor, or other detriment to the livability of our homes or enjoyment of our yards.

To protect ourselves while the Waelti Drive area has been undergoing transition in recent years, we have garnered cooperation of other applicants who have agreed to limit their proposals to uses and appurtenances that would not detrimentally affect us. It is in this spirit that we respectfully request that you include the following additional provisions in your proposed Binding Development Plan (Rev. 11/28/2022). These proposals are more modest than we may request of others, as your parcel is not immediately across the street from us and your current proposal already proposes to limit the nature and scale of your development.

In Paragraph 5 regarding access. Revise this paragraph as follows: (*Proposed additional language is underlined*).

The Developer/Owner shall limit ingress and egress to Freeman Lane. The Developer/Owner shall post the following Notice at the exit gate:

"NOTICE: Trucks having three (3) or more axels, Motorhomes, and Vehicles Towing Trailers Shall Access this Facility via Waelti Drive and Wickham Roads Only, and Shall Not Enter Butternut Lane."

The foregoing provision shall be included in all Lease Agreements and said Lease provision shall further include the following: "Violations shall be grounds for Termination of Lease."

In Paragraph 6 regarding regulations and ordinances. Revise this paragraph as follows:

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. Moreover, use and development of the site shall be limited as follows:

A) The following uses shall be prohibited: Auditoriums; Commercial entertainment and amusement enterprises; Flea markets; Gasoline service stations; Hotels; Lumber sales; Motels; Outside sale of mobile homes (on-site sale of motorhomes is permitted); Pet kennels; Plant nurseries; Recovered materials processing facility; Restaurant outdoor seating; Seafood processing plants; Theatres; and, Treatment and recovery facility.

B) Outdoor storage or display of large items or material which require forklift, front-loader, tractor, or similar machinery to move shall be prohibited.

C) Outdoor intercoms and public address systems shall be prohibited.

D) Digital or electronic signs and billboards, whether static, animated, or intermittent, shall be prohibited.

E) Freestanding signs shall be limited to not exceed ten feet in height.

F) The gross floor area ratio (FAR) shall not exceed 0.75.

I trust you will readily see that these requested limitations will not impede your business plan while it would very much help our community's endeavor to ensure that expanding neighboring development does not generate intolerable traffic through our narrow streets or otherwise become an insurmountable nuisance to us. I appeal to you for your cooperation protecting the safety and livability of our neighborhood as our community may offer its support for your business venture.

Sincerely,

Maggie Schultz

Maggie Schultz, President

Lake Pointe Homeowners' Association, Inc.

maggieschultz321@gmail.com

PS: A hard copy of this letter can be mailed to both Jim Trauger and/or Dale Martin via USPS should a hard copy be needed.

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, April 17, 2023**, 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: Ron Bartcher (D1); Robert Sullivan (D2); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); and John Hopengarten (BPS). Robert Brothers' presence was noted at 3:09 p.m.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Jane Hart, Planner III; Paul Body, Planner III; Trina Gilliam, Planner II; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

Ranger Storage, LLC (Jim Trauger)

An amendment to an existing BDP (Binding Development Plan) in a BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification, on 2.21 +/- acres, located on the south side of Freeman Lane, approx. 480 ft. east of Waelti Dr. (3335 Freeman Lane, Melbourne) (23Z00009) (Tax Account 2601558) (District 4)

Jim Trauger, 2210 Front Street, Melbourne, stated the site is currently zoned BU-2, with an existing BDP, and during a pre-application meeting with staff it was determined that the proposal is different than the previously approved BDP, so a new layout was developed. There are a couple of changes he feels are less intensive; the current BDP allows outdoor storage for a mini-warehouse, and the proposed use is solely for indoor storage of boats and RVs, which is less intense if people don't pick up their RVs and boats every day, and that is the biggest change. He said his client would also like to push more landscaping to the front, closer to the residential use, to create a better buffer. To the west is vacant land, to the south is warehousing, to the east is a large FDOT pond, and then the railroad tracks, so there is no potential for residential neighbors, and that was the idea with the new layout.

Public comment.

Robert Usherson, 338 Myrtle Wood Road, Melbourne, stated he lives in the subdivision to the west of the proposed development, and is speaking on behalf of himself and the HOA president. He said they thought they would be able to support the application because indoor storage of recreational vehicles and boats could be a compatible neighbor; however, the way the application has been framed, they vigorously oppose it unless it were to be significantly re-crafted to render it compatible with the Comprehensive Plan and the character of the area. He said currently, there is a BDP that expressly limits use, and as the proposal has been framed, it breaks it wide open to the full range of BU-2 uses. He said the president of the HOA sent a letter to the applicant hoping there could be some dialogue and an adjustment to the application, but she has not received a reply. The way the request is framed, he finds it to be considerably inconsistent with the policies of the Comprehensive Plan and it would be inappropriate for the board to recommend approval of a change from the current BDP. He stated the area has been piecemealed by multiple small scale plan amendments over the years since the comprehensive plan was adopted, and the area has now been re-designated substantially on an ad-hoc piecemealed basis to Community Commercial. He said in recent years the HOA has garnered cooperation from several applicants who have offered BDPs limiting the range of uses on a property and other appurtenances that would not pose a threat to the liveability of homes. He said the HOA asked Ranger Storage to include a few provisions in the draft BDP, which were nominal and

reasonable, but there has not been a reply from the applicant. He said there are a couple of ways they could fix this, but right now what is before the board is unacceptable. He explained the Waelti area has one access road out, and it's a large area that has been undergoing transition to heavy commercial uses. There is a traffic signal at Wickham Road and it is the only way out, except to drive through the neighborhood, which has substandard streets without sidewalks, and cannot tolerate through traffic by heavy vehicles and a other activity that could occur in BU-2. He noted the traffic signal has a very long cycle period, and people get impatient and cut through the neighborhood. He said the County has very little opportunity to change the signal because the two signals very close to that intersection limits how much clearance time can be provided out of Waelti and onto Wickham. He stated the area should get a comprehensive overview and maybe an overlay district to lay onto the area so that what occurs in the confined space is good planning and not just ad-hoc reaction to requests that come before the board. He said another concern is noise, and on a small, piecemealed basis, the noise code doesn't provide a good way to respond to little things that could be occurring through a multiplicity of sites with multiplicity of occupants. He stated storage could be just fine, but a 60-foot tall building is contemplated in the site plan, and asked if it going to be rack storage, or if there is going to be some kind of a lift vehicle with back-up beepers going off all night or all day, and that's not explained nor precluded by the current proposal. Another concern is with electronic digital signs; residents don't want them in the area or along Wickham Road, but they could be allowed in BU-2 zoning. He said what the HOA has asked of applicants is that they tighten up the development proposal to exclude some of the things that would be very deleterious to the quality of life in the neighborhood. He said they are not asking to simply limit the use to indoor storage of RVs and boats, because there are a lot of other things that could be allowed, they are asking that it exclude the kinds of things that would be deleterious to the neighborhood, and there are a variety of ways it can be done in the BDP. He said the preamble of the document indicates what the wishes and desires of the applicant are, to build a storage facility; however, in the operative language, there is no limitation, it is wide open. There is an exhibit in the agenda materials called a site plan that shows landscaping and fencing, and where the buildings will be, but the staff comments say the project still has to go through site plan review and it could all change, but it is a site plan and not a land use restriction.

Mr. Trauger stated his clients plan to be good neighbors. The exhibit that is part of the BDP is why they are before the board, because staff felt that what was provided was substantially different. If his clients were to go to staff with digital sign boards and things that may be allowed in BU-2, they would have to come back to the board. He said his client is not proposing a 60-foot tall building; the proposed building is single-story, as is written in the exhibit drawing.

John Hopengarten stated according to BDPs, the only way they can be changed or removed is by rezoning, and asked if the existing BDP can be amended if the request is not for a rezoning.

Alex Esseeesse replied yes, BDPs are an agreement between a property owner and the Board of County Commissioners, and they can be amended. Mr. Hopengarten stated the original agreement is with a different owner. Mr. Esseeesse replied BDPs run with the land, not the property owner.

Mr. Hopengarten stated he did research back to 2006 when the BDP came up, and it seems that the BDP that was approved was different than the one proposed by the Planning and Zoning Board, and it seemed that the major item was the paving of Freeman Lane, and asked if it is paved. Mr. Trauger replied Freeman Lane is paved up to the site.

Mr. Hopengarten stated another requirement was putting up a barrier of vegetation on three sides of the property, which was due to the fact that the original applicant had clear cut the entire site, and staff recommended that punitively at the time. He said the final BDP that was approved included only those two requirements.

Jeffrey Ball pointed out there was a third condition in the original BDP that the developer/owner limit the use to mini-warehouse facility only, and with the open storage for boats and RVs on the rear of the property.

Mr. Trauger stated his clients are no longer planning any outdoor storage on the site at all, so that condition also does not apply to the proposed development.

Ron Bartcher stated it seems the proposed facility could be built on the property with the current BDP in place. Mr. Trauger replied the RVs intended for storage are large and need a 50-foot bay. The circulation of the previous project had the two entrances, and then the middle two buildings would have worked, but the exterior buildings were not deep enough to accommodate larger RVs. He said the idea was to use those buildings as self-storage and then have the RVs and boats outside on the southern portion of the site closer to the warehousing, but since they want to have all of the RVs and boats within structures, they won't be visible at all.

Mr. Bartcher asked staff if the applicant can build the building he wants in BU-1 zoning. Mr. Ball replied yes, but it is the outdoor storage component that requires BU-2.

Mr. Ball further clarified that the BDP was approved with a site plan, and what they are trying to do now doesn't comply with that site plan, and that is why the application is before the board, to remove the site plan part to allow for them to have more flexibility within the BU-2 zoning and the conditions that went along with the site plan.

Mr. Bartcher stated he agrees with the residents that taking this requirement out essentially opens it up to any kind of BU-2 use. He asked if the restrictions in the proposed BDP do not limit the kinds of things he can do. Mr. Ball replied as far as staff's analysis, there are no use limitations in the proposed BDP.

Mr. Bartcher stated he thinks there are BU-2 uses that residents would not like to see next to their homes, and he would like to see some restrictions on BU-2 uses, as suggested by the HOA.

Mr. Trauger stated he doesn't have a problem adding to the BDP that the facility will be used for indoor RV storage. He said it wasn't malicious intent, it was oversight, because he thought it was clear since the name of the company is Ranger RV storage.

Mr. Bartcher stated the board only deals with zoning issues, it doesn't deal with site planning, and while he appreciates the applicant's willingness to come forward with what they are going to do with the property, in reality it is not a requirement, so the board has to deal with not only what the applicant says he is planning to do, but other things that could be done with the property.

Mr. Trauger stated he was under the impression that the use wasn't changing, just the layout, and that triggered coming back to the board.

Mark Wadsworth asked if Mr. Trauger thought he was going to get rid of the outdoor storage and add indoor storage. Mr. Trauger replied that is what his client is trying to do.

Mr. Wadsworth asked if limiting the use to indoor storage of RV's is acceptable. Mr. Trauger stated he doesn't have a problem adding that the use on the property will be solely for the indoor storage of boats and RVs.

Mr. Ball stated asked for clarification that the board's recommendation would be to include a BDP that limits the use of the property to all of the BU-1 uses and the BU-2 use of indoor RV and boat storage.

Mr. Bartcher stated that is correct.

Mr. Hopengarten asked if there a way to amend the original BDP and take out the two provisions on Freeman Lane. Mr. Esseeesse replied yes, there doesn't have to be a companion rezoning item, an applicant can come to the board to ask to amend the BDP itself, as is outlined in the Code. Mr. Hopengarten asked if that can be done, rather than a new BDP. Mr. Esseeesse replied the board is amending the existing BDP, effectively creating a new BDP.

Motion by Ron Bartcher, seconded by Debbie Thomas, to recommend approval of the amendment to an existing BDP in a BU-2 zoning classification, with a BDP retaining all BU-1 uses and limiting the BU-2 use to indoor RV storage only. The motion passed unanimously.