



**AGENDA REPORT**  
**August 1, 2019**

**M&R United, Inc. (Carmine Ferraro) requests a change of zoning classification from BU-1 to BU-2. (18PZ00156) (District 1)**

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**SUBJECT:**

M&R United, Inc. (Carmine Ferraro) requests a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 13.27 acres, located on the west side of Grissom Parkway, between Cinnamon Fern Boulevard and Ranch Road. (No assigned address. In the Port St. John area.) (18PZ00156) (District 1)

**DEPT/OFFICE:**

Planning and Development

**REQUESTED ACTION:**

It is requested that the Board consider tabling the item to September 5, 2019 for consideration of a change of zoning classification from BU-1 to BU-2.

**SUMMARY EXPLANATION and BACKGROUND:**

The applicant has requested that the Board consider tabling this item seeking a change of zoning classification from General Retail Commercial (BU-1) to Retail, Warehousing and Wholesale Commercial (BU-2) to allow for the pursuit of a Variance on the property for additional fence height. The applicant intends to develop a warehouse and storage yard on 4.17 acres.

The applicant initially requested the rezoning on 3 large parcels adjacent to Grissom Parkway, totaling 13.27 acres. On March 12, 2019, the applicant amended the request for the southern lot only (Lot 8) and to include a Binding Development Plan (BDP). On March 25, 2019, the applicant submitted a revised BDP, which incorporated 12 conditions specific to the development of the parcel for self storage mini-warehouse and RV/Boat parking. After learning that one of the proposed conditions for fencing to screen the use from surrounding properties would necessitate a variance, the applicant wishes to pursue a variance for additional fence height prior to memorializing the commitment within the BDP associated with this rezoning request.

The applicant has already been granted an automatic tabling. If the Board chooses not to grant the requested tabling, it has the authority to either approve or deny the request. Should the Board choose to conduct the hearing, the Board may wish to consider whether the requested BU-2 is compatible with the existing residential subdivisions to the west and across the street to the east and south. The Board should also consider whether the

stipulations proposed within the BDP would mitigate any impacts of the proposed BU-2 zoning. For additional information regarding the analysis of the existing proposal, please see the attached documentation.

On February 11, 2019, the Planning and Zoning Board tabled the item at the applicant's request to the March 25, 2019, Local Planning Agency/Planning and Zoning Board meeting, to allow the applicant time to prepare a working concept for the southern lot only, and to meet with the neighbors.

On March, 25, 2019, the Planning and Zoning Board unanimously approved the amended request for the southern lot only (Lot 8), with a Binding Development Plan which limitations include, but are not limited to, the stormwater pond to be located on the rear of the property, cross access between the adjacent commercial parcels to the north, landscape buffers per Section 62-4243, and that the structure be a metal building as described in Section 62-2115(a)(1) and (2).

On April 4, 2019, the Board granted an automatic tabling of the item until May 2, 2019.

On May 2, 2019, the Board tabled the item to the August 1, 2019, meeting at the request of the applicant.

On July 22, 2019, the applicant indicated to staff they will request the item be tabled until the September 5, 2019 meeting.

**ATTACHMENTS:**

**Description**

- ▣ **Staff Comments**
- ▣ **Administrative Policies**
- ▣ **GIS Maps**
- ▣ **Amended Request**
- ▣ **Concept Plans**
- ▣ **Draft BDP Submitted 3.25.19**
- ▣ **Addendum - Natural Resources Management**
- ▣ **Letter to Neighbors**
- ▣ **Applicant-Submitted BU-1 Uses**
- ▣ **03/25/19 PZ Minutes**
- ▣ **05/01/19 Intent to Request Tabling**

**REZONING REVIEW WORKSHEET**

**18PZ00156**

**Commission District # 1**

**Hearing Dates: P&Z 02/11/19 03/25/19**

**BCC 03/07/19 04/04/19**

**Owner Name: M&R United, LLC**

**Request: BU-1 to BU-2**

**Subject Property:**

Parcel ID# 23-35-15-00-7 & 8; 23-35-15-BB-00-149.01

Tax Acct.# 2320343; 2320344; 2304562

Location: West side of Grissom Parkway, between Cinnamon Fern Boulevard and Ranch Road.

Address: No assigned address. In the Cocoa area.

Acreage: 13.27

**Consistency with Land Use Regulations**

- YES Current zoning can be considered under the Future Land Use Designation. Sec. 62-1255
- YES Proposal can be considered under the Future Land Use Designation. Sec. 62-1255
- NO Would proposal maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	BU-1	BU-2
<b>Potential*</b>	115,608 square feet	161,852 square feet
<b>Can be Considered under FLU MAP</b>	YES Community Commercial	YES Community Commercial

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

	<b>ADT</b>	<b>PM PEAK</b>		
<b>Trips from Existing Zoning</b>	11,820	1,096	<b>Segment Number</b>	150C
<b>Trips from Proposed Zoning</b>	16,548	1,534	<b>Segment Name</b>	Grissom Curtis - Kings Hwy
<b>Maximum Acceptable Volume (MAV)</b>	15,600	1,404	<b>Acceptable LOS</b>	E
<b>Current Volume</b>	11,046	994	<b>Directional Split</b>	0.55
<b>Volume With Proposed Development</b>	27,594	2,528	<b>ITE CODE</b>	
<b>Current Volume / MAV</b>	70.81%	70.81%	850	
<b>Volume / MAV with Proposal</b>	176.88%	180.07%		
<b>Current LOS</b>	C	C		
<b>LOS With Proposal</b>	F	F		
<b>Findings</b>	<input type="checkbox"/> Non-Deficiency	<input checked="" type="checkbox"/> Deficiency		

## Background & Purpose of Request

The applicant is seeking a change of Zoning classification from General Retail Commercial (BU-1) to Retail, Warehousing and Wholesale Commercial (BU-2) for the stated purpose of developing a warehouse and storage yard. These parcels are located on the west side of Grissom Parkway between Cinnamon Fern Boulevard and Ranch Road. Both Grissom Parkway and Cinnamon Fern Boulevard are improved roadways; however, Ranch Road is not improved.

A site plan under the name of Grissom Isle Center (18SP00038) is currently under review. The latest submittal indicates an intention to develop one of the three parcels involved in this zoning action for two storage buildings totaling 20,160 square feet on 4.19 acres and associated stormwater. No concept plan has been provided which would demonstrate development intentions on all three of the parcels included within this request for rezoning. A proposed site plan for the southern-most parcel has been included for reference, which was provided to County staff for review for a pre-application meeting, but the plan does not yet incorporate the outside storage component that is said to be the driver for this request for BU-2 uses. Because the rezoning encompasses three parcels, an exhibit has been provided by staff, which lays those concept plans over an aerial depicting what is included in this rezoning request.

Section 62-1837.5 (b) (4) outlines the conditions for the self storage mini-warehouse, as follows: No outside storage of commercial vehicles or heavy equipment as defined in and regulated by section 62-2117 shall be permitted. Recreational vehicles and recreational equipment so defined shall be permitted to be stored on site if screened from view from the street and from adjacent parcels by a minimum eight-foot opaque visual barrier, except that such vehicles and equipment shall not be permitted to be stored outside where said property is adjacent to a parcel zoned residential or used for residential purposes.

This site has two existing zoning approvals. The easterly portion of this site was zoned under Zoning action number **Z-8528 (b)** which changed the zoning on the eastern portion of the lot from TR-1 and RRMC-1 to BU-1 on January 8, 1990. Zoning action number **Z-9866 (b)** amended the western portion of the lot from Single-Family Residential (RU-1-13) to BU-1 zoning on March 20, 1997. The BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

## Land Use Compatibility

The subject property retains the Community Commercial (CC) Future Land Use (FLU) designation. Both the BU-1 and BU-2 zoning classifications are consistent with the Future Land Use designation.

**FLUE Policy 2.2** designates the 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;
- B. Existing commercial zoning trends in the area;
- C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;
- D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;
- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and
- F. Other issues which may emerge specific to a particular property which may be addressed through performance based zoning criteria.

The request for BU-2 zoning should be evaluated within the context of **Policy 2.7** of the Future Land Use Element, which identifies "development activities that may be considered within the Community Commercial Future Land Use Designation..."

Existing strip commercial;  
Transient commercial uses;  
Tourist commercial uses;  
Professional offices;  
Personal service establishments;  
Retail establishments;  
Non-retail commercial uses;  
Residential uses;  
Institutional uses;  
Recreational uses;  
Public facilities;  
Transitional uses pursuant to Policy 2.14; and  
Planned Industrial Park development (as permitted by PIP zoning).

This request should be evaluated within the context of **Policy 2.14A** of the Future Land Use Element, which establishes locational criteria for non-retail commercial uses, as follows:

A. Non-retail commercial land uses shall be limited to those areas where non-retail commercial or industrial characteristics are established or planned so as to protect residential areas from their influence. Non-retail uses, including wholesaling, contracting, heavy repair services, paint and body shops, storage and warehousing uses, may serve as a transitional use between the following higher intensity and lower intensity uses, in the following listed Future Land Use designations:

Higher Intensity Uses: Heavy Industrial or Light Industrial activities.

Lower Intensity Uses: Community Commercial, Planned Industrial Park or Planned Business Park uses.

Future Land Use Designations: Community Commercial, Heavy/Light Industrial or Planned Industrial (Planned Industrial permits PIP zone uses only).

Roadway Access Requirements: Convenient access to a major transportation corridor or along a railroad corridor with visual buffering from such corridors.

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of the Administrative Policies.

## **Environmental Constraints**

Please refer to comments provided by the Natural Resource Management Department. The site may contain Specimen Trees. The applicant should be advised that landscape review, including meeting current code requirements for parking lot and landscaping, will be required with removal of any trees.

## **Applicable Land Use Policies**

The request is to change the Zoning classification on the subject property from BU-1 to BU-2. The 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.

The zoning to the north of the subject parcels is BU-1 and a portion of that property is developed with single-family home sites. A second parcel along Grissom was developed as a convenience store with gas pumps (Shell gasoline station). Further to the north are the Orlando Utilities Commission (OUC) main power transmission lines and further north lie the City of Titusville's city limits and the Space Coast Regional Airport.

The zoning to the east across Grissom Parkway is Single-Family Residential (RU-1-9). The RU-1-9 classification permits single-family residential development on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet. The zoning to the south is Single-Family Residential (RU-1-7). The RU-1-7 classification permits single-family residences on minimum 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet. The minimum house size is 700 square feet. The zoning to the west is RU-1-13. The RU-1-13 classification 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.

The Board may wish to consider whether the intensity and types of the proposed BU-2 uses are consistent and compatible with surrounding development. The Board may also wish to consider whether the proposed commercial use necessitates screening and buffering or whether limitations on the BU-2 uses to mitigate deleterious site performance of the subject property to the abutting single-family residential subdivisions to the west, south and east be required.

Within the last three years, there have been no zoning actions within a ½ mile radius of this property.

### **Transportation Consideration**

The three (3) subject parcels in this rezoning request lie west of Grissom Parkway, an urban minor arterial roadway. The preliminary concurrency analysis indicates the maximum impact from an estimated 161,852 square feet of development of BU-2 uses on the 13.27 acres in this request could produce 16,548 trips per day. Grissom Parkway has a Maximum Acceptable Volume (MAV) of 15,600 trips, and development permissible by BU-2 has the potential to put the roadway at up to 176% of capacity, resulting in a deficiency in Level of Service standards on Grissom Parkway.

Additionally, while Cinnamon Fern Boulevard to the north is improved, Ranch Road to the south remains unimproved. The proposed site plan limits development to a single access point to Grissom Parkway and fails to provide for connectivity to Ranch Road. The applicant should consider internal connectivity and access via existing connections rather than multiple new driveway cuts along Grissom Parkway.

Code requires that cross-access be provided to all adjacent parcels. The concept plan provided by the applicant does not demonstrate an intent to provide this cross-connectivity. The Board may wish to consider requesting that the applicant demonstrate plans for access management across the three subject parcels, to ensure that the impact to Grissom Parkway has the least impact on Grissom Parkway.

### **For Board Consideration**

The applicant is seeking a change of Zoning classification from General Retail Commercial (BU-1) to Retail, Warehousing and Wholesale Commercial (BU-2) for the purpose of developing a warehouse and storage yard.

A site plan under the name of Grissom Isle Center (18SP00038) is currently under review. The latest submittal indicates an intention to develop one of the three parcels involved in this zoning action for two storage buildings totaling 20,160 square feet on 4.19 acres and associated stormwater. No concept plan has been provided which would demonstrate development intentions on all three of the parcels included within this request for rezoning. A proposed site plan for the southern-most parcel has been included for reference, which was provided to

County staff for review for a pre-application meeting, but the plan does not yet incorporate the outside storage component that is said to be the driver for this request for BU-2 uses. Because the rezoning encompasses three parcels, an exhibit has been provided by staff, which lays those concept plans over an aerial depicting all three parcels included in this rezoning request.

Given the proximity of the existing residential subdivisions to the west and across the street to the east and south, the Board may wish to consider whether additional buffering should be required for the BU-2 uses to be compatible with existing residential developments and roadway buffers. The applicant should be advised that landscape review, including meeting current code requirements for parking lot and landscaping, will be required with removal of any trees identified as Specimen Trees.

The three (3) subject parcels in this rezoning request lie west of Grissom Parkway, an urban minor arterial roadway. Potential vehicle trip generation could severely impact traffic along Grissom Parkway should this site be developed with a large retail or traffic intense use. The preliminary concurrency analysis indicates the maximum impact from an estimated 161,852 square feet of development of BU-2 uses on the 13.27 acres in this request could produce 16,548 trips per day. Grissom Parkway has a Maximum Acceptable Volume (MAV) of 15,600 trips, and development permissible by BU-2 has the potential to put the roadway at up to 176% of capacity, resulting in a deficiency in Level of Service standards on Grissom Parkway.

Additionally, while Cinnamon Fern Boulevard to the north is improved, Ranch Road to the south remains unimproved. The proposed site plan limits development to a single access point to Grissom Parkway and fails to provide for connectivity to Ranch Road. The applicant should consider internal connectivity and access via existing connections rather than multiple new driveway cuts along Grissom Parkway.

Code requires that cross-access be provided to all adjacent parcels. The concept plan provided by the applicant does not demonstrate an intent to provide this cross-connectivity. The Board may wish to consider requesting that the applicant demonstrate plans for access management across the three subject parcels, to ensure that the impact to Grissom Parkway has the least impact on Grissom Parkway.

The Board may wish to consider whether any limitation on uses permissible within BU-2 or any limit on the site's development potential is necessary to ensure that level of service standards are retained. The Board could additionally request the property owner submit a traffic impact analysis (TIA) to demonstrate transportation impacts or consider whether uses should be limited on the subject property to those low trip generation uses specifically proposed by the applicant for development. Access management on Grissom Parkway and the two local roads that abut the subject parcels should also be evaluated in the TIA to demonstrate mitigation to the surrounding roadway network.

The Board may also wish to consider whether any BU-2 uses such as heavy automotive repair, paint and body shops, dry cleaning plants, pet shops with outside runs, outside storage yards, flea markets or overnight commercial parking lots may be incompatible with the surrounding development.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Rezoning Review**  
**SUMMARY**

<b>Item #: 18PZ00156</b>	<b>Applicant: Carmine Ferraro, MGMR</b>
<b>Zoning Request: BU-1 to BU-2</b>	<b>BCC Hearing Date: 03/07/19</b>
<b>P&amp;Z Hearing Date: 02/11/19</b>	

This is a preliminary review based on environmental maps available to the Natural Resources Management (NRM) Department at the time of this review and does not include a site inspection to verify the accuracy of this information. This review does not ensure whether or not a proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations. In that this process is not the appropriate venue for site plan review, specific site designs that may be submitted with the rezoning will be deemed conceptual and any comments or omissions relative to specific site design do not provide vested rights or waivers from these regulations, unless specifically requested by the owner and approved by the Board of County Commissioners. If the owner has any questions regarding this information, he/she is encouraged to contact NRM prior to submittal of any development or construction plans.

Natural Resource	Preliminary Assessment	Natural Resource	Preliminary Assessment
Hydric Soils/Wetlands	Mapped	Coastal Protection	N/A
Aquifer Recharge Soils	Not Mapped	Surface Waters	N/A
Floodplains	Not mapped	Wildlife	Potential

**Comments:**

**This review relates to the following property: Twp. 23, Rng. 35, Sec. 15;  
 Tax ID Nos. 2320343, 2320344, & 2304562**

The subject parcel contains mapped hydric soils (Samsula Muck-frequently ponded-0 to 1% slopes and Anclote sand) as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that wetlands may be present on the property. Wetlands are also delineated on the application survey prepared by R.M. Packard on August 15, 2016. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along Mitigation Qualified Roadways (MQRs). Grissom Parkway is an MQR at this location. The applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any land clearing activities, plan or permit submittal.

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.

The Board may wish to request additional information regarding the presence of Specimen Trees prior to approval of the final development plan in order to explore options to preserve Specimen

Staff Comments: Page 7  
(18PZ00156)  
02/11/19 PZ // 03/07/19 BCC

Trees to the Greatest Extent Feasible. The site contains mapped polygons of SJRWMD Florida Land Use and Cover Classification System (FLUCCS) code 4340 – Upland Mixed Coniferous/Hardwood trees. Heritage Specimen Trees (greater than or equal to 24 inches in diameter) are included in this FLUCCS code and likely reside in the project area. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of heritage Specimen Trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

## **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 and 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 zoning, conditional uses, comprehensive plan appeals, 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 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 per cent 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 an 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 or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), 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 service 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, odor, 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 that the following general standards are satisfied. The Board shall make the 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 MAI 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 thirty-five (35) feet higher than the highest residence within 1000 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 the section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County 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 MPO 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 (ALOS):** Acceptable Level of Service currently adopted by the County.

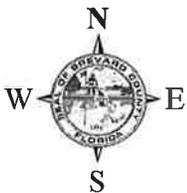
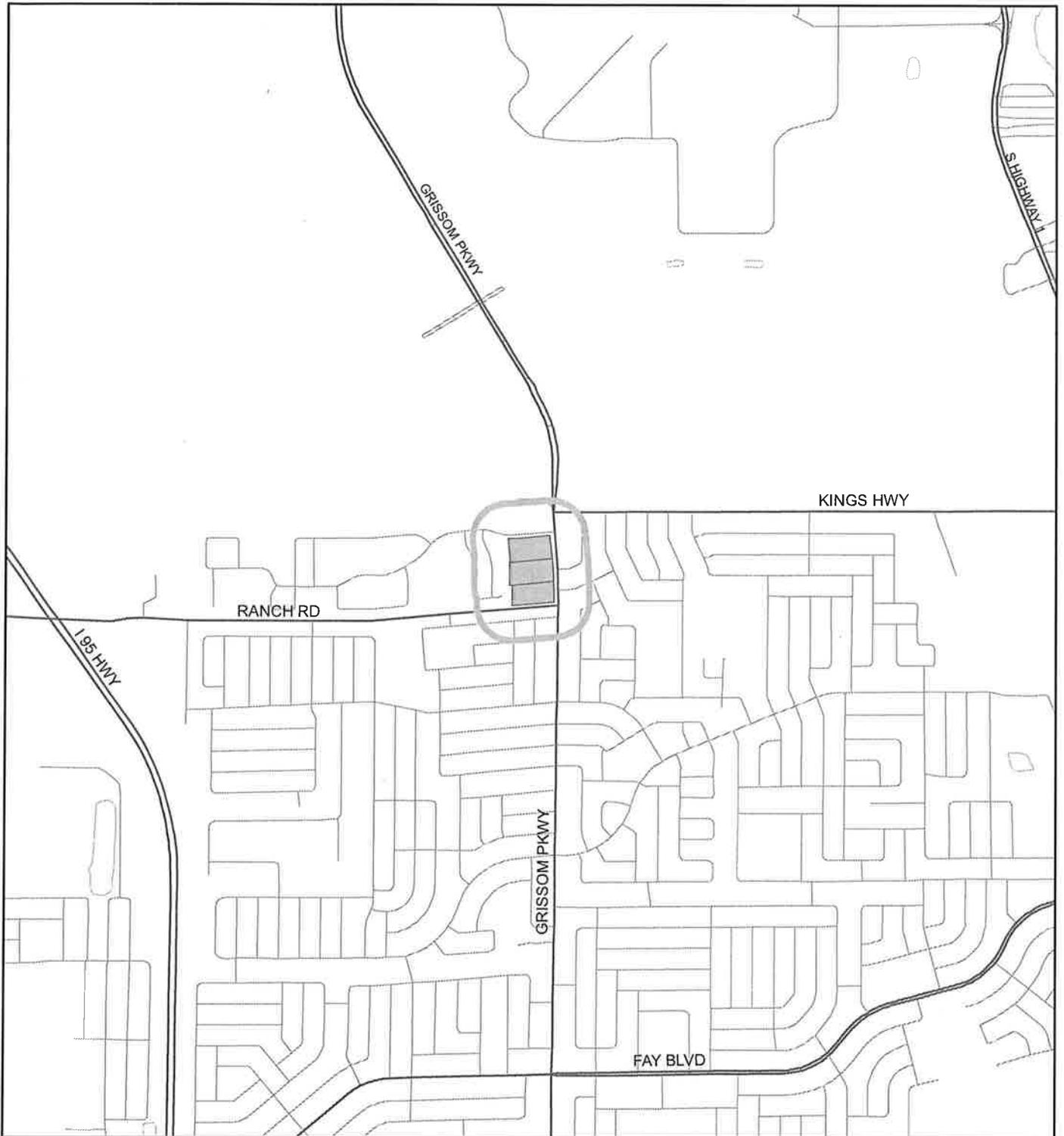
**Current Level of Service (CURRENT LOS):** The Level of Service at which a roadway is currently operating.

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

# LOCATION MAP

M&R UNITED, INC.

18PZ00156



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: 12/14/2018

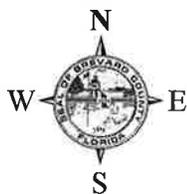
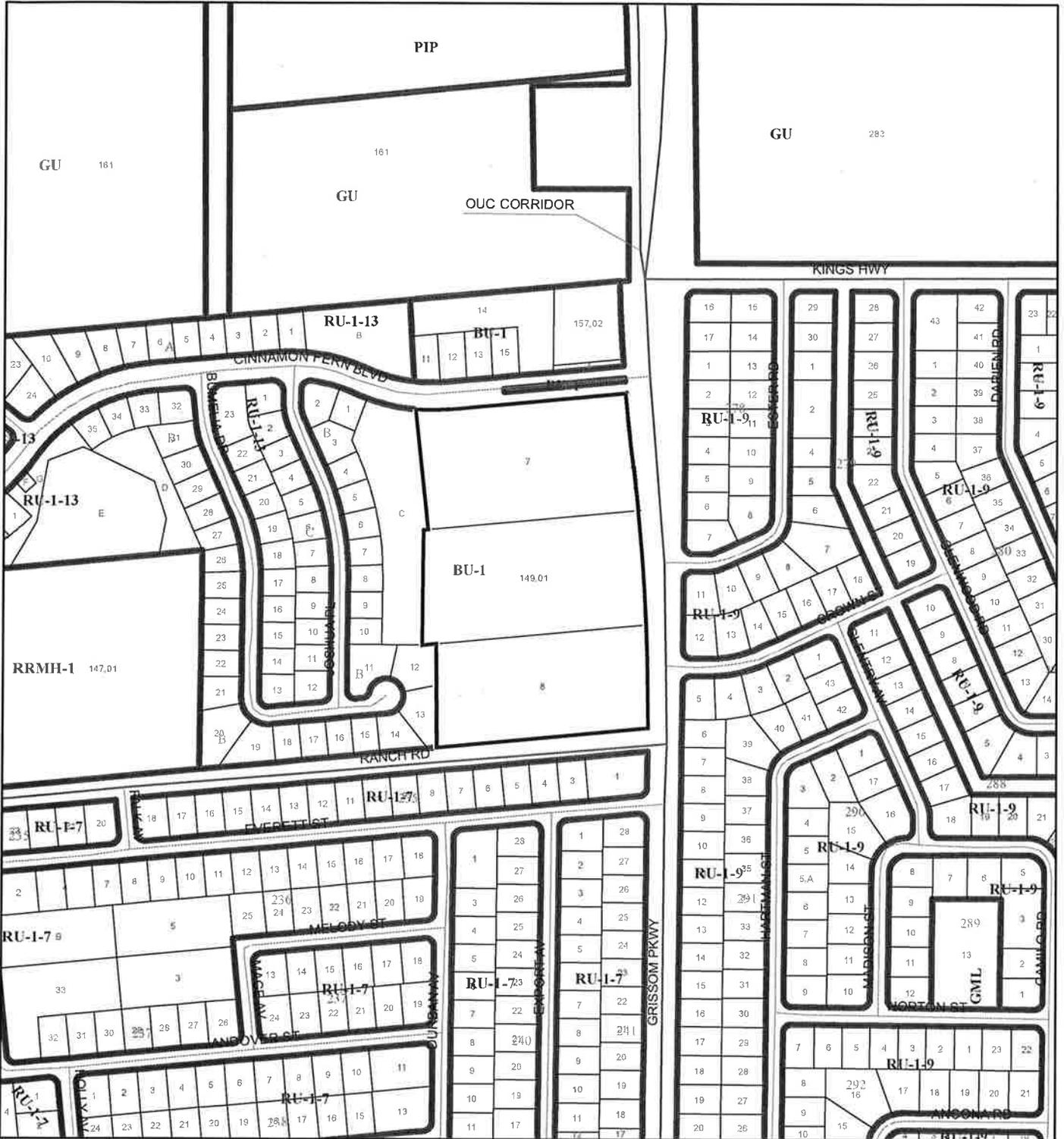
Buffer

Subject Property

# ZONING MAP

M&R UNITED, INC.

18PZ00156



1:4,800 or 1 inch = 400 feet

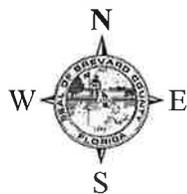
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 12/13/2018

-  Subject Property
-  Parcels
-  Zoning

# FUTURE LAND USE MAP

M&R UNITED, INC.  
18PZ00156



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels

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Produced by BoCC - GIS Date: 12/13/2018

# AERIAL MAP

M&R UNITED, INC.

18PZ00156



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2018

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Produced by BoCC - GIS Date: 12/13/2018

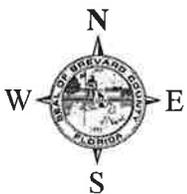
 Subject Property

 Parcels

# NWI WETLANDS MAP

M&R UNITED, INC.

18PZ00156



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.

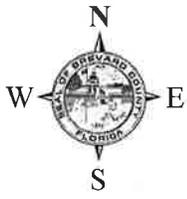
Produced by BoCC - GIS Date: 12/13/2018

- National Wetlands Inventory (NWI)
- Estuarine and Marine Deepwater
  - Estuarine and Marine Wetland
  - Freshwater Emergent Wetland
  - Freshwater Forested/Shrub Wetland
  - Freshwater Pond
  - Lake
  - Other
  - Riverine
  - Subject Property
  - Parcels

# SJRWMD FLUCCS WETLANDS - 6000 Series MAP

M&R UNITED, INC.

18PZ00156



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: 12/13/2018

## SJRWMD FLUCCS WETLANDS

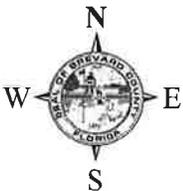
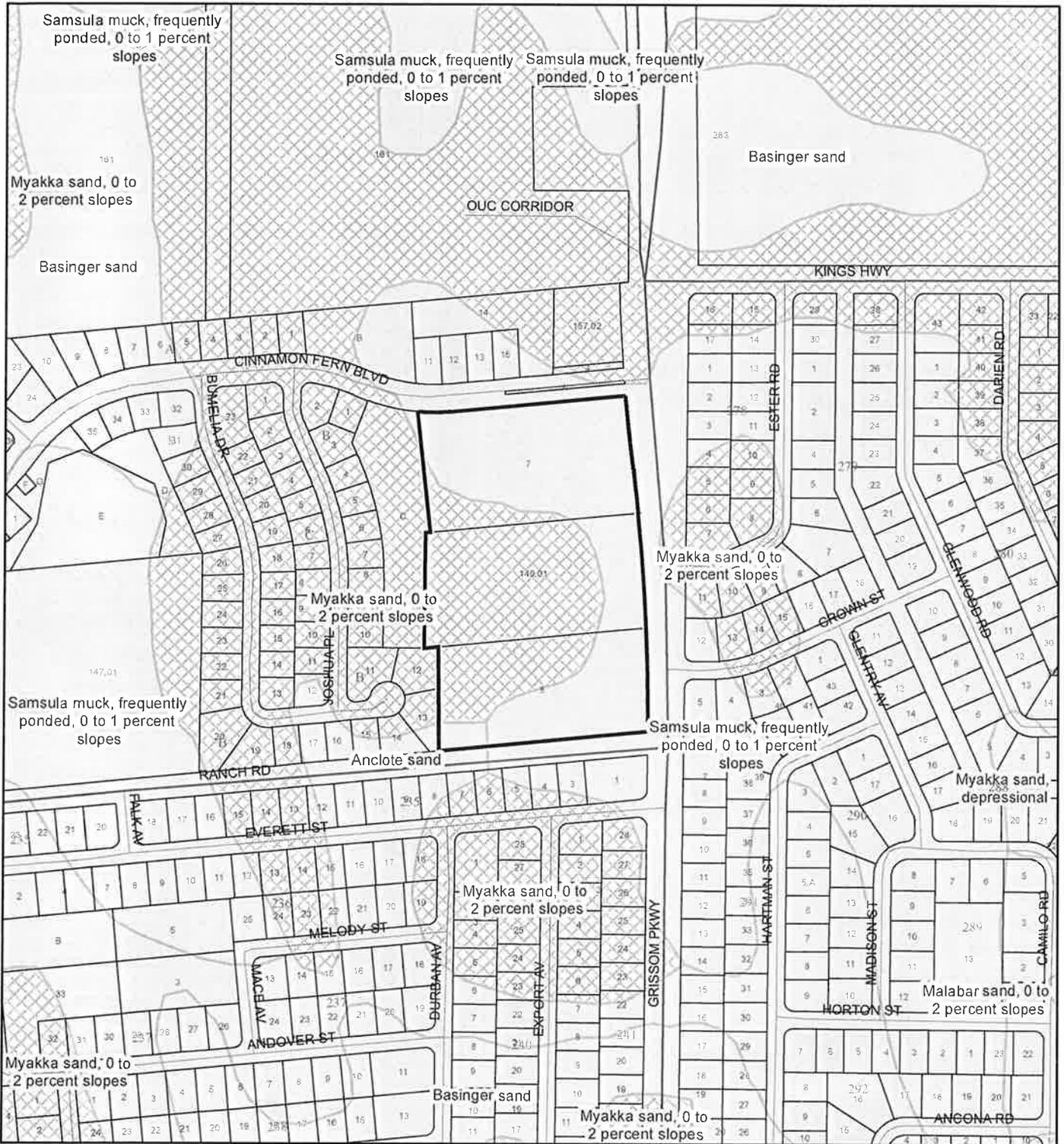
-  Wetland Hardwood Forests - Series 6100
-  Wetland Coniferous Forest - Series 6200
-  Wetland Forested Mixed - Series 6300
-  Vegetated Non-Forested Wetlands - Series 6400
-  Non-Vegetated Wetland - Series 6500

 Subject Property  Parcels

# USDA SCSSS SOILS MAP

M&R UNITED, INC.

18PZ00156



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/13/2018

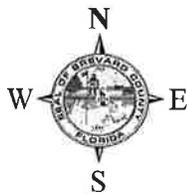
## USDA SCSSS Soils

-  Aquifer and Hydric
-  Aquifer
-  Hydric
-  None
-  Subject Property
-  Parcels

# FEMA FLOOD ZONES MAP

M&R UNITED, INC.

18PZ00156



1:4,800 or 1 inch = 400 feet

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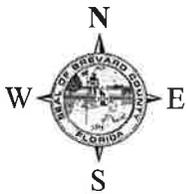
### FEMA Flood Zones

- |   |            |                      |
|---|------------|----------------------|
| A   | AO         | X                    |
| AE  | Open Water | X Protected By Levee |
| AH  | VE         |                      |
| 0.2 Percent Annual Chance Flood Hazard                      |            |                      |
| 0.2 Percent Annual Chance Flood Hazard Contained in Channel |            |                      |
| Subject Property  | Parcels    |                      |

# EAGLE NESTS MAP

M&R UNITED, INC.

18PZ00156



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/13/2018

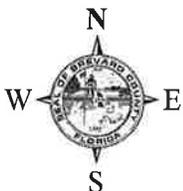
 Subject Property

 Parcels

 Eagle Nests FWS 2010

# SCRUB JAY OCCUPANCY MAP

M&R UNITED, INC.  
18PZ00156



1:4,800 or 1 inch = 400 feet

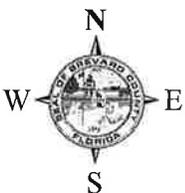
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 12/13/2018

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

M&R UNITED, INC.  
18PZ00156



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: 12/13/2018

## 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

**From:** [Carmine Ferraro](#)  
**To:** [Sterk, Erin](#)  
**Cc:** [Jones, Jennifer](#)  
**Subject:** Re: M&R 03-25  
**Date:** Tuesday, March 12, 2019 4:23:26 PM  
**Attachments:** [180131 XSTE 030519-1-CP-10.pdf](#)  
[180131 XSTE 030519-1-CP-9.pdf](#)

---

Erin:

We have a citizen's meeting tomorrow scheduled for 6:00 pm tomorrow night at the PSJ Library, we mailed out invitations to all names in the 500' radius and personally reached out to key residents that have been in ongoing communication with our office.

At this citizens' meeting we will be discussing the benefit for residents to support the re-zoning to BU-2, We are proposing the application be amended removing the two lots to the north and offering a Binding Development Plan restricting the south lot use to Self Storage with outdoor RV/Boat parking. We are also discussing a site plan design that will keep +/-20' of the natural vegetative mature tree canopy boundary as an added buffer around the south, east and west side property lines. We will also discuss, at that meeting, the plan to move forward with our entitlements and site plan approval under the current BU-1, in the event the BU-2 zoning is denied. It is the intention of the Owner to seek the BU-2 zoning with the herein mentioned amendments.

I have attached the two concept plans we are considering.

If you think it would be beneficial to meet after tomorrow night's meeting let know.

Regards

**“Sow a thought and you reap an action; sow an act and you reap a habit;  
sow a habit and you reap a character; sow a character and you reap a destiny.”**  
**Ralph Waldo Emerson**

Carmin Ferraro, President,  
**Crossover Commercial Group, Inc.**  
Licensed Real Estate Broker,  
*In Good Standing since 1987*

Managing Member  
**Carmel Development, LLC**  
*In Business Serving Florida since 2001*

3860 Curtis Blvd., Suite 636  
Port St. John, FL, 32927  
(321) 536-5200 Cell/Direct

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On Tue, Mar 12, 2019 at 3:55 PM Sterk, Erin <[Erin.Sterk@brevardfl.gov](mailto:Erin.Sterk@brevardfl.gov)> wrote:

Carmine,

You do realize we need to evaluate, summarize, write staff comments about, quantify, route for interdepartmental review for impacts on level of service on various pieces of infrastructure (roads, water, sewer, natural resources, etc.) prior to this actually heading out to the boards, right?

Any way you can enlighten me on the scale of the changes that will be proposed? We literally have no idea what you are doing at this point.

Please advise,

Erin

**From:** Carmine Ferraro [<mailto:carmel32927@gmail.com>]  
**Sent:** Tuesday, March 12, 2019 3:33 PM  
**To:** Jones, Jennifer  
**Cc:** Sterk, Erin  
**Subject:** Re: M&R 03-25

Yes:

I will be sending you an update with info tomorrow before lunch.

Regards

**“Sow a thought and you reap an action; sow an act and you reap a habit;**

**sow a habit and you reap a character; sow a character and you reap a destiny.”**

***Ralph Waldo Emerson***

Carmine Ferraro, President,

**Crossover Commercial Group, Inc.**

Licensed Real Estate Broker,

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On Tue, Mar 12, 2019 at 2:52 PM Jones, Jennifer <[jennifer.jones@brevardfl.gov](mailto:jennifer.jones@brevardfl.gov)> wrote:

Carmine,

I'll be distributing the March 25<sup>th</sup> LPA/PZ agenda packages tomorrow. Do you

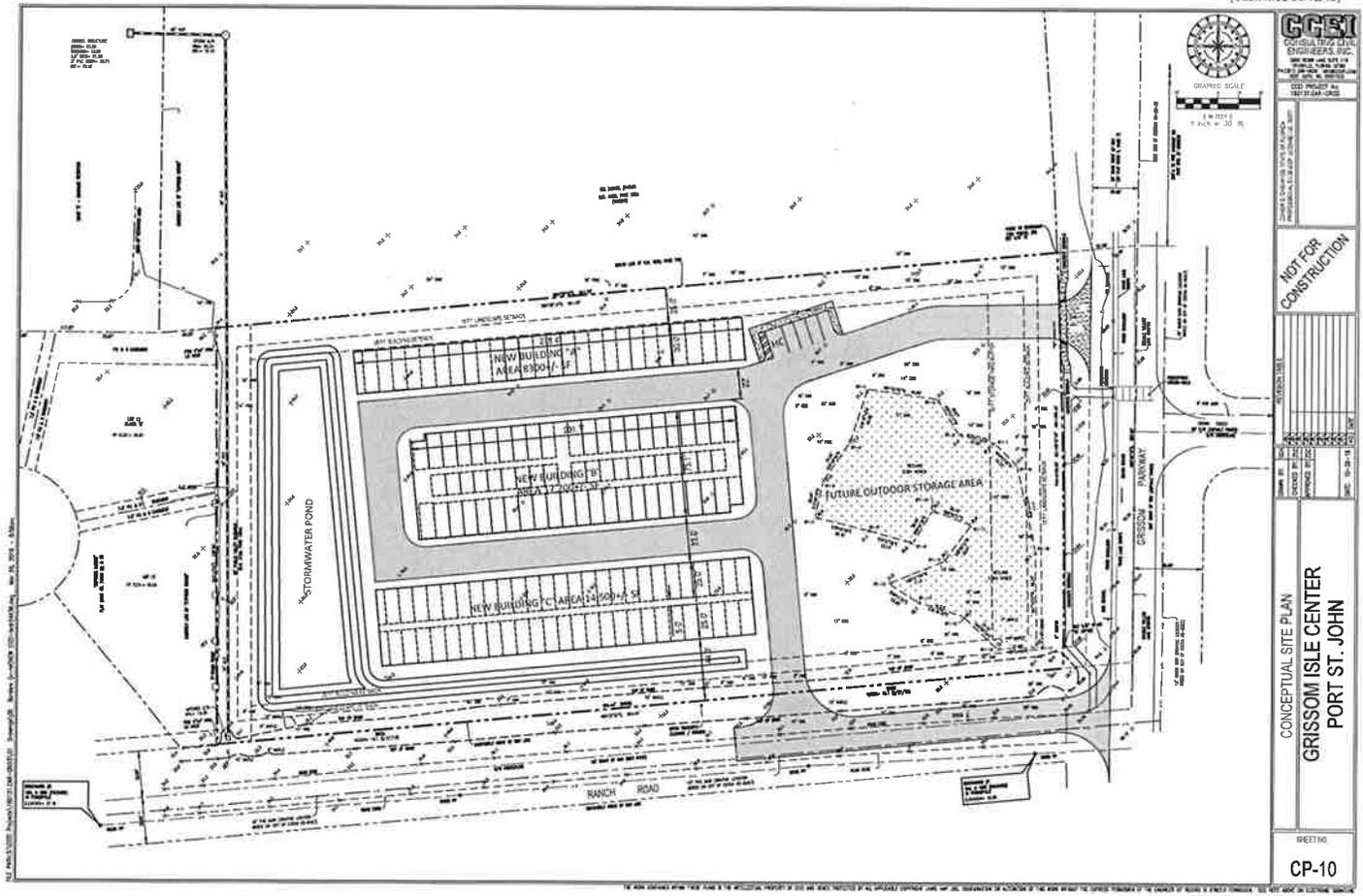
have anything to add for M&R United?

Thanks,

Jennifer

"Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."

Concept Plans  
 18P200158  
 M&R United  
 (Submitted 03/12/19)



**NOT FOR CONSTRUCTION**

REVISIONS	DATE	BY	CHKD

CONCEPTUAL SITE PLAN  
**GRISSOM ISLE CENTER**  
**PORT ST. JOHN**

MEETING  
**CP-10**

THE INFORMATION CONTAINED HEREIN IS THE PROPERTY OF M&R UNITED. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED IN THE TITLE HEREON. NO PART OF THIS DOCUMENT IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF M&R UNITED.



Prepared by :

## **BINDING DEVELOPMENT PLAN**

THIS AGREEMENT, entered into on \_\_\_\_\_, 2019 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and M&R UNITED INC (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 desires to develop the property as a commercial development and pursuant to the Brevard County Code, 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. In exchange for approving the re-zoning request from BU-1 to BU-2 the property use shall be restricted to self storage mini warehouse with outdoor recreational vehicle equipment (including watercraft) parking.
2. No unit within a self storage mini-warehouse shall be utilized as a place of business. No business tax receipt, other than that of the self storage mini-warehouse operator, shall be approved for a business operation on the property.
3. No utilities, namely, electricity, water, telephone, cable TV, or gas, will be provided to the individual units. Lighting and air conditioning may be located in the hallways only.

4. In addition to height restrictions as described in the BU-1 zoning classification, structural heights shall be further limited by the heights of adjacent off-site buildings to the side or rear of the property. Where only one structure is contemplated on site, height is limited to the height of the lowest principle structure on any adjacent parcel. Where more than one structure is proposed on site, the height of each structure is limited to the height of the lowest principle structure on the closest parcel. Where the adjacent parcel is vacant, the height of the proposed structure shall be limited to one story.

5. No outside storage of commercial vehicles or heavy equipment as defined in and regulated by section 62-2117 shall be permitted. Recreational vehicles and recreational equipment including watercraft shall be permitted to be stored onsite if screened from view from the street and from adjacent parcels by a minimum eight-foot opaque visual barrier.

6. The use of generators of any kind is prohibited.

7. The use or storage of hazardous materials is prohibited.

8. Signage shall be placed on each building indicating that no hazardous materials use or storage or generator use is permitted and that units cannot be occupied for business or industrial use.

9. The entrance gate shall be so designed and located to allow for a 33 foot-long vehicle to queue without extending into the public right-of-way.

10. Minimum lot size. An area not less than 20,000 square feet, having a minimum width of 100 feet, and a minimum depth of 200 feet.

11. Landscaping and screening. A landscape buffer and screening strip shall be provided within each side and rear setback (except the north property line) Said buffer and screening strip shall consist of any combination of berming, fencing and vegetation which will provide a minimum of a six-foot high visual barrier where said property is contiguous to a parcel zoned residential, or used for residential purposes, (including residences located on the south side of Ranch Road and the east side of Grissom Pkwy) the landscape buffer and screening strip shall be completely opaque to a height that is sufficient in order that the buildings shall not be visible from ground level standing in the driveway or yard of any of the aforementioned residences . The only exception to this requirement will be the entrance/driveways on Ranch Road and Grissom Pkwy. In no event shall the vegetative buffer (existing trees and undergrowth) be less than 20', if existing. Fencing shall only be placed on the inside portion of the property behind the vegetative buffer.

12. Architectural requirements. Metal buildings shall be permitted. Chain link fencing with colored slats blending with vegetation shall be permitted on the inside portion of landscape buffer and screening strip and may used as part of the buffering/screening requirements as defined in Item 11.

13. 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.

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

15. 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 \_\_\_\_\_. In the event the subject property is annexed into a municipality and rezoned, this Agreement shall be null and void.

16. 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.

17. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate 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 described in Paragraph 16 above.

WITNESSES:

DEVELOPER/OWNER  
M&R United Inc.

Printed Name: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Printed Name: \_\_\_\_\_

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by \_\_\_\_\_ as \_\_\_\_\_ of M&R UNITED INC, who is personally known to me or who has produced \_\_\_\_\_ as identification.

Notary Public

SEAL

Printed Name: \_\_\_\_\_

My commission expires: \_\_\_\_\_

**Exhibit "A"**

Legal Description:

**Addendum to Natural Resources Management Department Comments**  
**18PZ00156**

The applicant should be advised that landscape review and approval will be required prior to the removal of any trees , including those identified as Specimen Trees, pursuant to Chapter 62, Article XIII, Division 2 entitled Landscaping, Land Clearing and Tree Protection. Section 62-4341(18) states Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Paragraph 11 of the proposed Binding Development Plan (BDP) conflicts with the Landscaping, Land Clearing and Tree Protection code with respect to buffer requirements.

Specifically, BDP proposal of “any combination of berming, fencing and vegetation” does not meet minimum ordinance requirements and should instead refer to Section 62-4342, Landscape Buffers. The other landscape proposals are unable to be evaluated as the compass rose on the submitted conceptual plan is incorrect, making the intent of Paragraph 11 unclear. Paragraph 11 says that the north property line will not be buffered, although the conceptual plan dictates a 15 foot landscape setback. If the intent is that “the buildings shall not be visible from...driveway or yard...” a north landscape buffer should be provided that exceeds the minimum ordinance requirements.

The conceptual plan indicates Future Outdoor Storage Area in mapped wetlands. The property is located on a Mitigation Qualified Roadway (MQR). Any permitted wetland impacts must meet the requirements of Chapter 62, Article X, Division 4 entitled Wetland Protection and may require review and approval by the BOCC.



Crossover Commercial Group, Inc.  
Carmel Development, LLC.

Commercial Sales, Leasing, Development, & Asset Management

March 21, 2019

RE: Zoning Petition – 18PZ00156 – West side of Grissom Pkwy between Cinnamon Fern Blvd & Ranch Road

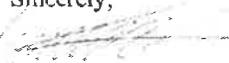
The following is an update on the above referenced zoning petition. We will be presenting the following changes to the existing application at the March 25, 2019 Planning and Zoning Board meeting.

1. Removal of middle and north lots from the application, limiting the request to the south lot fronting Ranch Road and Grissom Pkwy
2. Presenting a Binding Development Plan that will run with the land as a deed restriction;
  - i. Restrict the use to Self Storage with outdoor parking for recreational vehicles and watercraft.
  - ii. add the following language to the Binding Development Plan to further restrict the development and provide protective language to the residents located on Grissom Pkwy and Ranch Road.

Landscaping and screening. A landscape buffer and screening strip shall be provided within each side and rear setback (except the north property line) Said buffer and screening strip shall consist of any combination of berming, fencing and vegetation which will provide a minimum of a six-foot high visual barrier where said property is contiguous to a parcel zoned residential, or used for residential purposes, (including residences located on the south side of Ranch Road and the east side of Grissom Pkwy) the landscape buffer and screening strip shall be completely opaque to a height that is sufficient in order **that the buildings shall not be visible from ground level standing in the driveway or yard of any of the aforementioned residences . The only exception to this requirement will be the entrance/driveways on Ranch Road and Grissom Pkwy.** In no event shall the vegetative buffer (existing trees and undergrowth) be less than 20', if existing. Fencing shall only be placed on the inside portion of the property behind the vegetative buffer.

Please feel free to contact our office to discuss any question you may have. We hope to have your support at the upcoming meeting

Sincerely,

  
Carmine Ferraro  
President/Managing Member  
Carmel Development, LLC

3350 Curtis Blvd #536, Port St. John, FL 32927  
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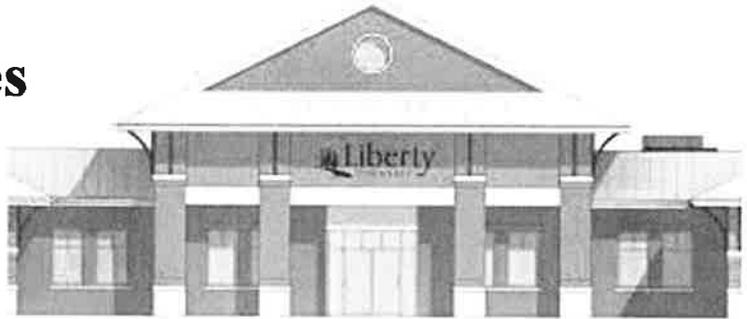
Licensed Real Estate Broker

## 62-1462 BU-1 Permitted Uses

**Admin & Exec Offices**

**Banks**

**Professional Offices**



**Antique / Gift Shop**

**Art Goods/Studio**

**Ceramics / Pottery**

**Curio / Hobby Shops**

**Florist Shops**



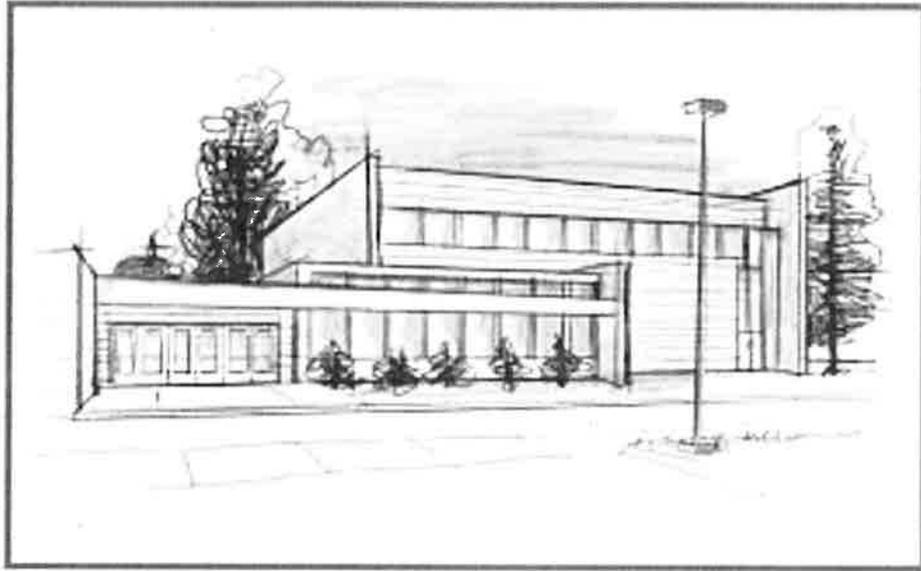
**Aquarium Store**

**Bait & Tackle**

**Pet Stores**



## **BU-1 Permitted Uses**



**Auditorium**

**Civic / Fraternal Organizations**

**College, Universities**

**Commercial / Conservatory Schools**

**Dance Halls and Academies**

**Child and Adult Day Care**

**Medical /Pet Clinics & Hospitals**

**Employment Agency**

**Group / Nursing Homes**

**Hospitals / Laboratories**

**Foster Homes / Funeral Homes**

**Theaters, (but no drive-in.)**

## **BU-1 Permitted Uses**



**Automobile Hire**

**Automotive Parts**

**Automobile Repairs (Minor)**

**Automobile Sales and Storage**

**Automobile Tires & Mufflers**

**Automobile Washing**

**Gas / Convenience Stores**

**Lawn Mower Sales**

**Motorcycle Sales & Service**

## **BU-1 Permitted Uses**



**Bakery Sales with Baking on the Premises**

**Cafeterias**

**Confectionary and Ice Cream**

**Restaurants**

**Sale of Alcoholic Beverages—Package Store**

**Soft Drink Stands**

**Tea Rooms**

## **BU-1 Permitted Uses**



**Barber and Beauty Shop**

**Bicycle Sales and Service**

**Bililard Room Electronic Game Arcades**

**Bookstores**

**Coin Laundromats**

**Drug Store / Grocery / Meat, Fish and Seafood**

**Hardware / Furniture**

**Jewelry / Pawnshops / Photo Studios**

**Tailor / Tobacco / Wearing Apparel**

## **BU-1 Permitted Uses**



**Telephone and Telegraph  
Television / Broadcasting  
Transmission Stations  
Towers**

**Parking Lots (Commercial)**

## LOCAL PLANNING AGENCY (PLANNING AND ZONING BOARD) MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 25, 2019**, at **3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order by the Chair, Henry Minneboo, at 3:00 p.m.

Board members present were: Henry Minneboo, Chair; Ron Bartcher, Rochelle Lawandales; Mark Wadsworth; Peter Filiberto; and Dane Theodore.

Staff members present were: Erin Sterk, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; Rebecca Ragain, Assistant Director, Planning and Development; and Jennifer Jones, Special Projects Coordinator II.

Henry Minneboo, Chair, announced that the Board of County Commissioners will have the final vote on the recommendations made by the Planning and Zoning Board on Thursday, April 4, 2019, at 5:00 p.m.

### Excerpt of complete minutes

#### **M&R United, Inc. (Carmine Ferraro):**

A change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 13.27 acres, located on the west side of Grissom Parkway, between Cinnamon Fern Boulevard and Ranch Road. (No assigned address. In the Port Saint John area.) (18PZ00156) (District 1)

Erin Sterk – Since this request came in, they've amended the proposal from three lots to one. You all tabled it at your last meeting to have them have a community meeting, so he's changed the request. You also have a BDP (Binding Development Plan) in front of you reflecting some of the conditions, hoping to make the proposal compatible with the surrounding neighborhood.

Carmine Ferraro – Carmine Ferraro, Carmel Development, 3860 Curtis Boulevard, Port Saint John, and I'm here on behalf of the applicant. We did have the meeting tabled, and what I'd like to do is a quick overview of everything we've done so far to date. Right after the meeting we were asked to stay close and talk with the residents, and we did meet in the hallway. I explained the process and shared my contact information. On February 19<sup>th</sup> we were invited by one of the resident's, who was organizing a meeting regarding the application, and we were invited to come speak at the Port Saint John Community Center, which I attended. The idea there was to convey the intent of the developer. I also was interested in going row by row, seat by seat, and there were 70 or so people there. We went to each individual and asked them their concerns. We took each of those concerns and wrote them down and grouped them into several categories, such as traffic, stormwater, lighting, remaining lots, property values, impact from businesses, security, and safety. The feeling in the room was that there was a lot of concern as to how the development was going forward. We told the group that we would like some time to take the input, go back to the owner and engineer to see if we could develop a concept plan or a strategy to come forward that helps address some, if not all, of these concerns. We were prepared to do that, and we held our meeting on March 13<sup>th</sup> at 6:00 p.m. at the Port Saint John Library. We noticed and mailed to all residents within 500 feet, the same radius that gets the zoning notifications, and we also had additional people between the time we met the first time out in the hallway to that night that had already contacted us and wanted information shared with them. At that meeting I addressed and corrected some social media postings comments to make sure the record was clear regarding who owned what and who was doing what. I just wanted that on the record. We also gave an update on where the developer was in the process. We made it very clear, respectfully,

that the owner's intent was to develop self-storage and that the owner is able to do that within the BU-1 (General Retail Commercial) zoning classification as long as it meets the additional conditions that BU-1 requires for doing it, and that the owner also wants to add outdoor parking for recreational vehicles and watercraft, and in doing that it is restricted in BU-1 that that type of parking could not be adjacent to a residential lot. We also wanted to let people know that as we were trying to see if we could work something out under the current zoning classification we shared a chart which shows 30 or so uses that are currently permitted under BU-1 with no special or additional conditions. What we wanted to communicate as much as we could was that we felt like the impact from a residential self-storage facility would be one of the lesser impact uses that could occur there. We wanted to share that with the residents so they understood, because we were hearing people tell us they didn't want anything there, and I wanted to make it clear that something was going to go there, and that the intent of this owner was for it to be a self-storage facility. We came up with two concepts that you have in your package, and you can see that we tried to look at ways that we could address concerns and also still have a viable business. We have a very unique situation that doesn't exist. I've talked about this a few times and I want to get it on the record that in this type of a business, this business does not need a lot of visibility, so we have an opportunity to meet the residents' concerns and goals, which is what we're doing in the BDP (Binding Development Plan), because this is a destination location and it needs to be in a residential neighborhood that serves the area. It's not like a retail store or restaurant that has to have all the trees removed and have big signs, and be very visible. This gave us an opportunity to come forward with these kinds of concepts and draft the BDP. On page 1 of the BDP, what we're further asking is, because we're just looking to do the self-storage, we are willing to restrict it to self-storage only, so if you approve the BU-2 (Retail, Warehousing, and Wholesale Commercial) it will only be self-storage and it will never be anything else, and it will also have the ability to do the outdoor recreational vehicles and watercraft. We are putting this in there in hopes that it helps to not create future precedence because we're not looking to turn a BU-1 tract into BU-2 and then sell it and then the guy who buys it doesn't want to do a storage facility anymore and he puts up a shopping center, or something else he can do in BU-2. Numbers 2 through 10 of the BDP were copied word for word from the BU-1 code of additional conditions. We had no problem with any of those, they all made perfect sense and we wanted to keep them in there. Number 11 is where we got creative and took the landscaping, screening, and berming language and added some additional language, specifically in the middle we added, "Including residences located on the south side of Ranch Road, the east side of Grissom Parkway." The landscape buffer and screening strip shall be completely opaque to a height that is sufficient in order that the building shall not be visible from ground level, standing in the driveway or yard of any of the aforementioned residences. The only exception to this requirement will be the entrance driveways on Ranch Road on Grissom Parkway. In no event shall the vegetative buffer, existing trees, and undergrowth be less than 20 feet, if existing. Fencing shall only be placed on the inside portion of the property behind the vegetative buffer". One gentleman had said he didn't want to see it, so I took it back to the owner and asked if it could be done to where people do not see it. It will just be trees and fencing with green colored slats that match the tree line, and no one will see it, and they were agreeable to that. In exchange for that we're asking that we be able to build it as a straight metal building. Under the BU-1 (General Retail Commercial) there are restrictions about what metal can be used, and there are windows that have to go in, as well as facades and all different kinds of changes to the architecture to make it look more like it belongs next to a house, which makes perfect sense if it's going to be visible, but if it's not visible, what we're asking in exchange for these additional conditions that we're going to put on the land is that we can build it out of metal and that we can use the chain link fence with colored slats blending with vegetation, and it shall be permitted on the inside portion of the landscape buffer. We did remove one the items in BU-1 that we didn't put in this one, and it was restricting the property to

40% of building coverage. Not knowing how this is going to turn out with all these additional conditions we may be 41% or 42%. We did not want that to be a factor. It's five acres, so we believe we can easily put 40,000 square feet of self-storage, a little bit of outdoor parking, the retention, and cover it completely. If it is a concern for the board we will put it back in there, but we'd ask that we can have some latitude in that, if it's 41% or 42%, that we might be able to get a 5% variance. Finally, what we did to be as transparent as possible is make sure we were keeping in contact with the residents that are directly in the immediate impact of this, on the Ranch Road side and Grissom Parkway side, and behind the property in Cypress Woods, we mailed out a letter to each resident so they would be aware of what were presenting, that a meeting was occurring and that we were trying to see if we could get their support. I'm going to reserve any time I have left for my closing.

Rochelle Lawandales – I just want to be clear about a couple of items in the BDP (Binding Development Plan). There will be no BU-1 uses allowed, in addition to the one BU-2 (Retail, Warehousing, and Wholesale Commercial) use that you're getting, and that's the only use that is allowed?

Carmine Ferraro – The only use that will be permissible will be self-storage with outdoor parking, nothing else.

Rochelle Lawandales – There is a requirement in Number 10, minimum lot size, and that generally refers to what you're starting out with, which is 5 acres. Do you intend to subdivide it, or are these going to be separate ownerships? In other words, I don't know that you need that requirement in there.

Carmine Ferraro – The intent is to develop the entire 5 acres for the storage facility.

Rochelle Lawandales – To me, that's kind of superfluous. Can you explain in Number 11 what you mean by the buffer, that the trees and undergrowth be less than 20 feet if existing.

Carmine Ferraro – We've done a very preliminary kind of study on the property so far, a little bit of soil borings and survey work; we've done no type of tree count or anything like that. It's a very wooded area, so we believe it's sufficient tree and undergrowth canopy to make the 20 feet, but we don't want to be dinged if it's 18 feet. We believe it's there. Any deficiency in tree line will be covered by a fence, and that's the way we've explained it to the residents. You can see between some of those trees, and all you're going to see are green colored slats that match the vegetative canopy to a height that is above the buildings and you will not be able to see the buildings or the outdoor parking from your homes.

Rochelle Lawandales – By putting this paragraph in the BDP (Binding Development Plan), is the intent that this would supersede the County's general landscape requirement?

Erin Sterk – You don't have it, because we're just working on it, but because of the change in proposal we had to go back to Natural Resources to have them review the language to ensure that it wasn't perceived as a waiver to the code. They have some specific concerns about – I don't know how you want to word this – that it should refer to Section 62-4342 for landscape buffers, to allow for that process to take place, the evaluation of the intent of this, but that the minimum code requirements be met as well. Second, with the fencing being the height of the buildings, if they're above the 6 or 8 feet that the code allows for, you would need a variance to pursue that height. I'm

not sure if we've boxed ourselves into a corner with that. I'm going to have to pull up the code real quick and find out what the flexibility is on that.

Rebecca Ragain – In addition to that, the site plan code requires a minimum 6-foot block wall adjacent to residential zoning, so that can't be waived by the BDP.

Rochelle Lawandales – In terms of the lot coverage, I think you'll be governed by whatever the BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification says that you'll have to be, whether it's 40% or 70%, or whatever that is you'll have to meet that code, along with whatever stormwater permits. Are you asking this board to pick one or two, or have you decided on one, or did the community give you any input on either of those?

Carmine Ferraro – That was as of the March 13<sup>th</sup> meeting and that's as far as we've gone with the concept. We have a little bit of a challenge ahead of us to make this work. We need to explore further what the canopy looks like, we need to determine the best place to put the pond in terms of good engineering. The developer, under the BDP, will be able to save a little bit of money, so he's going to value an engineer to the extent that he meets all of the requirements of the BDP, so we're in the beginning stages of what we have promised to do, and we will share with any resident that wants the site plans along the way. I've got good email communication with people and they have a social media site that they can share things on. We'll be as transparent as we can, but we're not even in site planning yet.

Ron Bartcher – You haven't picked one plan over the other yet, right?

Carmine Ferraro – Correct.

Ron Bartcher – In both plans, on the north driveway, there's an area marked HC, and it looks like parking for five or so, is that what that is?

Carmine Ferraro – Yes, outdoor recreational vehicle and watercraft.

Ron Bartcher – You also have an area of wetlands that's marked as future outdoor parking.

Carmine Ferraro – What will happen is, because this was originally all three lots and it was going to be easier to make some choices, and now since it's all just one lot they will have to mitigate the wetlands and go through the mitigation process in order to be able to utilize that area. We don't know if it's going to be better served to put the pond in the front, the back, or the side, but that's going to be an engineering decision and then we'll go from there to determine where the parking can go. It's going to be limited parking, but it's going to be in either the front or the back.

Ron Bartcher – You're thinking you might develop that wetlands as a retention pond?

Carmine Ferraro – Yes, possibly.

Ron Bartcher – You also said you haven't done a tree survey, so you don't really know what kind of trees? I noticed you had some trees marked on there, but in the area that's going to be developed where the building is there's no identification of any trees.

Carmine Ferraro – At this stage, no, we have to do the full tree survey as we go through site planning. We did one pre-con meeting to get our bearings, but we haven't submitted an application yet.

Ron Bartcher – I was just wondering if it made any difference in your plan to preserve as many of those specimen trees as you could.

Carmine Ferraro – I would imagine that with this thing having canopy on three sides, I think that's very doable because there's going to be a large canopy of existing vegetation and undergrowth on all three sides of the property, on the west side, the south side, and on the east side.

Ron Bartcher – The regulations specifically address trees 24 inches in diameter, and I noticed only one tree that was identified in your preliminary plan as meeting that requirement, but there are a lot of trees on there.

Carmine Ferraro – It is a very wooded area.

Ron Bartcher – Do you have any intention of storing anything other than recreational vehicles?

Carmine Ferraro – The outdoor parking is going to be recreational vehicles and watercraft. We didn't say boats because we wanted to be able to include Ski-Do's and the water jets and those things, so it will be watercraft and recreational vehicles only.

Ron Bartcher – And you don't expect there to be any 18-wheelers stored there?

Carmine Ferraro – No, that won't be permitted; it's not permitted under the code, or under the BDP (Binding Development Plan).

Peter Filiberto – You're saying the building is going to be metal, but there's not going to be any modular units on the property?

Carmine Ferraro – Like you would find at a school?

Peter Filiberto – Correct.

Carmine Ferraro – No, just the recreational vehicles and the watercraft.

Peter Filiberto – And I trust that the metal building will be up to code in case a hurricane comes through?

Henry Minneboo – Yes, I can guarantee you that's going to be to code.

Peter Filiberto – This fencing and landscaping sounds beautiful, but is there going to be barbed wire on it?

Carmine Ferraro – Some storage facilities have that. I think the canopy and a potentially 14-foot fence is going to be good enough of a deterrent. I don't anticipate them putting any kind of barbed wire on it. In today's industry, self-storage is different in terms of surveillance. There's going to be 24-hour infrared surveillance throughout this property, and through wi-fi it will be on anyone's cell phone if they want, so there's constant eyes on the property.

Public Comment:

Linda Donahoe – My name is Linda Donahoe, I'm the President of the Cypress Woods Homeowners Association. I'm not speaking for the entire association, I've just got general opinions of the community, and some are for it and some are against it. A lot of it is going to depend on the buffer, the noise, and how it's going to affect our community. We're three lots over, and they own all three lots, and our main entrance is one-way, in and out, so we're concerned with this traveling over to our main entrance. We also have homes that are going to be backed up to this that are worried about noise, worried about sight, and we're also worried about our home values, and if it's going to detract on our home value or not. What I'm hearing from the gentleman, it sounds like there's a whole lot of "ifs" out there still. Maybe the trees are there, maybe the trees aren't there, and maybe there will be a 20-foot buffer, and maybe there won't be a 20-foot buffer. I think that we're ahead of the game and shouldn't be at this point just yet.

Jeff Mascia – I'm Jeff Mascia, I live across the street from this project, at 7350 Grissom Parkway. I have no idea how this property was even zoned business to begin with. It's sandwiched between two residential communities, and it doesn't make any sense unless you're an investor and bought property cheap, then houses got built around it, and now you have really good commercial property. I don't think anybody really wants to live next to a storage facility; I don't. I don't know what kind of choices we have. I'm trying to work with Carmine, but I don't want to see it. I live right next to it, and when I'm sitting in my pool this is what I have to look at. For the last 20 years it has been woods. I never would have thought that was commercial property. Maybe 30 years ago Port Saint John was a different place, and when you sent out that letter to everyone within 500 feet, Uncle Buck was probably the only guy there. Now there's houses there. It really doesn't make any sense at all that it's zoned commercial, but we are trying to work with Carmine, since it is what it is. I'd like to see it go back to residential. I'd like to have neighbors that you can borrow a cup of sugar from, like these people in Viera. I don't think you'd want a storage facility or a 7-Eleven popping up in your backyard. That is something I'd like to see dealt with first. I would like to work with Carmine, and if we don't see it, if we don't hear it, and it doesn't affect our lives, maybe we can work with it. The whole thing is, I don't want to talk about a fence with nice green slats; I don't want to see it. If it's behind enough trees and enough dirt, then I don't care what kind of fence they put up, I just don't want to see it. They own the whole 13-acre lot, and they have enough property that they could bury this thing inside there and nobody would see it. They might have to use a little bit more of their land, but they already have it, so they wouldn't have to go out and buy it. Maybe they should put it in the middle and then nobody would know about it. If you drive by there, you'll see what I mean, that this property never should have been zoned commercial, or the houses around it shouldn't have been sold. You don't put a commercial piece of property in the middle of a residential neighborhood. North of the Shell station they are building a bunch of commercial property and all kinds of junk, and that's fine, it should stay up there. South of the Shell, it's houses when you roll into Port Saint John. It's one of the last little communities around here. There are a lot of people who bought property a long time ago and they are sitting on property they would love to see zoned commercial because there's not a lot of it. You ride down Dixon Boulevard, and who would want to live there? This is a residential community, and it should really be looked at as to what's really going on over here. You guys should take a ride down there before you make any type of decision. You guys are our protection, you know how the law is going to be written. We know layman's terms, but we don't want to get sandbagged or something in the wording that says we signed off on it and said it was okay. You guys need to protect us with what you would want next to your house.

Jose Hernandez – My name is Jose Hernandez, 5070 Everett Street. I agree with Jeff on everything he said. When I bought my house I went through the Veterans Administration to get the loan. I moved there from Orlando because I was uncomfortable and I didn't come back from a war to be uncomfortable. I wanted to find a place where I have peace, and Port Saint John has given me peace. To see that they are going to build a storage facility in the back of my home, and I was telling the gentleman today that I would think it would be nice if they put some roads back there and they pave it, but I don't want to see a storage facility in the back of my home, either. What I paid for my house is not going to be nearly enough if I want to sell it now because they're going to build storage, and I'm not going to get that back.

Chelsea Partridge – Good afternoon, my name is Chelsea Partridge, I'm a new homeowner in Port Saint John, and I live 6731 Opal Avenue. Like many of the homeowners here, I'm not directly affected by where this is, and it will not be seen by my property, but I do have concern about the precedent that this rezoning might set. I've driven around Port Saint John, and I'm not familiar with the other zoning classifications of the undeveloped land, but there are pockets of undeveloped land and I worry that if this rezoning goes through all of those areas of land might be open for possible rezoning as well. That precedent is something that I'm a little uncomfortable with, and I also echo what everyone else has said about the effect on property values and things like that, that this could have. Really, a deep concern of mine would be the potential precedent that this would set.

Chris Clemens – Chris Clemens 5522 Yaupon Holly, and I'm a member of the Cypress Woods Community. I've been involved in trying to get copies of the information disseminated to our community, and your office has been helpful in trying to get the information out. Just as a homeowner in Cypress Woods, I feel that it would be detrimental to our properties, and I feel that even though they have come up with these two plans, there's still a lot of unanswered questions, which I think this gentleman was trying to look into or ask questions about the wetlands. Also, the arterial road, which Grissom Parkway is, and whether or not the capacity for this type of facility, and a traffic study. It all seems like a nice plan, but there's still impact that hasn't been looked at, and I don't know where that comes along in the process. There's a crossing guard on Grissom Parkway. A lot of us did not know that this was zoned commercial, which I guess is our fault because we've lived there since 2006, and I guess it's been zoned commercial for years, but it is plunked right in the middle of residential. That is my opinion that going to BU-2 (Retail, Warehousing, and Wholesale Commercial) is not what the community needs.

Carmine Ferraro – Let me briefly address some of the comments. Regarding noise, there are ordinances in place and rules that are already in place for how that's governed, lighting and noise. We'll comply with all of that, and the business owner will have to comply with that. The property was rezoned in 1997 and pre-dates my owner's purchase of the property. Regarding the comment about using all of the land, although it might make sense to do something like that – the total purchase price for that land was a little over \$1 million – to utilize more land than you need for the facility you need to build is a good way not to be in the development business for a very long time, so you need to realistically weigh how much land you can use for development so that it can achieve its goals and at the same time hopefully make some money for its intended purpose. It's not feasible using more than we have to, and using five acres for a facility of that size is – it can be done on less land, but we felt comfortable dedicating the entire five acres to it, which is the southern lot. Regarding the comment about precedent, that was one I brought up, but if you were to approve this and the County were to approve it and it were to become part of the approval record, and another developer wanted to stand in front of the boards at a future date and say they are going to build something commercial that will

have no visibility from the roads at all, I don't think that's creating a precedent that you would have to worry about. If it was just rezoning from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial), to be able to do whatever you want, I don't know if I could stand before you – I live in Port Saint John, it's a community I've been involved in for years, and I think it would be a horrible idea. I believe we've given you the right kind of tools to be able to make sure that it's not going to create a bad precedent for you in the future. Regarding unanswered questions, it's a very good point. In this process, as everybody knows, this is the first step. Developers sometimes spend a lot of money and never achieve what they've intended; they can go through the entire process, go through site planning, and never put a shovel in the ground. It costs more and more money as you go through the process, and it gets more and more risky. What we're saying is we're going to commit ourselves right now today to this box, and if we can't make it work in a site plan, if we can't make it work properly for what they want to do, then they're not going to build it, but they will have spent the money. We're putting that trust up front in saying that however it's going to end up in a site plan, it's going to meet this criteria, and we're hoping that's sufficient to put that trust forward. As far as low-impact versus mid-impact and high-impact, of all the uses that could be considered here, we believe this is one of the more low-impact uses. It's unrealistic to think the property would remain vacant and never be developed. I've shown you that the BU-1 zoning allows for more uses today that are far more impactful to the residential area and that can be developed with no public meetings and no board actions. My client can build a self-storage facility providing it adheres to the conditions of BU-1 with no public meeting and no board actions. My client desires to add outdoor parking for recreational vehicles and watercraft without the condition of BU-1 with it being located next to a residential lot. All these additional conditions will cost and add money to the development, so in exchange for approving the zoning to BU-2 with this BDP (Binding Development Plan), we would ask that you give that consideration and approve it.

Mark Wadsworth – The reason you want to go to BU-2 is just for outside parking?

Carmine Ferraro – It started out that way, but as staff pointed out to us, the process to develop self-storage in BU-1 – because the buildings can't be metal – the code talks about windows, breaks in the line of facades, changes to the architecture that make it look less and less like a storage facility. It would cost a lot more money to do that, so we felt like if it can't be seen and we give these assurances, we'd like to just build it in the cheaper fashion, which would be a standard metal building.

Mark Wadsworth – In the BU-2 zoning?

Carmine Ferraro – That we would be permitted to do that in BU-2 (Retail, Warehousing, and Wholesale Commercial).

Erin Sterk – The BU-1 (General Retail Commercial) zoning classification has criteria for basically sheathing the outside of a metal building, but unfortunately, in the Permitted with Conditions section for self-storage and mini-warehouse use, the conditions in there say you can't do metal buildings at all, even if you wanted to build them with all the sheathing, for that particular use in BU-1, the code doesn't allow for it at all. In order to build a metal building, only in BU-2 would that be allowed for that use.

Carmine Ferraro – It also addresses roofing and facades. It's quite involved.

Dane Theodore – I was a little confused about the 6-foot masonry wall requirement. Could you clarify that? Are you asking for a waiver from that?

Erin Sterk – First of all, going to the requirements for fencing in general, the code says no fence or wall on any property shall exceed 6 feet in height in residential zoning classifications, or 8 feet in commercial, or 10 feet in height in commercial where located adjacent in a residential zoning classification. They couldn't go above 10 feet unless this BDP (Binding Development Plan) called for 12 feet. You will recall that recently you had the 12-foot fence come forward in a BDP and it allowed for you to include conditions that they would put trees in front of the fence, so they got to do the fence that the facility and they screened it, essentially. You could give them the allowance for the 12-foot wall here in a BDP that would eliminate the need for them to go to the Board of Adjustment for a variance to get that additional fence height. But if we're talking about 17 feet, or whatever it is, that's going to be a Board of Adjustment thing, and this BDP couldn't obligate them to that; only the variance would allow for that. Then, it gets into the wall provision, which is the Land Development code requirements, which is when adjacent to residential a masonry wall is required. The same limitations on the height would be applicable, but it would have to be a wall adjacent to residential, which in this place is just the west side of the property. There are houses separated by the roadway, but that's not adjacent to. When we're talking about what this board is asking of the applicant for the surrounding community, I'm telling you our code would necessitate a wall to the west side.

Dane Theodore – Just to clarify, that is a masonry wall that would be, whatever it needs to be, to screen it, correct?

Erin Sterk – It would be up to 10 feet is what the code would allow for, but it's required to be 6 feet.

Dane Theodore – That would supersede the BDP which talks about a slatted fence, correct?

Erin Sterk – Right.

Carmine Ferraro – Is it possible that by the time we go before the County Commission, or if we had to table the County for the next meeting, could we work all that out so that the BDP becomes the governing document, and then whatever we need to add or take out of it, because I don't think the owner's intent is to build a wall, put up a fence, and maintain the vegetative buffer. I wasn't aware that there might be some other requirements, such as the Board of Adjustment that we might have to go through.

Erin Sterk – Folks typically apply for the variance at the same time and they can get to the Board of Adjustment quicker, so it's something that we can table to let the item to go through that process. Is the wall requirement waivable?

Rebecca Ragain – That would be a waiver to the Board of County Commissioners to the site plan code. It's a waiver, not a variance.

Erin Sterk – To go from a block wall to a fence, but the height limitation, if above 12 feet, would need to go to the Board of Adjustment.

Rochelle Lawandales – Your owner owns all three parcels?

Carmine Ferraro – Correct.

Rochelle Lawandales – Why was this particular piece selected for this use?

Carmine Ferraro – That particular piece was selected because during the very early stages of the engineering it was going to work best to create the turnaround that a fire truck would need, or other large vehicles would need, to get in and out of the property without having to come in and out of the same entrance. We were told we'd need a second entrance and it made sense, understanding that they knew they have to improve Ranch Road, and they understood that and they are going to pave Ranch Road up to that point; thereby, creating a better traffic flow for that type of vehicle.

Rochelle Lawandales – As opposed to doing the same kind of U or circle.

Carmine Ferraro – Yes, a U around the building, which with the turning radiuses it seemed to make better sense. There may be the occasional large truck that drops off a houseful of furniture and we don't want them to get stuck. This was originally looked at for either the north corner or the south corner, and they elected the south corner.

Rochelle Lawandales – It seems to me that you would have a little bit better separation distance if you did use either of the top two lots, and you wouldn't abutting lots 12 and 13. I want to make sure that with the landscape requirements that we all understand that they have to meet the code, and there are extra landscape requirements and buffering requirements, Type A, B, C, between these kinds of uses and residential properties.

Erin Sterk – It would be helpful if we included a clarification in there that's subject to Section 62-4342.

Rochelle Lawandales – That may not be something that you're willing to do, but I believe that the requirements for the type of buffers needed between these kinds of uses is more appropriate than what's being submitted here.

Erin Sterk – I think some of the concern I heard was that if there's berming proposed and there's a specimen tree in an area that's to be bermed and we've committed to berm it and we kill a tree just to put a, you know, that we would want to have the authority to be flexible in that review.

Rochelle Lawandales – I would hope that you do have the authority to be flexible in those cases. I would really like to see the stormwater in the back, as a buffer, if this is going to be approved. I think from a design standpoint that makes the most sense to further the distance of sound and noise, which I don't think this is going to be a noisy environment, but I think that that aids in providing better protection for the residents. I'm not going to sit here and design your project, but I'm going to tell you that my vote on this would be that you meet the landscape requirements, that the stormwater pond goes in the rear, if you're going to use this lot, and that you're not allowed to use a metal building. I think if you were developing under the BU-1 (General Retail Commercial) it would be a nice looking building that would fit better with the community. I think doing a metal building here in this location could have an effect on the ability of other commercial uses, and the other two lots. If you were coming in as BU-1 it would be a nice site-built concrete block, stone, modern looking facility. If you were willing to do that, a nice Mr. Stor-it, as an example, that kind of a building, I would have less of a problem.

Carmine Ferraro – In regards to the pond, if it's doable to put it in the back then I'll ask the owner to do that. It's a wet pond and wet ponds are a little smaller than dry ponds, so it's going to dictate what the soil says, but I think he put it in the back as one of his concepts because he felt like it was doable. As far as the BU-1, if we do go forward under BU-1 it's going to be visible from some sides of the property, so I do think this is better because I think under BU-1, the way we interpreted the code, the

only lot that would be defined as adjacent with the lot line would be the west lot line. The residents made it very clear to me, who live on Ranch Road, they feel they are adjacent, and Grissom is adjacent as well, even though maybe technically they're not.

Rochelle Lawandales – If it's to be done under a BDP (Binding Development Plan), under the BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning, these are things that I would change.

Carmine Ferraro – Okay, I understand, I think we can take those in, yes. What I'd like to do, when we get in front of the County Commission, I'd like to have everything all sown up, and the BDP, and we can address what waivers we may or may not need, and have it all presented nicely, and hopefully at that point we will have answers on some of the concepts, and maybe bring our concept forward at that meeting. If we have to table for 30 days we will.

Henry Minneboo – I'd rather you table it at that level than here, because all these people came here, so I don't want to bring them back two or three times.

Carmine Ferraro – I'm talking about the County Commission meeting coming up. If we need a little more time, and it sounds like the board is saying you'd like the answers to some of those questions.

Henry Minneboo – Erin, give me some of the crazy things under BU-1 that they can do.

Erin Sterk – Crazy, to me, there's a lot of things perceived by a community to not be compatible, but craze to me is an impact on the infrastructure that could mean that the road cannot serve the property, or the level of service challenges. What we found is that in BU-1 the two uses that generate a lot of trips, which are developed nearby in BU-1, is a gas station and a fast foot restaurant. Those two high-intensity trip generators are going away with this proposal. I don't know that there would be another gas station that would come in three lots down from the other gas station, but there is one in BU-1 right there, so that is something that could show up. There are some other things, like auto repair and stuff like that. Anything like auto repair would be very noisy.

Henry Minneboo – The property north of this, it is four-lane, but isn't it commercial on both sides? There's about 7,000 lineal feet north of what I'll call the power transmission line, there's commercial on both sides. Look at your map and see if that shows up.

Erin Sterk – This is all utilities infrastructure related where it hasn't been developed up until the City of Titusville boundary.

Henry Minneboo – It could be in the City of Titusville, but it's still commercial.

Erin Sterk – Yes, there's tons of Titusville marketing of that corridor.

Henry Minneboo – If we go south of the southern border of what's identified as Port Saint John, we have a substantial amount of commercial down there, don't we?

Erin Sterk – Off Grissom, past Port Saint John Parkway, yes.

Henry Minneboo – This is probably the only part that's still two-lane; north of this it is four-lane. Would you safely say this is Step 1 of 28 more stops he's got to make?

Erin Sterk – Yes, he's got a lot of work to do to even bring this to fruition. Now that I'm pulling up the zoning map for the area, there has been a corridor study done along the southern Grissom Parkway, which elaborated on the desire for commercial along that corridor. Most of that property still has GU (General Use) zoning, so it doesn't actually have zoning for commercial, but that's the intention of that area.

Peter Filiberto – I see this was zoned commercial in 1997, and I think the BU-2 would be less impactful for traffic, fire safety, water, and sewer. With the BDP (Binding Development Plan) here and the clarification of landscaping and the stormwater location, I'll make a motion to approve.

Rochelle Lawandales – I'll second for discussion. I would like to offer an amendment to that, that the architecture be not metal, and that the fence has to meet whatever the code requires, with the landscaping. But I think your motion with the landscaping might take care of that fence.

Peter Filiberto – I did have some concerns about the metal building; however, my concerns are with a hurricane, and what would happen to a metal building if a hurricane came through. Mr. Minneboo confirmed that it would be strong, and that was my only concern.

Rochelle Lawandales - For the benefit of the residential community and the neighborhood around it, I think it needs to have some sort of sheathing or something to disguise the metal building aspect of it.

Henry Minneboo – They're doing some phenomenal things with metal buildings. I've seen some metal buildings that didn't look metal.

Rochelle Lawandales – I'd be fine with that. I think that might make the neighbors a little happier, too. I don't know how we say that in terms of the BDP.

Henry Minneboo – Isn't that happening today? We're seeing some textures on metal buildings that are different than the old days.

Erin Sterk – Mostly, we're seeing them because we have code that requires it. I don't think they're doing it because they want to. Mostly, they're encapsulating it in something that meets the code.

Rochelle Lawandales – Would this require that? It seemed to me that this takes it out of that. That's correct. This does not require what you just stated.

Dane Theodore – As an architect, I'm all for prettier buildings, but I'm a little confused. I thought that they were advocating a metal building that wouldn't be seen by any of the neighbors. So, my confusion is, you're advocating for a non-metal building to look prettier. May I ask the applicant where it would be seen from? Across Ranch Road?

Rochelle Lawandales – You' see it on Grissom.

Dane Theodore – Where would someone see this building if you develop as you're proposing?

Carmine Ferraro – According to the BDP (Binding Development Plan), the people who are going to see the building are those that are inside the area, inside the storage area.

Dane Theodore – From north, south, east, and west, of that property; to the north is your property. So, east, south, and west, who would see that metal building?

Carmine Ferraro – If we do it according to the BDP, nobody will see it. Part of my presentation today was to ask that we be able to do it as metal because there's a cost savings for the owner to do that in exchange for making it invisible to the resident. If we have to build it at the higher expense, and do all the other things, it may not make sense at all.

Dane Theodore – Let's assume for the sake of argument that a 12-foot high wall doesn't make it invisible, is that the maximum height they're going to be allowed?

Erin Sterk – Twelve feet if you memorialize it in the BDP, and beyond that if they were to go to the Board of Adjustment and ask for a variance.

Dane Theodore – They're saying they are going to make it as tall as necessary to make it invisible, even if it's 14 feet, so what I'm struggling with is, do you put the money into the building, or do you put the money into a 14-foot metal fence?

Carmine Ferraro – Correct, and whatever other additional enhancements we have to do to make it invisible, yes.

Rochelle Lawandales – My question would be, how aesthetic is a chain link fence 14 feet high with green slats in it.

Carmine Ferraro – We'll also have a canopy and that's the beauty of this project, the canopy is mature, the undergrowth has never been touched, and it lends itself to creating 60 – 70% of that buffer already. If we have to berm-up some areas and then put a fence on top of that, we'll do what we have to do. Please understand that we're talking, in some cases, 200 – 300 feet away, and unless it's a really big building that sticks out, or an ugly color or something, then it might be visible through the trees, but I really believe that we're presenting it in such a fashion, it's a unique situation and maybe setting a precedent for future development in residential communities that might make sense. There are some businesses that I believe communities need, and I believe self-storage is one of them.

Henry Minneboo – We'd like to see a finished product, but at this level there's nobody in their right mind who is going to give us a finished product because they have so many other steps to go through. We're just the beginning, and it would have been nice if we had that.

Rochelle Lawandales – I don't have a problem with the use, I have a problem with what it looks like, and that's my issue.

Carmine Ferraro – The difference between metal and standard construction could be as much as \$30 - \$40 per square-foot, so it is substantial.

Dane Theodore – Is this a one-story building?

Carmine Ferraro – Yes, one story.

Henry Minneboo – I don't want to see a restaurant there.

Carmine Ferraro – It's a standard storage facility that will probably be under 12 feet, but it is a pre-engineered metal building.

Rochelle Lawandales – What kind of roof?

Carmine Ferraro – It would be a pitched metal roof; standing seam metal roof.

Erin Sterk – I have one comment. I'd just like to think about this parcel in context with the other two commercial parcels next to it. Our code requires interconnectivity between those things. Specifically, to limit the number of curb cuts on the roadway so that you can drive through. When there is no one who is going to see this, and when there is a Taco Bell to the north of it that could happen in BU-1 (General Retail Commercial), and they drive through this to get to Ranch Road to get out, there will be people traveling through this property to get to the adjacent future commercial uses. Our code would require cross-connectivity be memorialized at site development. So, at some point, someone is driving through this fenced area, whether it be screened or not, at some point with the commercial development to the north, the idea is that they all tie in together and that there's circulation between the uses. That's something that we haven't gotten into, but it's in the staff report that that's required.

Henry Minneboo called for a vote on the motion as stated.

Rochelle Lawandales – I need clarification. I'm going to offer an amendment that the metal building, at a minimum, have some sheathing as it would have to in BU-1, and that there be inter-connectivity.

Erin Sterk – The metal building section of the code requires it, "The metal structure shall be galvanized and shall utilize a factory finished painted siding, at a minimum, and that the roofline shall be architecturally treated with a mansard groove in another acceptable manner to enhance the appearance of the front of the metal structure." It doesn't prohibit the construction, just literally requires that the front of the building have some sort of treatment on it.

Rochelle Lawandales – I'm fine with that. That's as in BU-1, correct?

Erin Sterk – Yes, that's the BU-1, TU-1 (General Tourist Commercial), and TU-2 (Transient Tourist Commercial) zoning classifications that have those limitations.

Rochelle Lawandales – The amendment would be a metal building as allowed in BU-1.

Peter Filiberto – I have the motion as approved with a BDP (Binding Development Plan) with landscaping, stormwater location, and for what Rochelle said. I'll accept that as an amendment and add it to my motion.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.

**From:** [Carmine Ferraro](#)  
**To:** [Sterk, Erin](#)  
**Cc:** [Jones, Jennifer](#)  
**Subject:** Re: 18PZ00156  
**Date:** Thursday, April 18, 2019 3:08:50 PM

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We will attend the 05/02/19 meeting as planned and make a request for tabling so we can go before the BOA on 07/17/19 and County Commission on 08/1/19.

Regards

**“Sow a thought and you reap an action; sow an act and you reap a habit;  
sow a habit and you reap a character; sow a character and you reap a destiny.”  
Ralph Waldo Emerson**

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On Thu, Apr 18, 2019 at 12:51 PM Sterk, Erin <[Erin.Sterk@brevardfl.gov](mailto:Erin.Sterk@brevardfl.gov)> wrote:

Carmine,

Thank you for meeting with staff earlier this week to sort out the language of your BDP conditions. I understand you are reviewing codes to determine exactly how to word the language.

I will also remind you of the latest P&Z recommendation for approval below, as well as the

last BCC action, which tabled the item to the May 2, 2019 BCC.

On March, 25, 2019, the Planning and Zoning Board unanimously approved the amended request for the southern lot only (Lot 8), with a Binding Development Plan which limitations include, but are not limited to, the stormwater pond to be located on the rear of the property, cross access between the adjacent commercial parcels to the north, landscape buffers per Section 62-4243, and that the structure be a metal building as described in Section 62-2115(a)(1) and (2).

### **CURRENT PUBLIC HEARING TIMELINE**

We are finalizing items heading to the BCC now. I still don't have the materials necessary to include, and as a result, we have not conducted a final interdepartmental review of the language and also do not have a summary of your revised proposal yet prepared. This summary is supposed to leave our department TODAY.

### **VARIANCE FACTOR**

Additionally, when we spoke last, you were proposing conditions in the BDP that would necessitate a variance to achieve (i.e. the fence height). In instances like that, we cannot approve the BDP condition until the variance is approved. As discussed, the next application date for the Board of Adjustment is May 1<sup>st</sup>, which would get you to the June 19<sup>th</sup> BOA meeting. After that occurs, we could get the rezoning request, with the associated BDP condition, back to the BCC at their first zoning meeting after the summer June/July break on August 1, 2019.

I understand you may have to do topo surveys and/or measure elevations to determine FFE for the structures, to determine how high of a fence you may need to build to obstruct line of sight. If you need more time to make these determinations, a Variance application submitted even later by June 5<sup>th</sup> would get you to the July 17<sup>th</sup> BOA meeting, which would still allow for the rezoning with BDP to be heard August 1<sup>st</sup>.

### **POTENTIAL WALL WAIVER**

Also, if you are proposing a fence along the portion of the property adjacent to residential zoning (abutting the two residential lots to the west), you will need to seek a waiver to that site plan condition once you have the zoning that actually necessitates the condition. Basically, you can't get a waiver to something that is not yet required. So, I recommend wording your BDP language regarding the height of the fence to include language that says

fence OR wall, so that you can come back after the rezoning/BDP is finalized and seek the right to construct a fence (at the height specified in the BDP) in lieu of the wall later.

Given all these still unknown factors, if you would like to request that the item be tabled again to work out any of these details/seek a variance/etc., you can request to be tabled again, but have already exhausted your "automatic tabling" option and will need to appear in front of the Board to make the request in person on May 2<sup>nd</sup>. If not, I need a BDP today, that includes only conditions that do not necessitate a variance, in order to make the May 2<sup>nd</sup> meeting.

Please let me know how you plan to proceed as soon as possible,

*Erin Sterk*

**Planning & Zoning Manager**

Brevard County

(321) 633-2070 ext. 52640

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