Agenda Report



2725 Judge Fran Jamieson Way Viera, FL 32940

Public Hearing

H.6.

5/27/2021

Subject:

Cooltural Land, LLC (Thomas Jones) requests a change of zoning classification from BU-1 to BU-2. (21Z00009) (Tax Account 2317004) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial).

Summary Explanation and Background:

The applicant is seeking a change of zoning classification from BU-1 to BU-2 in order to accommodate an outdoor contractor storage yard and flex office/warehouse use. The property is currently vacant. The property is 1.02 acres, located on the east side of N. Courtenay Parkway, approximately 700 feet south of Crisafulli Rd.

The subject property retains the Community Commercial (CC) Future Land Use designation. The existing zoning classification BU-1 can be considered consistent with the Future Land Use Designation. The proposed zoning classification of BU-2 can be considered consistent with the Future Land Use designation.

The BU-1 classification permits retail commercial land uses on minimum 7,500 square foot lots. BU-1 does not permit warehousing or wholesaling and does not permit a contractor storage yards/outdoor recreational vehicle storage. The proposed BU-2 classification permits retail, wholesale, and warehousing commercial land uses on minimum 7,500 square foot lots. Possible incompatibilities are due to the intensive nature of commercial activities permitted by the BU-2 classification.

The subject property is served with potable water by the City of Cocoa. The property is not serviced by Brevard County sewer. The closest available Brevard County sewer line is located on the opposite side of North Courtenay Parkway, approximately 1,865 feet to the South.

The Board may wish to consider whether the request is consistent and compatible with the surrounding area for BU-2 fronting Courtenay Parkway.

H.6. 5/27/2021

On May 13, 2021, the North Merritt Island Dependent Special District Board heard the request and unanimously recommended denial.

Clerk to the Board Instructions:

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

Criteria:

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

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



Planning and Development Department

2725 Judge Fran Jamieson Way Building A, Room 114 Viera, Florida 32940 (321)633-2070 Phone / (321)633-2074 Fax https://www.brevardfl.gov/PlanningDev

STAFF COMMENTS 21Z00009

Cooltural Land, LLC (Thomas R. Jones for Peña)
General Retail Commercial (BU-1) to Retail, Warehousing, and Wholesale Commercial (BU-2)

Tax Account Number:

2317004

Parcel I.D.:

23-36-27-00-*-5

Location:

East side of North Courtenay Parkway, approximately 700 feet south of

Crisafulli Road (District 2)

Acreage:

1.02 acres

North Merritt Island Board:

05/13/2021

Board of County Commissioners: 05/27/2021

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	BU-1	BU-2
Potential*	25,700 square feet	25,700 square feet
Can be Considered under the	YES CC	YES CC
Future Land Use Map		

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

Background and Purpose of Request

The applicant is seeking a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial).

The request is to change from BU-1 to BU-2 in order to accommodate contractor storage yard and flex office/warehouse use. The property is vacant. The property is 1.02 acres.

The original zoning of the property was AU (Agricultural Residential). On 10/31/62, Resolution **Z-854** rezoned the property from AU to BU-1 (Neighborhood Retail Business). Comprehensive Zoning Ordinance **73-13** changed BU-1 (Neighborhood Retail Business) to BU-1 (General Retail Commercial).

Land Use

The subject property retains the Community Commercial (CC) Future Land Use designation. The existing zoning classification BU-1 is consistent with the Future Land Use Designation. The proposed zoning classification of BU-2 is consistent with the Future Land Use Designation.

Applicable Land Use Policies

Future Land Use: FLUE Policy 2.7 – Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation, provided that the listed criteria are met, include the following:

- a) Existing strip commercial
- b) Transient commercial uses;
- c) Tourist commercial uses:
- d) Professional offices;
- e) Personal service establishments:
- f) Retail establishments:
- g) Non-retail commercial uses;
- h) Residential uses:
- i) Institutional uses:
- Recreational uses:
- k) Public facilities;
- I) Transitional uses pursuant to Policy 2.14; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 of the Future Land Use Element.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area. This parcel is located on the east side of Courtenay Parkway, is currently vacant, and lies within the Community Commercial (CC) Future Land Use (FLU) designation. The abutting property to the north is developed as an art studio with retail sales, on the part fronting Courtenay Parkway, and a residence on the rear portion and likewise has split CC/NC FLUE. The two abutting parcels to the east are developed with single-family residences, the western approximately 100 feet of which are part of a drainage pond, with Residential 1 (RES 1) FLU. The parcel to the south is vacant with CC FLU. The property across Courtenay Parkway to the west is developed with a residence and citrus grove with CC FLU. The site is located within a 200 acre commercial corridor with some mixed residential uses

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The developed character of the surrounding area: part of an approximately 200 acre strip commercial corridor, which contains a mixture of neighborhood, retail commercial, limited outdoor storage uses, with some single-family residences as mixed use on same properties as commercial. Most properties are limited to BU-1 with some BU-2 zoned properties. Behind this corridor, on the abutting properties to the east, are high square footage residential homes on ¼ to 1 acre lots with RES 1 FLU.

The closest parcel with BU-2 zoning classification on the full depth of the property, is approximately 1,140 feet north of the subject parcel and north of the Crisafulli Road intersection. It is on a much larger vacant parcel, with a Binding Development Plan (BDP), **14PZ-00118B** (ORB 7356, Pages 2762-2766), that limits uses to "all permitted uses in the BU-1 Zoning Classification" and requires "A 20' opaque buffer on the east side shall always be there." The next closest lot with BU-2 the full depth of the property is approximately 8,800 feet to the south. In 1983, **Z-6432**, a proposed rezoning from BU-1 to BU-2 was denied and Development Review sheet 3b in the file stated: "BU-2 not recommended in this sector, however BU-2 in area; possibly keep front half BU-1."

When evaluated against **FLUE 2.7**, the subject 1.02 acre property could be considered spot zoning of BU-2 in a mixed residential/BU-1 corridor, rather than infill or an extension of similar strip commercial development.

BU-2 allows for more intense uses than BU-1, such as, but not limited to, metal buildings, outdoor storage yards, and warehouses. The intensive nature of BU-2 uses could create noise, light, traffic and other nuisance factors. BU-2 zoning and uses on this corridor have not been primarily located directly adjacent to Courtenay Parkway right-of-way, have natural or developed buffers from abutting residential uses, and are primarily located on the west side of Courtenay Parkway.

There has been one zoning action within a half-mile of the subject property within the last three years.

July 9, 2020, application **20PZ00017** rezoned a 2.23 acre parcel from General Use (GU) to Suburban Estate Use (SEU) located approximately 2,350 feet south of the subject property, on the south side of Kings Way, adjacent to and on the east side of Courtenay Parkway.

North Courtenay Parkway Corridor Study. The proposed rezoning is within the North Courtenay Parkway Corridor Study Area for which staff drafted a report for the Citizen Resource Group (CRG), dated October 2005. The study area is bounded on the north by NASA's Kennedy Space Center, on the east by the rear property lines of properties fronting the east side of North Courtenay Parkway, on the south by the Barge Canal, and on the west by the rear property lines of properties fronting the west side of North Courtenay Parkway. The CRG examined the future land use and zoning for the corridor area and generated the following Land Use recommendations:

LU-1: For properties zoned BU-2, outdoor storage areas shall not be visible from the roadway. An opaque buffer that shields storage areas from view shall be required for BU-2 uses within the North Courtenay Parkway corridor.

LU-2: No bay doors should face the roadway. All such doors should face to the side or rear of the building.

LU-3: No portion of a building constructed of sheet metal shall be visible from North Courtenay Parkway. Stucco, wood siding, brick, and other materials with similar textures are appropriate.

Surrounding Area

The property abutting to the north of the subject property is developed per split zoning of BU-1 on 80 feet closest to Courtenay Parkway and AU (Agricultural Residential) on remainder. The two abutting parcels to the east are developed per Suburban Residential (SR) zoning with a drainage facility on

the western approximately 100 feet of each property and abutting the subject property. The parcel to the south is vacant with BU-1 zoning. The property across Courtenay Parkway to the west is developed with a residence and citrus grove in BU-1 zoning.

The current BU-1 classification permits retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling. It also does not permit contractor storage yards or outdoor recreational vehicle storage.

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

The AU classification permits single-family residences and agricultural pursuits on 2 ½ acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Indian River Lagoon Nitrogen Reduction Overlay
- Floodplain
- Protected and Specimen Trees
- Protected Species

Per Section 62-3724(4) of the floodplain ordinance, the parcel may be subject to compensatory storage for fill brought onto the parcel. Please see floodplain section in NRM comments for more information.

Preliminary Transportation Concurrency

The closest concurrency management segment to the subject property is North Courtenay Parkway, between Hall Road and North Tropical Trial, which has a Maximum Acceptable Volume of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 34.28% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization from 34.28% to 37.80% (LOS C). The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as this site is a proposed commercial development.

The subject property is served with potable water by the City of Cocoa. The property is not serviced by Brevard County sewer. The closest available Brevard County sewer line is located on the opposite side of North Courtenay Parkway, approximately 1,865 feet to the South.

For Board Consideration

The Board may wish to consider whether the request is consistent and compatible with the surrounding area for BU-2 fronting Courtenay Parkway.

NATURAL RESOURCES MANAGEMENT DEPARTMENT Zoning Review & Summary Item # 21Z00009

Applicant: Jones for Peña **Zoning Request**: BU-1 to BU-2

Note: Applicant wants contractor storage yard, warehouse, RV storage, and RV rental.

NMI Hearing Date: 05/13/21; BCC Hearing Date: 05/27/21

Tax ID No: 2317004

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- ➤ In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Indian River Lagoon Nitrogen Reduction Overlay
- Floodplain
- Protected and Specimen Trees
- Protected Species

Per Section 62-3724(4) of the floodplain ordinance, the parcel may be subject to compensatory storage for fill brought onto the parcel. Please see floodplain section in NRM comments for more information.

Land Use Comments:

Indian River Lagoon Nitrogen Reduction Overlay

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If sewer is not available, then the use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multistage treatment processes shall be required.

Floodplain

If it is determined that any area of the parcel is within the floodplain, then per Section 62-3724(4) of the floodplain ordinance, any development, land alteration, or grading on North Merritt Island in the area from Hall Road, north to State Road 405, herein after referred to as "Area," is subject to compensatory storage, and written certification from the engineer of record that there will be no adverse flooding impacts upon properties within the Area resulting from the proposed development. Delineation of floodplains, shall use best available pre-alteration ground elevation data. Sealed pre-

existing topographic survey or engineered site plan delineating floodplain limits on the property, if any, with base flood elevation using best available flood elevation data. The engineer shall provide a report that includes full engineering data and analysis, including the hydraulic and hydrologic modelling and analysis demonstrating that there is no impact. Any engineered compensatory storage shall be maintained by the owner in perpetuity. Please call NRM at 321-633-2016 prior to any grading, filling or land alteration activities.

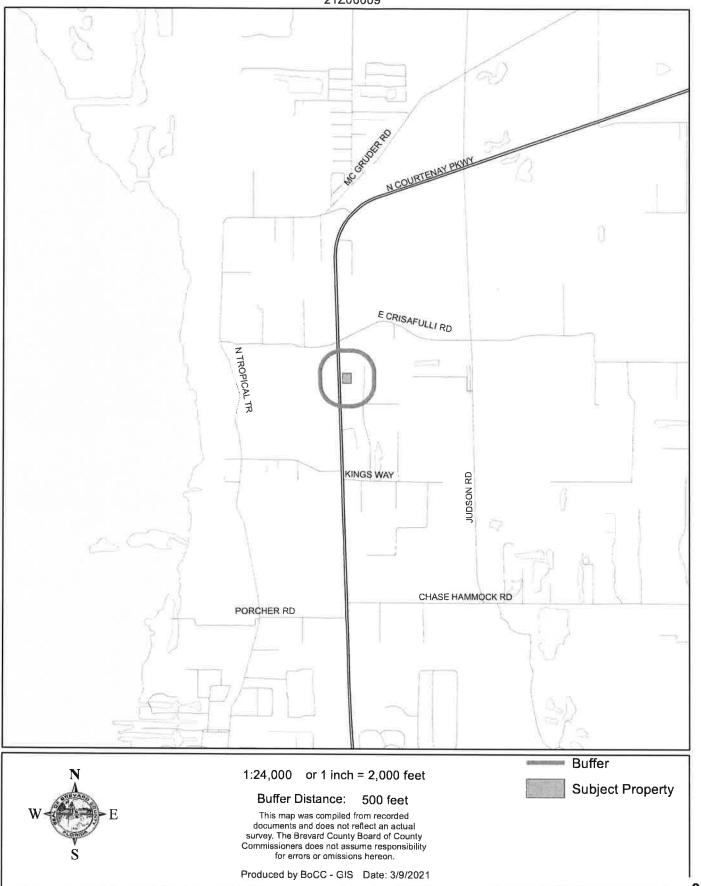
Protected and Specimen Trees

An environmental report, prepared by Floravista, Inc, found several Protected (greater than or equal to 10 inches in diameter) and Specimen trees (greater than or equal to 24 inches in diameter) on the parcel. Prior to any site plan design, a tree survey should be conducted to locate trees that may be integrated into the site plan design, including, the Live Oak that is 74.2 inches in diameter, and in good condition. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. The applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities. Land clearing is not permitted without prior authorization by NRM.

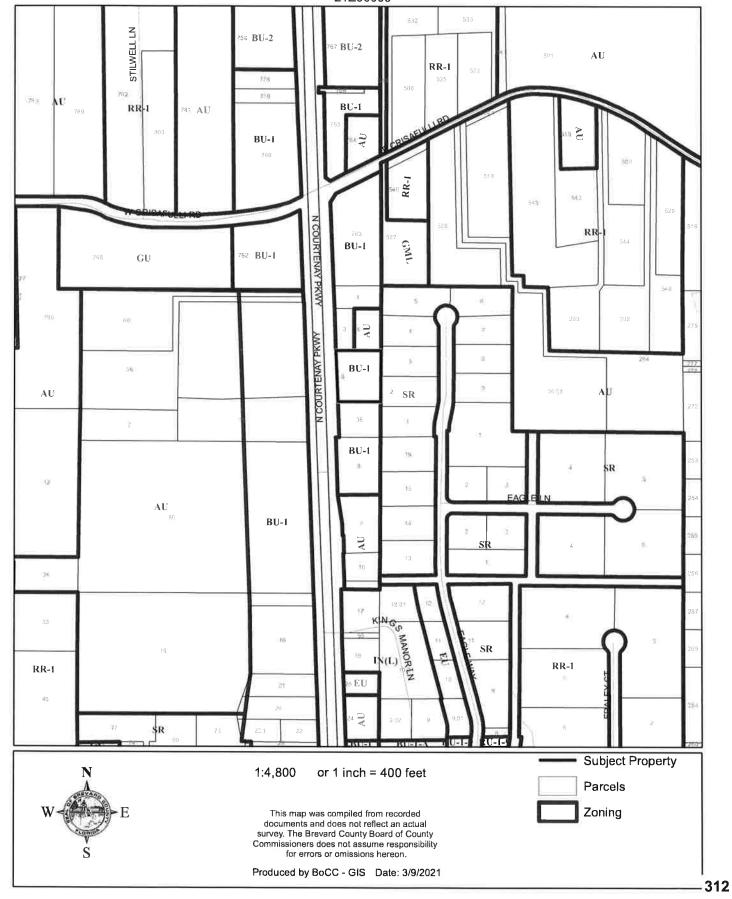
Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

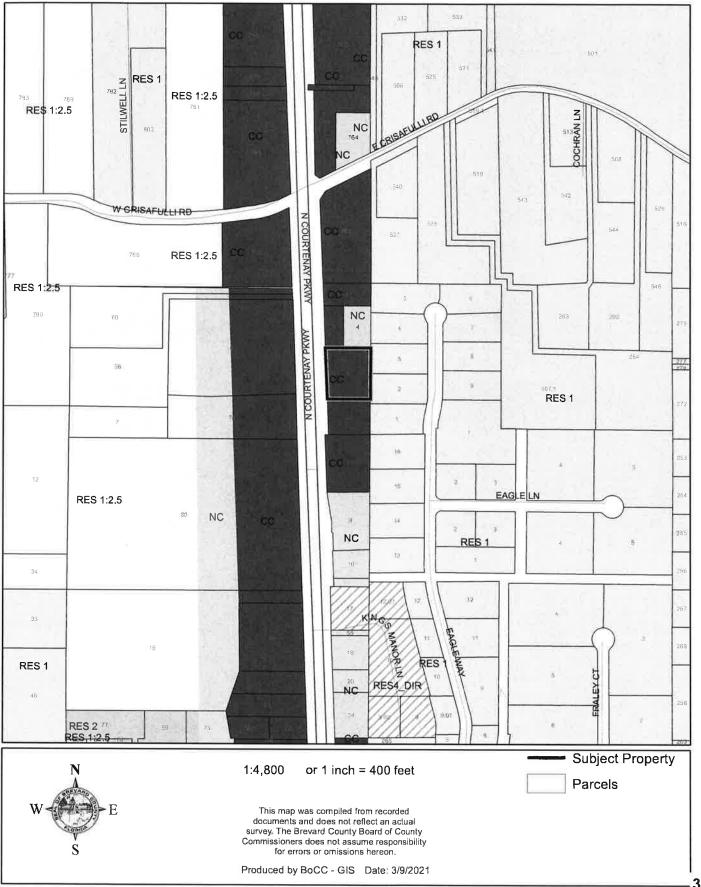
LOCATION MAP



ZONING MAP



FUTURE LAND USE MAP



AERIAL MAP

COOLTURAL LAND, LLC 21Z00009



W E

1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2020

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: 3/9/2021

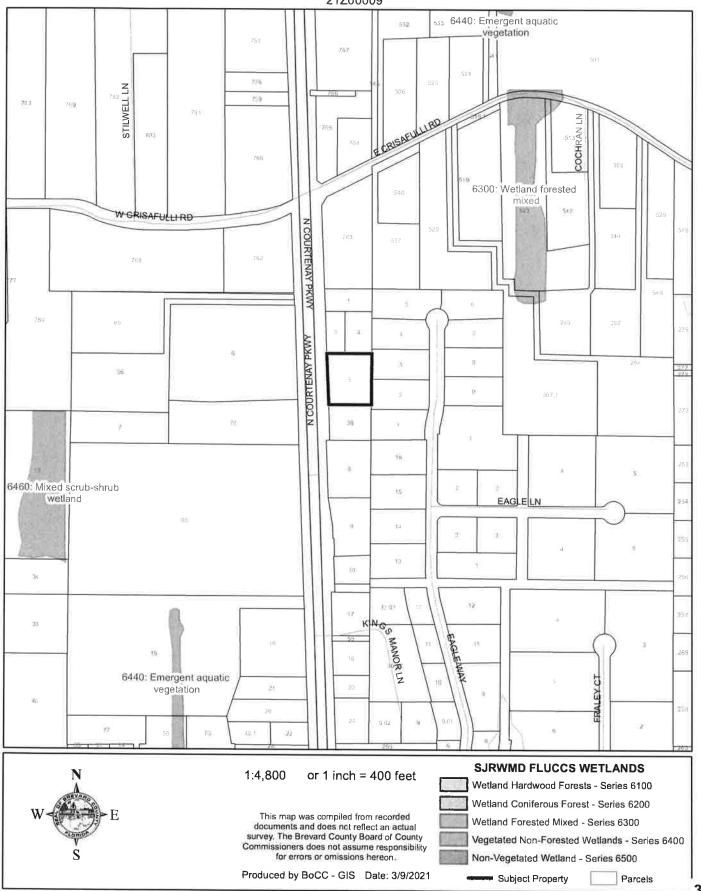
Subject Property

Parcels

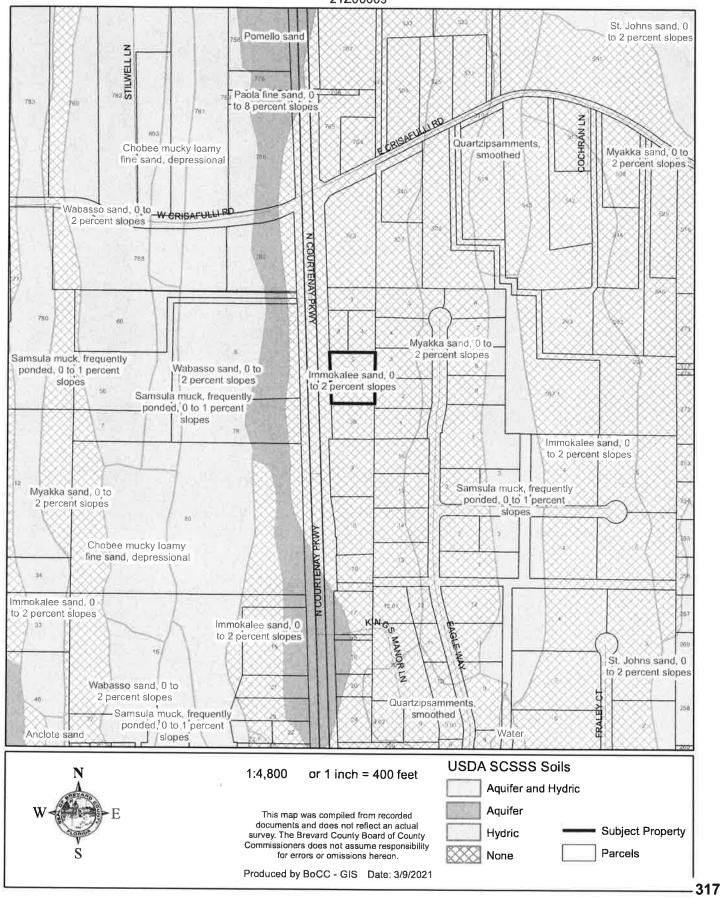
NWI WETLANDS MAP



SJRWMD FLUCCS WETLANDS - 6000 Series MAP



USDA SCSSS SOILS MAP



National Flood Hazard Layer FIRMette



COASTAL FLOODPLAIN Zone AE EL[®]3 Feet) T23S R36E S26 (EL 3.8 Feet) EL 3.8 Feet R36E S23 1:6,000 (EL 42 Feet) ELE3.7 Feet) Zone AE (EL*4'4 Feet) Feet EL³.7, FI 4 9 Zone AE (EL3:7/Feet) T23S R36E S22 T23S R36E S27 14 8 Feet EL 5 Feet)

Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS

Zone A. V. A99 With BFE or Depth Zone AE. 40, AH, VE, AR

Regulatory Floodway

0.2% Annual Chance Flood Hazard, Areas depth less than one foot or with drainage of 1% annual chance flood with average areas of less than one square mile zone x

Future Conditions 1% Annual

Area with Flood Risk due to Levee Zone D Area with Reduced Flood Risk due to Chance Flood Hazard Zone Levee. See Notes, Zone.

OTHER AREAS OF FLOOD HAZARD

NO SCREEN Area of Minimal Flood Hazard Zone X

Area of Undetermined Flood Hazard Zone B **Effective LOMRs**

> OTHER AREAS GENERAL

Channel, Culvert, or Storm Sewer

Cross Sections with 1% Annual Chance Levee, Dike, or Floodwall STRUCTURES | 111111

Water Surface Elevation 17.5

Base Flood Elevation Line (BFE) Coastal Transect Limit of Study

Jurisdiction Boundary

Coastal Transect Baseline

Hydrographic Feature Profile Baseline

OTHER FEATURES

Digital Data Available

No Digital Data Available Unmapped

MAP PANELS

point selected by the user and does not represent The pin displayed on the map is an approximate an authoritative property location.

This map complies with FEMA's standards for the use of The basemap shown complies with FEMA's basemap accuracy standards digital flood maps if it is not void as described below.

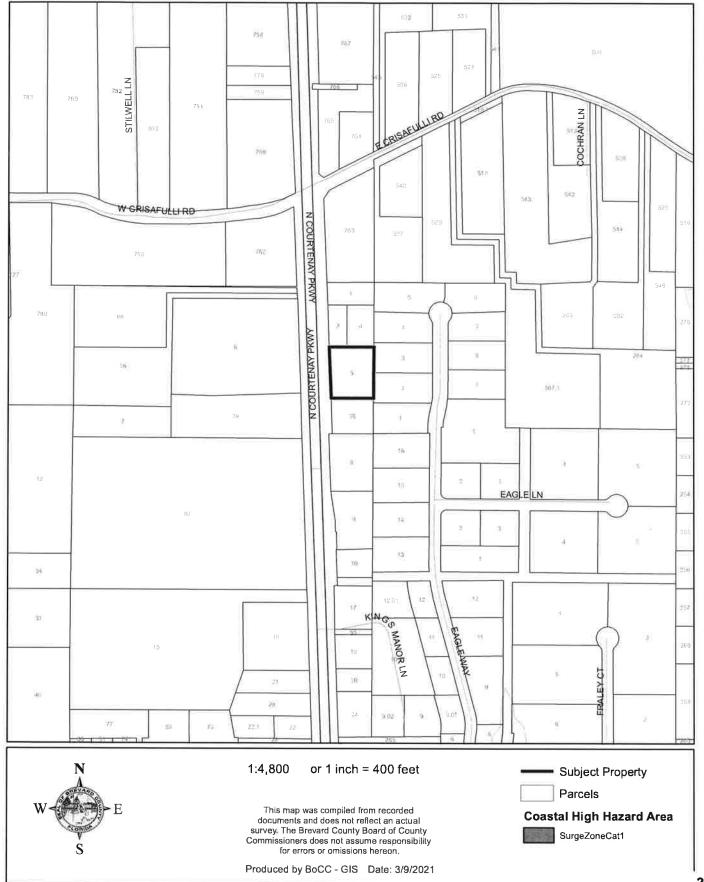
authoritative NFHL web services provided by FEMA. This map reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or The flood hazard information is derived directly from the was exported on 3/10/2021 at 8:44 AM and does not

unmapped and unmodernized areas cannot be used for 318 This map image is void if the one or more of the following map legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for elements do not appear: basemap imagery, flood zone labels, regulatory purposes.

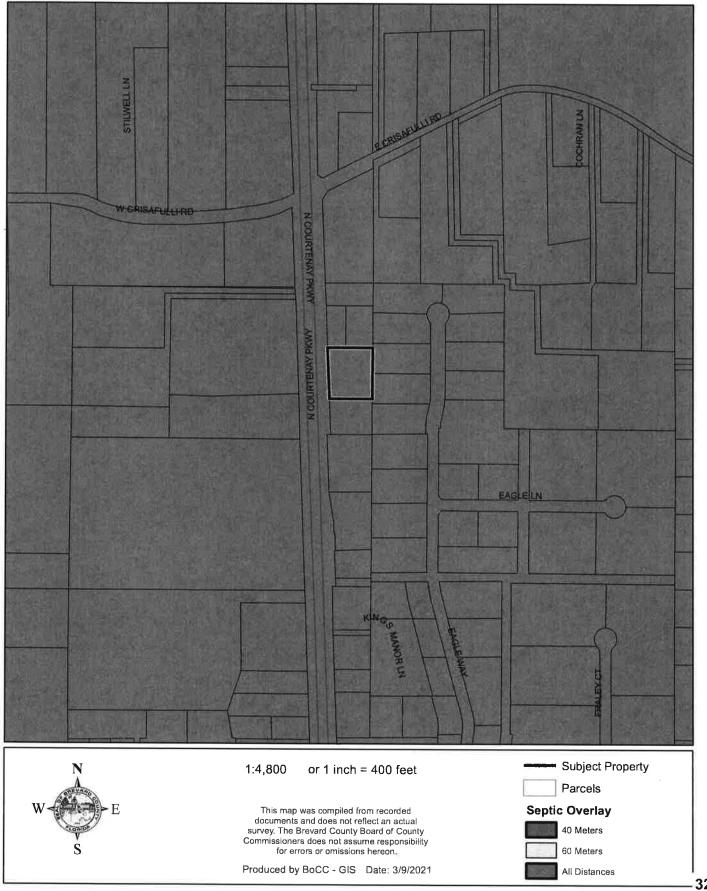
2,000 Basemap: USGS National Map: Orthoimagery: Data refreshed October, 2020

500

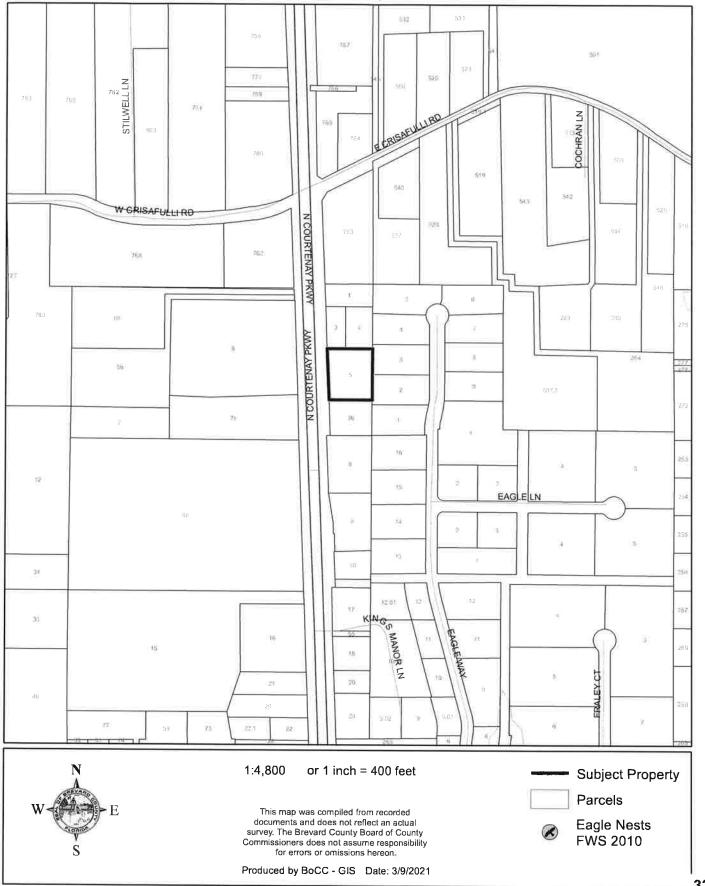
COASTAL HIGH HAZARD AREA MAP



INDIAN RIVER LAGOON SEPTIC OVERLAY MAP



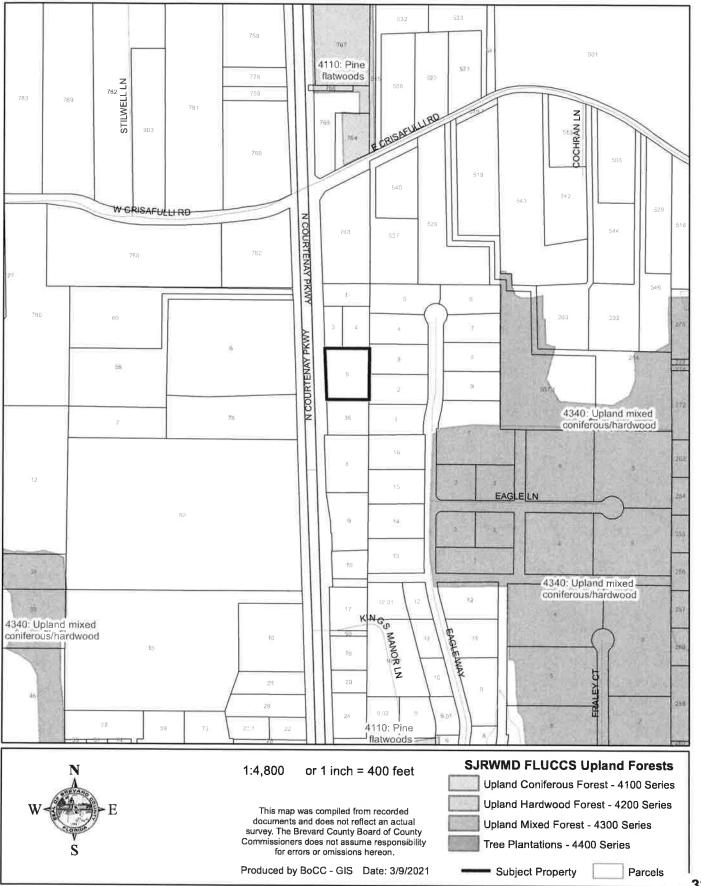
EAGLE NESTS MAP



SCRUB JAY OCCUPANCY MAP



SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP





Planning and Development 2725 Judge Fran Jamieson Way Building A, Room 114 Viera, Florida 32940 321-633-2070

Application for Zoning Action, Comprehensive Plan Amendment, or Variance

Applications must be submitted in pe least 24 hours in advance. Mailed, er	rson. Please call 321-633 nailed, or couriered appli	3-2070 for an ap cations will not b	pointment at be accepted.
PZ#2170009	_		
Existing FLU: CC	Existing Zoning:	BU-1	
Proposed FLU: CC	Proposed Zoning:	BU-2	
PROPERTY OWNER INFORMATION	N		
If the owner is an LLC, include a copy	of the operating agreem	nent.	
Ezequiel F. Peña	Cooltural	Land, LLC) .
Name(s)	Company		
704 SW 17th Ave #3	Miami	FL	33135
Street	City	State	Zip Code
Email	Phone	Cell	
APPLICANT INFORMATION IF DIFF	ERENT FROM OWNER	:	
Attorney Agent [Contract Purchaser	Other	
Thomas R. Jones	Possum (Corner, LL	C.
Name(s)	Company		
5802 Hoffner Ave #701	Orlando	FL	32822
Street	City	State	Zip Code
tom@florida-re.com	407-857-001	0 same	

Phone

Cell



Email

APPLICATION	NAME

Large Scale Comprehensive Plan Amendment (CP) (greater than 10 acres)
Small Scale Comprehensive Plan Amendment (CP) (less than 10 acres)
Text Amendment (CP): Element
Other Amendment (CP):
Rezoning Without CUP (RWOC)
Combination Rezoning and CUP (CORC)
Conditional Use Permit (CUP)
Binding Development Plan (BDP)
Binding Development Plan (BDP) (Amendment)
Binding Development Plan (BDP) (Removal)
Variance(s) (V) (building permits will not be approved until 30 days after the date the order is signed)
Administrative Approval of Setbacks, Lot Size, or Accessory Structures
Administrative Approval of Flag Lot or Easement
Administrative Approval of On-Premises Consumption of Alcoholic Beverages for Restaurants / Snack Bars
Other Action:
Acreage of Request: 1.02
Reason for Request:
Change zoning from BU-1 to BU-2 to accommodate contractors yard and flex office/warehouse use.

The undersigned understands this application must be complete and accurate prior to advertising a public hearing:
I am the owner of the subject property, or if corporation, I am the officer of the corporation authorized to act on this request.
I am the legal representative of the owner of the subject property of this application. (Notarized Authorization to Act must be submitted with application)
An approval of this application does not entitle the owner to a development permit.
For Variances, I understand that building permits will not be approved until 30 days after the date the order is signed, in order to comply with the appeal procedure.
I certify that the information in this application and all sketches and data attached to and made part hereof are true and accurate to the best of my knowledge.
Signature of Property Owner or Authorized Representative 3-4-202
State of Floada County of Brevard
Subscribed and sworn before me, by physical presence or online notarization,
this Hu day of, March , 20 21, personally appeared Thomas Jones , who is personally known to me or produced
Thomas Jones who is personally known to me or produced
as identification, and who did / did not take an oath.
Lidud lidula
Notary Public Signature Seal
WANDA WALKER Notery Public-State of Florida Commission # GG 346055 My Commercian Expires October 17, 2023

Office Use Only:	H150000	2/2/21
Accela No. 2170009 Fe	/	led: 352 District No. 2
Tax Account No. (list all that a	apply) 2311004	•
Parcel I.D. No. 23 36 2 Twp Rng M Sec	7 00	Lot/Parcel
Planner: teter Martin	_ Sign Issued by:	Ent Klyl H
MEETINGS	DATE	TIME
P&Z	:	
PSJ Board		
NMI Board	5/13/21	6:00 pm
LPA	-	
ВОА	rs/ + .	
BCC	5/27/21	5:00 pm
Wetland survey required by Na	atural Resources	∕es ♥No Initials ♀₩
Is the subject property located	in a JPA, MIRA, or 500 f	eet of the Palm Bay Extension?
Yes No	If yes, list	N/A
Parkway approxi Interection of Description of Request: Roa	Mately 700 fee North Courtena	f North Courtenay et South of the y Pankway and Crisofulli
Kezone subje	ct Property	From General Retail, etail, wavehousing and -2),



Notice to Applicants for Change of Land Use

The Planning and Zoning Office staff will be preparing a package of written comments concerning your request. These comments will be provided to the Planning and Zoning Board and Board of County Commissioners. The comments will address the following:

The current zoning of the property along with its current development potential and consistency with the Brevard County Comprehensive Plan use and density restrictions.

The proposed zoning of the property along with its development potential and Consistency with the Board County Comprehensive Plan use and density restrictions.

The proposal's impact on services, such as roads and schools.

The proposal's impact upon hurricane evacuation, if applicable.

linvironmental factors.

Compatibility with surrounding land uses.

Consistency with the character of the area.

You may place your own written comments regarding these items into the record. Up to two typewritten pages can be included in the package if received 10 working days prior to the Planning and Zoning Board hearing. You are not required to provide written comments. An Applicant presentation to the Planning and Zoning Board is required regardless of written submittals. The board may approve the requested classification or a classification which is more intensive than the existing classification, but less intensive than the requested classification.

Staff comments will be available approximately one week prior to the Planning and Zoning Board hearing. These comments will be made available to you at that time. In order to expedite receipt of staff's comments, please provide an c-mail address or fax number below. Alternatively, a copy of staff's comments will be mailed via the U.S. Postal Service.

NOTES:

If your application generates public apposition, as may be expressed in letters, petitions, phone calls, testimony, etc., you are advised to meet with concerned parties in an effort to resolve differences prior to the BCC taking final action on the request; therefore, you are encouraged to meet with affected property owners prior to the public hearing by the Planning & Zoning Board/Local Planning Agency (P&Z/LPA). During the course of conducting the public hearing, if the P&Z/LPA finds the application is controversial, and the applicant has not met with affected property owners, the item shall be tabled to the next agenda to allow such a meeting to take place. If the item is controversial, despite the applicant's efforts to meet with affected property owners, the P&Z/LPA may include, in their motion, a requirement to meet with interested parties again prior to the BCC public hearing. The BCC may also table your request in order for you to meet with interested parties, if this has not occurred prior to the public hearing before the BCC. If you need assistance to identify these parties, please contact the Planning & Zoning Office.

BCC approval of a zoning application does not vest a project nor ensure issuance of a permit. At the time of permit application, land development regulations and concurrency-related level of service standards must be met.

met.			
Please transmit staff's comments via:			
Tom @ FLORIDA-RE. COM (fax number	or U.S. Mail	YesNo
I have received a copy of this notice:			





. Conservation Biology . Land Management . Wetland Delineation . Arboriculture . Research & Consultation . Native Plant & Wildlife Ecology

March 15, 2018

Cooltural Lands LLC Attn: Ezequiel F. Peña Arlen House East Condominiums 100 Bay View Drive, Apt. 1903 Sunny Isles, Miami FL, 33160

RE: Letter Report – Natural Resources / Ecological Assessment and Constraints and Report for Parcel ID 23-36-27-00-5, Tax Account 2317004, Merritt Island, Brevard County, Florida

Dear Mr. Peña:

Floravista, Inc. is pleased to provide this Letter Report describing field work, research, results, and findings as described in the Scope of Consulting Services, which was executed on March 1, 2018. Cooltural Lands LLC ("Client") subcontracted Floravista, Inc. to provide to the Client, the Consulting Services ("Consulting Services") described in the Letter Agreement – Natural Resources / Ecological Assessment and Constraints and Report by Floravista.

The study area is east of and adjacent to N. Courtenay Parkway, comprises approximately 1.02 +/- acre of undeveloped land, parcel: Parcel ID: 23-36-27-00-5, north and adjacent to a developed site, with the address: 5800 N Courtenay Pkwy Merritt Island FL 32953. The Client intends to use the vacant parcel, which is zoned 8U-1 for development of an office and associated stormwater management.

Specifically, the Scope of Consulting Services of this assessment is:

- Generate soil map from the United States Department of Agriculture, Natural Resources Conservation Service.
- Communicate with the local, and jurisdictional Brevard County Natural Resource Management Office regarding buffers, tree preservation/replacement, aquifer recharge areas, wetland and upland maps, parking waivers, and other requirements to be submitted by the Client's for Client's proposed Site Plan Application.
- Conduct a native tree inventory, measure the Diameter at Breast Height (DBH) of native trees, and list and field-label native trees defined as protected or specimen by the Brevard County Code of Ordinances, CH. 62, ART. XIII, DIV. 2 LANDSCAPING, LAND CLEARING & TREE PROTECTION. Map the approximate locations of native trees relative to the parcel boundary
- 4 Following Florida Administrative Code (F.A.C.) 62-340 wetland definitions and field methodology, determine wetlands absence or presence.



- Conduct a Threatened and Endangered Species Assessment to evaluate the occurrence or potential use of the subject property by species listed by the Florida Fish and Wildlife Conservation Commission (FFWCC) or U.S. Fish and Wildlife Service (USFWS), which will include a database search and subject property field review. Flag and provide map of any listed species findings.
- Provide a concise Letter Report to the Client, comprising brief findings, including summary of native trees, wetland determination, and listed species assessments, and applicable Brevard County Natural Resource and Florida Fish and Wildlife Conservation Commission regulatory requirements, if applicable.

RESULTS AND DISCUSSION

Floravista, Inc. senior environmental scientist, Suzanne Kennedy, visited the site with Field Assistants and performed the above-mentioned site-assessments and field-flagging on March 11, 2018, on the study area, Parcel ID: 23-36-27-00-5.

This assessment did not conduct subsurface soil, water quality, archaeological, or hazardous materials investigations as part of. The findings in this assessment reflect conditions on-site at the time of the field investigation (March 11, 2018) and do not preclude the possibility that on-site conditions may change or that protected wildlife species may occur on the site in the future.

General Site Description

The subject area, **Parcel ID: 23-36-27-00-5**, is an upland, vacant, undeveloped, mostly cleared parcel, in un-incorporated Brevard County, and zoned BU-1, a commercial zoning. Assessments revealed no wetlands, no aquifer recharge mapped soils, no hydric mapped soils, no current presence of threatened or endangered wildlife or plant species. The main ecological and natural resource finding on the site is the presence of ten (10) native protected trees and one (1) specimen tree, as defined by Section 62-4332, by the Brevard County Code of Ordinances, CH. 62, ART. XIII, DIV. 2 - LANDSCAPING, LAND CLEARING & TREE PROTECTION.

Native Tree Inventory

Floravista, Inc.'s native tree assessment found the presence of ten (10) native protected trees and one (1) specimen tree, as defined by Section 62-4332, by the Brevard County Code of Ordinances, CH. 62, ART. XIII, DIV. 2 - LANDSCAPING, LAND CLEARING & TREE PROTECTION. Floravista, Inc. marked these trees with blue flagging near the measurement, Diameter at Breast Height (DBH). DBH is defined by Brevard County Code or Ordinances, Section 62-4332 as the diameter of the trunk of a tree, or the sum of the stems of a multi-stemmed tree, measured 4.5 feet above natural or development grade. Floravista wrapped blue flagging around each of the 11 trees described in Table 1 (below) and with permanent marker, gave each tree a unique identification code (FV) for Floravista, hyphen Tree, hyphen numbers 1 through 11, with the common name and the DBH on the flag.

Table 1. Native Trees that Brevard County defines as Protected and Specimen Sizes (Parcel ID: 23-36-27-00-5)

Scientific Name	Common Name	DBH	Field Flag ID (blue flag labels)	Brevard County Natural Resource Definition	Condition (assessed by Floravista, Inc.)
Pinus elliottii	Slash pine	23.9"	FV-Tree-1	Protected	Fair to Good
Quercus virginiana	Live Oak	41.1"	FV-Tree-2	Specimen	Poor
Quercus virginiana	Live Oak	16.3"	FV-Tree-3	Protected	Fair
Pinus elliottii	Slash Pine	16.4"	FV-Tree-4	Protected	Poor
Pinus elliottii	Slash pine	16.7"	FV-Tree-5	Protected	Good
Pinus elliottii	Slash pine	15.9"	FV-Tree-6	Protected	Fair
Quercus virginiana	Live Oak	14.5"	FV-Tree-7	Protected	Fair to Good
Pinus elliottii	Slash pine	19.7"	FV-Tree-8	Protected	Fair to Good
Quercus virginiana	Live Oak	21.3"	FV-Tree-9	Protected	Fair
Quercus virginiana	Live Oak	74.2"	FV-Tree-10	Specimen	Good
Quercus virginiana	Live Oak	16.7"	FV-Tree-11	Protected	Good

Soils, Wetland Determination, Aquifer Recharge Assessment

The soil data were obtained from the Natural Resources Conservation Services (NRCS) Web Soil Survey (https://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/survey/). The NRCS mapped one soils types in the study area: Immokalee sand, 0 to 2 percent slopes sand. The Immokalee series consists of very deep, very poorly and poorly drained soils that formed in sandy marine sediments. Immokalee soils are on flatwoods and low broad flats on marine terraces. Slopes range from 0 to 2 percent. Mean annual precipitation is about 1397 millimeters (55 inches) and the mean annual temperature is about 22 degrees C (72 degrees F) (Source: https://soilseries.sc.egov.usda.gov/OSD_Docs/I/IMMOKALEE.html). Immokalee sand, 0 to 2 percent slopes, is not a hydric (wetland) soil, and not an aquifer recharge soil.

The potential jurisdictional wetlands and surface waters in the study area were investigated in the field based on the methodologies detailed in Chapter 62-340.200(19) Florida Administrative Code (F.A.C) for the Florida Department of Environmental Protections (FDEP), State of Florida Water Management Districts, and the federal definition and methodology in the U.S. Army Corps of Engineers (ACOE) Wetlands Delineation Manual.

Floravista, Inc., determined the absence of jurisdictional wetlands and surface waters on the subject property. No soil, hydrology, or sufficient hydrophytic plants were present to indicate wetland presence. The upper stratum of vegetation were upland species, as defined by. Lower strata of vegetation supported non-hydrophytic plants from our Floravista, Inc. expert field botanist and wetland biologist, Suzanne Kennedy.

Vegetation Assessment

The subject area Parcel ID: 23-36-27-00-5 has been disturbed and maintained with periodic mowing in the front. The parcel (note, from non-survey-flagged boundary visual interpretation) is all upland. Many of the plant species colonizing the parcel are very invasive, non-native plants, as described by the Florida



Exótic Pest Plants Council (www.fleppc.org, FLEPPC 2017). Over ¾ of the site is has been cleared and has a ground cover of ruderal native and non-native plants, such as blackberry (Rubus sp.), Cogon grass (Imperata cylindrical; FLEPPC Category I), shiny blueberry (water action-word-native-plants, shiny blueberry (water action-word-native-plants, shrubby false buttonwood (Spermacoce verticillata; FLEPPC Category II)

The rear, and part of the north and southeast perimeter within the side setbacks or slightly outside the setbacks (locations will be known with survey of the blue flags Floravista wrapped around the native protected and one specimen trees) support the following trees: slash pine (*Pinus elliottii*), scattered live oak (*Quercus virginiana*), schlefera, Queensland umbrella tree (*Schefflera actinophylla*; FLEPPC Category I), and Brazilian pepper (*Schinus terebinthifolia*; FLEPPC Category I). The understory supports wax myrtle (*Myrica cerifera*), saw palmetto (*Serenoa repens*), herbaceous ruderal, weedy groundcover plant species, vines, and slash pine and live oak seedlings.

The following vines range from occassional to moderate throughout the parcel: Muscadine grape (Vitis rotundifolia), poison ivy (Toxicodendron radicans), briar (Smilax sp.), Virginia creeper (Parthenocissus quinquefolia). Vines are growing along the trunks of native trees to their lower canopy branches, especially Briar vines.

Threatened and Endangered Wildlife and Plant Species Assessment

The potential use or presence of the study area by protected species regulated by the Florida Fish and Wildlife Conservation Commission (FWC), Florida Department of Agriculture and Consumer Services (DACS), and the U.S. Fish and Wildlife Service (FWS) was evaluated based on database records and actual observation, signs of scat, prints, or other indications of their presence or utilization of the study area during the field review.

The natural communities in the study area have been altered and rendered largely unsuitable for most listed plant species. Additionally, dumped trash in some areas, and heavy leaf litter and duff under the trees, which are present in the back (east) and northeast small fraction of the property, are not conducive for listed wildlife or plants documented in Brevard County.

No animal tracks, burrows, scat, or other indications of the presence of listed animals were found during the field reconnaissance. Specifically, gopher tortoise (*Gopherus polyphemus*), which are common in Brevard County upland habitats, were not observed during this site review. The FWC Eagle Nest Locator (updated 2014) database identified BE080 as the nearest bald eagle (*Haliaeetus leucocephalus*) nest, inactive, and within the Pine Island Sanctuary, approximately 1.5 miles northwest of the study area, beyond the regulatory 660-foot buffer.

No listed plant species were observed during the field reconnaissance of the project site (March 11, 2018). The onsite habitats are degraded and in poor quality, with non-native, invasive plants, such as

Conclusions and Recommendations:

 The study area contains ten protected trees and one specimen tree, regulated by Brevard County Natural Resources Management Office (BC NRMO). They should be accurately mapped by a Professional, Licensed Surveyor, before the Client has a site plan review with BC



NRMO, to determine the landscape buffer zone, and tree replacement, as necessary for the protect trees.

a. During site plan design, Brevard County Natural Resources Management Department will want to see preservation of the specimen live oak tree, and its root zone, and preservation of protected trees, where feasible. The condition (in Table 1) will help determine which trees would be hazardous if preserved. Verbatim, Brevard County Code or Ordinances Section, 62-4341 (18) states:

"Replacement criteria. Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Where the site, parcel or lot has met canopy coverage requirements as outlined in Section 62-4339, without the use of an Alternative Landscape Enhancement Plan, site, parcel or lot shall not be subject to replacement criteria with the exception of Specimen Trees. Where the removal of a protected or specimen tree is necessary below the minimum canopy preservation percentage required per Section 62-4339, an Alternative Landscape Enhancement Plan shall be required that meets the criteria in Section 62-4344."

b. Replacement native trees can be proposed in the buffers or the front of the parcel, for some of the protected trees, with BC NRMD coordination and approval. Below are the percent DBH replacement requirements:

Verbatim, Brevard County Code of Ordinances, Section 62-4341,

"18 (d) Replaces Protected Trees with new plantings of canopy species trees at a rate of twenty-five percent (25%) of the cumulative Diameter at Breast Height (dbh) of the trees removed, using a minimum fifty (50) percent four (4) inch caliper plantings. The remaining fifty (50) percent replacement plantings shall be a minimum two and one-half (2.5) inch caliper plantings. Of the two and one-half (2.5) inch caliper plantings, up to twenty (20) percent may be non-native. In no event shall undesirable or non-native invasive plantings be used for replacement."

- 2. No Threatened and Endangered plants or animals were found during this assessment.
 - a. No consultation with the FWC or the FWS is anticipated based on this assessment.
 - b. Wildlife move and wildlife assessments cannot guarantee that wildlife will not occur on the site at another time.

I look forward to working with you, by providing environmental/ecological services for the next phases of your project. Floravista, Inc., gladly will provide additional services as mutually agreed upon between Floravista, Inc. and the Client.

If you have any questions about the content or scope of this report, please call or email me.

Sincerely,

Skennedy

President and Ecological Scientist

Floravista, Inc. www.floravista.net

Phone: 321-427-6649 Email: sk@floravista.net Owner's Name: Cooltwal Land, LLC
Hearing Date: May 13, 2021

21200009

THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF BREVARD

- That the affiant posted the notice provided by the Brevard County Planning & Zoning Office, which contains the time(s) and date(s) of the Public Hearing(s) involved.
- Said posted notice contains the name of the applicant, the total acreage of the property in question, the existing land use classification, special use classification or conditional use designation, and the requested amendment to the official zoning maps. Said notice also contains the time and place of the public hearing on the consideration of said application by the Board of County Commissioners of Brevard County, if applicable.
- 3. The said notice has been posted in a conspicuous place on the subject property not more than twenty-five (25) days, nor less than fifteen (15) days prior to the first public hearing before the applicable board (as indicated on notice). If the property abuts a public road right-of-way, the notice has been posted within ten (10) feet of the road right-of-way in such a manner as to be visible from the road right-of-way.

4. The affiant understands that this afficiavit is intended to be submitted as a requirement for a public hearing, and as such, will be officially filed with the Government of Brevard County, Florida.

Sworn and Subscribed before me, this

JONATHAN D. BECKER
Commission # GG 337703
Expires May 22, 2023

(Print, Type, or Stamb Commissioned Name of Natary Public)

Notary Public, State of Florida

Rersonally known OR Produced Identification

THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING

Type of I.D. Produced:





Planning and Development Department

2725 Judge Fran Jamieson Way Building A Viera, Florida 32940

Inter-Office Memo

TO:

Board of County Commissioners

FROM:

Tad Calkins, Director - Planning & Development

Cc:

Frank Abbate, County Manager

John Denninghoff, P.E., Assistant County Manager

DATE:

May 17, 2021

SUBJECT:

Agenda Item: H.6., Cooltural Land, LLC (Thomas R. Jones for Peña)

Submittal (21Z00009) for the May 27, 2021 Meeting Agenda

During the May 13, 2021 North Merritt Island Dependent Special District Board Meeting, staff made the following changes to the Staff Comments (21Z00009) Cooltural Land, LLC. for the record, regarding the request to rezone from General Retail Commercial (BU-1) to Retail, Warehousing, and Wholesale Commercial (BU-2), the following corrections to staff comments:

- 1. Page 1 Table, both current and proposed development potential should be changed from 25,700 square feet to 44,431 square feet;
- 2. Page 2, 2nd to last paragraph and again on Page 4, 2nd line from top of page, the word "vacant" should be replaced with "developed as a retail building."
- 3. Page 4, 3rd to last paragraph, 37.80 should be replaced with 40.36;

Attachment: Staff Comments 21Z00009, revised May 13, 2021.



Planning and Development Department

2725 Judge Fran Jamieson Way Building A, Room 114 Viera, Florida 32940 (321)633-2070 Phone / (321)633-2074 Fax https://www.brevardfl.gov/PlanningDev

Amended May 17, 2021

STAFF COMMENTS 21Z00009

Cooltural Land, LLC (Thomas R. Jones for Peña)

General Retail Commercial (BU-1) to Retail, Warehousing, and Wholesale Commercial (BU-2)

Tax Account Number:

2317004

Parcel I.D.:

23-36-27-00-*-5

Location:

East side of North Courtenay Parkway, approximately 700 feet south of

Crisafulli Road (District 2)

Acreage:

1.02 acres

North Merritt Island Board:

05/13/2021

Board of County Commissioners: 05/27/2021

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	BU-1	BU-2
Potential*	44,431 square feet	44,431 square feet
Can be Considered under the Future Land Use Map	YES CC	YES CC

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

Background and Purpose of Request

The applicant is seeking a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial).

The request is to change from BU-1 to BU-2 in order to accommodate contractor storage yard and flex office/warehouse use. The property is vacant. The property is 1.02 acres.

The original zoning of the property was AU (Agricultural Residential). On 10/31/62, Resolution **Z-854** rezoned the property from AU to BU-1 (Neighborhood Retail Business). Comprehensive Zoning Ordinance **73-13** changed BU-1 (Neighborhood Retail Business) to BU-1 (General Retail Commercial).

Land Use

The subject property retains the Community Commercial (CC) Future Land Use designation. The existing zoning classification BU-1 is consistent with the Future Land Use Designation. The proposed zoning classification of BU-2 is consistent with the Future Land Use Designation.

Applicable Land Use Policies

Future Land Use: FLUE Policy 2.7 — Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation, provided that the listed criteria are met, include the following:

- a) Existing strip commercial
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices:
- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;
- h) Residential uses;
- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;
- I) Transitional uses pursuant to Policy 2.14; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 of the Future Land Use Element.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area. This parcel is located on the east side of Courtenay Parkway, is currently vacant, and lies within the Community Commercial (CC) Future Land Use (FLU) designation. The abutting property to the north is developed as an art studio with retail sales, on the part fronting Courtenay Parkway, and a residence on the rear portion and likewise has split CC/NC FLUE. The two abutting parcels to the east are developed with single-family residences, the western approximately 100 feet of which are part of a drainage pond, with Residential 1 (RES 1) FLU. The parcel to the south is developed as a retail building with CC FLU. The property across Courtenay Parkway to the west is developed with a residence and citrus grove with CC FLU. The site is located within a 200 acre commercial corridor with some mixed residential uses.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The developed character of the surrounding area: part of an approximately 200 acre strip commercial corridor, which contains a mixture of neighborhood, retail commercial, limited outdoor storage uses, with some single-family residences as mixed use on same properties as commercial. Most properties are limited to BU-1 with some BU-2 zoned properties. Behind this corridor, on the abutting properties to the east, are high square footage residential homes on ½ to 1 acre lots with RES 1 FLU.

The closest parcel with BU-2 zoning classification on the full depth of the property, is approximately 1,140 feet north of the subject parcel and north of the Crisafulli Road intersection. It is on a much larger vacant parcel, with a Binding Development Plan (BDP), 14PZ-00118B (ORB 7356, Pages 2762-2766), that limits uses to "all permitted uses in the BU-1 Zoning Classification" and requires "A 20' opaque buffer on the east side shall always be there." The next closest lot with BU-2 the full depth of the property is approximately 8,800 feet to the south. In 1983, Z-6432, a proposed rezoning from BU-1 to BU-2 was denied and Development Review sheet 3b in the file stated: "BU-2 not recommended in this sector, however BU-2 in area; possibly keep front half BU-1."

When evaluated against **FLUE 2.7**, the subject 1.02 acre property could be considered spot zoning of BU-2 in a mixed residential/BU-1 corridor, rather than infill or an extension of similar strip commercial development.

BU-2 allows for more intense uses than BU-1, such as, but not limited to, metal buildings, outdoor storage yards, and warehouses. The intensive nature of BU-2 uses could create noise, light, traffic and other nuisance factors. BU-2 zoning and uses on this corridor have not been primarily located directly adjacent to Courtenay Parkway right-of-way, have natural or developed buffers from abutting residential uses, and are primarily located on the west side of Courtenay Parkway.

There has been one zoning action within a half-mile of the subject property within the last three years.

July 9, 2020, application **20PZ00017** rezoned a 2.23 acre parcel from General Use (GU) to Suburban Estate Use (SEU) located approximately 2,350 feet south of the subject property, on the south side of Kings Way, adjacent to and on the east side of Courtenay Parkway.

North Courtenay Parkway Corridor Study. The proposed rezoning is within the North Courtenay Parkway Corridor Study Area for which staff drafted a report for the Citizen Resource Group (CRG), dated October 2005. The study area is bounded on the north by NASA's Kennedy Space Center, on the east by the rear property lines of properties fronting the east side of North Courtenay Parkway, on the south by the Barge Canal, and on the west by the rear property lines of properties fronting the west side of North Courtenay Parkway. The CRG examined the future land use and zoning for the corridor area and generated the following Land Use recommendations:

LU-1: For properties zoned BU-2, outdoor storage areas shall not be visible from the roadway. An opaque buffer that shields storage areas from view shall be required for BU-2 uses within the North Courtenay Parkway corridor.

LU-2: No bay doors should face the roadway. All such doors should face to the side or rear of the building.

LU-3: No portion of a building constructed of sheet metal shall be visible from North Courtenay Parkway. Stucco, wood siding, brick, and other materials with similar textures are appropriate.

Surrounding Area

The property abutting to the north of the subject property is developed per split zoning of BU-1 on 80 feet closest to Courtenay Parkway and AU (Agricultural Residential) on remainder. The two abutting parcels to the east are developed per Suburban Residential (SR) zoning with a drainage facility on

the western approximately 100 feet of each property and abutting the subject property. The parcel to the south is developed as a retail building with BU-1 zoning. The property across Courtenay Parkway to the west is developed with a residence and citrus grove in BU-1 zoning.

The current BU-1 classification permits retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling. It also does not permit contractor storage yards or outdoor recreational vehicle storage.

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

The AU classification permits single-family residences and agricultural pursuits on 2 ½ acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

Environmental Constraints

<u>Summary of Mapped Resources and Noteworthy Land Use Issues:</u>

- Indian River Lagoon Nitrogen Reduction Overlay
- Floodplain
- Protected and Specimen Trees
- Protected Species

Per Section 62-3724(4) of the floodplain ordinance, the parcel may be subject to compensatory storage for fill brought onto the parcel. Please see floodplain section in NRM comments for more information.

Preliminary Transportation Concurrency

The closest concurrency management segment to the subject property is North Courtenay Parkway, between Hall Road and North Tropical Trial, which has a Maximum Acceptable Volume of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 34.28% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization from 34.28% to 40.36% (LOS C). The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as this site is a proposed commercial development.

The subject property is served with potable water by the City of Cocoa. The property is not serviced by Brevard County sewer. The closest available Brevard County sewer line is located on the opposite side of North Courtenay Parkway, approximately 1,865 feet to the South.

For Board Consideration

The Board may wish to consider whether the request is consistent and compatible with the surrounding area for BU-2 fronting Courtenay Parkway.

NATURAL RESOURCES MANAGEMENT DEPARTMENT Zoning Review & Summary Item # 21Z00009

Applicant: Jones for Peña **Zoning Request**: BU-1 to BU-2

Note: Applicant wants contractor storage yard, warehouse, RV storage, and RV rental.

NMI Hearing Date: 05/13/21; BCC Hearing Date: 05/27/21

Tax ID No: 2317004

➤ This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.

- ➤ In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Indian River Lagoon Nitrogen Reduction Overlay
- Floodplain
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Per Section 62-3724(4) of the floodplain ordinance, the parcel may be subject to compensatory storage for fill brought onto the parcel. Please see floodplain section in NRM comments for more information.

Land Use Comments:

Indian River Lagoon Nitrogen Reduction Overlay

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If sewer is not available, then the use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multistage treatment processes shall be required.

Floodplain

If it is determined that any area of the parcel is within the floodplain, then per Section 62-3724(4) of the floodplain ordinance, any development, land alteration, or grading on North Merritt Island in the area from Hall Road, north to State Road 405, herein after referred to as "Area," is subject to compensatory storage, and written certification from the engineer of record that there will be no adverse flooding impacts upon properties within the Area resulting from the proposed development. Delineation of floodplains, shall use best available pre-alteration ground elevation data. Sealed pre-

existing topographic survey or engineered site plan delineating floodplain limits on the property, if any, with base flood elevation using best available flood elevation data. The engineer shall provide a report that includes full engineering data and analysis, including the hydraulic and hydrologic modelling and analysis demonstrating that there is no impact. Any engineered compensatory storage shall be maintained by the owner in perpetuity. Please call NRM at 321-633-2016 prior to any grading, filling or land alteration activities.

Protected and Specimen Trees

An environmental report, prepared by Floravista, Inc, found several Protected (greater than or equal to 10 inches in diameter) and Specimen trees (greater than or equal to 24 inches in diameter) on the parcel. Prior to any site plan design, a tree survey should be conducted to locate trees that may be integrated into the site plan design, including, the Live Oak that is 74.2 inches in diameter, and in good condition. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. The applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities. Land clearing is not permitted without prior authorization by NRM.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. 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.

NORTH MERRITT ISLAND

DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The North Merritt Island Dependent Special District Board met in regular session on **Thursday**, **May 13, 2021**, at 6:00 p.m., at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Building C, Viera, Florida.

Board members present were: Mary Hillberg, Chair; Gina Lindhorst; Catherine Testa; Jack Ratterman; Jim Carbonneau; Chris Cook; and Ted Balke.

Planning and Development staff present were: Jeffrey Ball, Planning and Zoning Manager; Peter Martin, Planner II; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Minutes

COOLTURAL LAND, LLC (Thomas Jones / Bruce Moia)

A change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 1.02 acres, located on the east side of N. Courtenay Pkwy., approx. 700 ft. south of Crisafulli Rd. (No assigned address. In the Merritt Island area.) (21Z00009) (Tax Account 2317004) (District 2)

Peter Martin - There are some staff report corrections to read into the record. On Page 1 there is a table where, based on corrected FAR, the square footage there in the table changes in both current and proposed, from 25,700 to 44,431, and that results on Page 4, third to last paragraph, second to last sentence, the percentage changes from 37.80 to 40.36 in terms of the MAV and that percentage utilization. It is still a level of C standard. The other thing is that we incorrectly identified the property to the south as being vacant, which affect two places. On Page 2, the second to last paragraph, third to last line, the word 'vacant', and on Page 4, the same thing, second line from the top, the word 'vacant' should be replaced with 'developed as a retail building', because there is a retail building on the property to the south, per the Property Appraiser's records.

Jack Ratterman - The second building down is the old Policchio grove building. The other one is where they have stuff parked in the front.

Gina Lindhorst - It used to be the bagel store.

Ted Balke - And they split the properties.

Mary Hillberg - Are you finished?

Peter Martin - Yes, except I shouldn't have commented on that one property because I'm not sure about the rezoning. There are a lot of properties owned by that family. It might be a different property than what I was thinking of.

Ted Balke - The administration hasn't been out there taking photographs of the property?

Mary Hillberg - We don't know, Ted.

Ted Balke - That's part of the administrative details.

Jack Ratterman - There's an aerial map, Ted.

Mary Hillberg - We have a picture in our map. We're going to hear from the applicant now.

Bruce Moia - I'm the President of MBV Engineering, representing the applicant. My address is 1250 W. Eau Gallie Boulevard, Melbourne. What we're asking for today is a little bit different than the previous request, in that we already have the land use of CC, so we are only asking to go from BU-1 to BU-2, and we do know what we're going to do. We need the BU-2 because we need the storage. Storage is very low intensity, but it can't be done without the BU-2 zoning. We are going to have contractor trades with a small office, mostly storage of materials, and vehicles. It will be very low intensity; it is basically a BU-1 use, but in a lot of municipalities and in the County it requires BU-2. The site is vacant and it is one acre in size. The property to the south appears to be a metal fabrication facility, not a bagel shop anymore. I think that changed recently and the Property Appraiser's Office hasn't caught up yet, but from what I understand they are already operating, so that means the County must have issued them an occupational license. Up and down that corridor, you can see there are plenty of similar uses, a lot of BU-2 uses in BU-1 zoning, whether it be by grandfathering or whatever. I heard the commentary being made about BU-2 zoning, and I heard the words, 'limited' and 'we don't want it', so I don't know if the report says we want to limit the amount of BU-2, or that we don't want anymore BU-2, but we would hope that you would allow BU-2 in this instance so that we can do this low intensity development and get the outdoor storage that we have to have in the requirement of the BU-2. There is pretty much all BU-2 to the north of us once past Crisafulli Road, so it's not unusual for this area, so I think it's pretty compliant with what is around the properties. I'm here to answer any questions you may have.

Mary Hillberg - What are you storing?

Bruce Moia - I don't know if you're familiar with contractor trades, but they usually pop up when you have a lot of development going on, which we do in this county - No. 2 in the country, so that's pretty cool - usually it could be plumbers, it could be drywall guys, and they would have a small office where they do their financials, and they would have an administrative person who does their books, and then they come and store their materials in the back. If there is a 1,000 square-foot unit, there would be 200 square feet of office and 800 square feet of storage for materials that you don't want to leave outside because they would get ruined.

Mary Hillberg - Building materials?

Bruce Moia - Typically, yes, that is what it is. That is the use we are looking for.

Gina Lindhorst - Is it your business that's going to be there?

Bruce Moia - No, not my business. It will be multi-tenant and it will be constructed and leased to contractors.

Gina Lindhorst - It would be several offices?

Bruce Moia - It would be multi-tenant, so it would be several offices.

Gina Lindhorst - A lot of trucks to be stored there, and supplies.

Jim Carbonneau - Didn't we have a similar request recently?

Bruce Moia - If you look at an aerial of that corridor, there are a lot of materials being stored.

Ted Balke - The materials being stored there are basically for the County.

Bruce Moia - What's good about contractor trades is you have storage inside and anything else is usually stored in the rear, so you wouldn't see it from the road. There would be a parking lot with a landscape buffer, the building, and then everything would be in the back. From the front it would look like a typical commercial building use.

Mary Hillberg - The property to the rear of your property is a development.

Bruce Moia - Yes, but there is a big stormwater pond between us and them, and we would be required to build a wall.

Mary Hillberg - So, you would have a buffer?

Bruce Moia - We have to per code.

Ted Balke - What are you doing about the lemon trees that are there?

Bruce Moia - We are going to do everything we can to save the 72-inch oak tree; it is a nice tree, and fortunately it's on the north property line so it should be easy to save.

Ted Balke - What about the other 10 that are supposed to be blue ribbon?

Bruce Moia - We will work with staff and preserve as much as we can, and we will mitigate what we have to. That is way down the line, we are hoping to get approval and then we will work out those details with staff during the site plan process.

Ted Balke - You actually have a usage and explained what you are going to do on the property, but you don't have any drawings or anything.

Bruce Moia - No, obviously if we're not successful the expense of creating construction plans would be premature, so that typically doesn't happen at a rezoning request.

Ted Balke - We're left with the same thing about a restricted BU-2 piece of property on the north corridor, which is what the small area study was trying to restrict.

Bruce Moia - I understand. We are amenable to you striking any undesirable uses as long as we can do what we want.

Ted Balke - You're looking to put a limitation on what you're doing?

Bruce Moia - If it's a requirement.

Jim Carbonneau - What are the proposed hours of operation?

Bruce Moia - A typical business.

Ted Balke - You wouldn't know with that type of business, and you wouldn't know what type of activity he's going to create on the roadways. You wouldn't know what type of requirements he's going to have with sewage, water, and everything else. It could be a congested area right there because of the fact that you have contractors going in and out with some kind of tractors or trailers; you have deliveries that are going to be going in the back to accommodate his warehousing. These are all considerations that we were looking at when we did the small area study, which is why we didn't want that kind of environment with a BU-2.

Gina Lindhorst - The zoning map doesn't note it, but there is no sewer available to these properties that I can see. It says clearly in the staff notes that there is no sewer.

Ted Balke - Sewer is on the west side only.

Gina Lindhorst - I think the majority of all of the properties are BU-1; there are very few BU-2's.

Ted Balke - There are no BU-2's north of Hall Road.

Mary Hillberg - North of Crisafulli.

Ted Balke - Yes, Crisafulli.

Jim Carbonneau - There is no current sewer on the west side of the street. That is the proposed line from the Ron Dimenna subdivision. Currently there are no plans for anyone else other that subdivision.

Mary Hillberg - So, this would have to be on septic.

Bruce Moia - If it meets the State requirements and can't go on sewer. It would be the same if we were opening up a restaurant, which we could do right now and would be a lot more water and sewer than what we're proposing.

Ted Balke - You would need a very large septic with a grease trap and everything, and you only have an acre that you're working with.

Bruce Moia - I understand. What we are proposing generates very little water and very little sewer.

Ted Balke - I'm more concerned about the large trucks that are going to have to come for deliveries to your storage in the back.

Bruce Moia - There are several uses in the BU-1 that that would be required as well.

Michael Yauch - 565 Indian Bay Boulevard, Merritt Island. Regarding this rezoning request by Cooltural Land, LLC, on May 3rd the North Merritt Island Homeowners Association (NMIHOA) objected to the changing of the zoning on their 1.02-acre parcel from BU-1 to BU-2 based on the Administrative Policies 3.C., inconsistency with the existing patterns of the surrounding development, using historical land use patterns, actual development over past three years. Administrative Policy 4, the adjacent properties zoning and character. Administrative Policy 8(1), consideration of the character of the surrounding properties. Administrative Policies 4 & 5, in that BU-2 zoning would be too intense for commercial development and inappropriate for this area of S.R. 3. BU-1 in this area for

this parcel is appropriate, and the property abuts agricultural land and neighborhood. In the study area, the commercial corridor of S.R. 3, north of Kings Way, to north of Crisafulli, in which this parcel is located, contains only approximately 8% of BU-2 properties; the other approximately 92% being BU-1, EU, and AU. Therefore, as it is stated in the Planning and Development staff notes, under the definition of the Comprehensive Plan, FLU element 2.7, this would make this a 4-spot zoning instead of a zoning natural to this area. The NMIHOA requests this property retain the BU-1 zoning.

Mary Hillberg - Anyone else in the audience who would like to speak? Seeing none, I bring it back to the board and it is closed to the audience.

Ted Balke - There's been a lot of migration of animals since the 2018 survey that was done, and since this is one of the remaining treed areas, overgrown, I would think there might be a request for another survey from the Floravista group to go in there again and make sure there are no more endangered species that have occupied it in these past three years.

Mary Hillberg - Has the County received any public comment on this request?

Jennifer Jones - No, ma'am.

Ted Balke - I'm not sure anybody received anything back there on Kings Way.

Mary Hillberg - This pond behind the property, where did it come from?

Peter Martin - That is part of the drainage for the residential plat behind and it is part of individual lots, so the lot lines go across the pond.

Ted Balke - They don't own it; that's the retainage water that they put in there when they built those homes.

Mary Hillberg - Would this property then be....

Ted Balke - During rains the property gets wet.

Mary Hillberg - Would this property be draining into this drainage pond?

Ted Balke - Yes.

Jeffrey Ball - That will all be dealt with in the site planning process. Each property on its own has to retain the stormwater onsite.

Jim Carbonneau - There is a major study going on right now with the County at Crisafulli Road to consider drainage because of the flooding problems to the north and to the south.

Jeffrey Ball - I'm not aware of any study.

Jim Carbonneau - We have homeowner input, and there is a large one happening, and I live on Crisafulli Road.

Jeffrey Ball - Our department would not handle that kind of a study.

Mary Hillberg - What is the pleasure of the board?

Gina Lindhorst - I think BU-2 is pretty intense for that area and I don't know that the proposed use would need to be BU-2. The majority of the properties on that whole area are BU-1, so it's consistent with the other properties nearby.

Chris Cook - I always refer back to the corridor study, that BU-2 is not what was supposed to be designated as far as the scenic highway. There are 42 luxury townhomes going in, and all of the developments going in on Crisafulli Road and Chase Hammock Road, and they are going to be bringing in a lot of people and there is also development happening on Hall Road. Having a crane and RV storage place right in the back yard of the people to the east....I don't know if you have seen the BU-2 buffers that are existing now, but they are pretty sad. They are supposed to be opaque fencing, but they blow down and the County doesn't have the resources to keep it up. I think BU-2 is too intense for that.

Mary Hillberg - You would recommend BU-1?

Chris Cook - Wasn't the planned industrial park supposed to be closer to KSC? Isn't that where we wanted to move these types of storages, for the construction of the Cape? I think that is a much more appropriate location. That's where we need to try to gently coerce that kind of development.

Gina Lindhorst - You don't think BU-2 would be appealing to people who live nearby?

Chris Cook - No.

Gina Lindhorst - It might reduce their property values.

Chris Cook - Yes. If you have storage in your back yard it can't improve your property values.

Jack Ratterman - I'm for keeping it as-is.

Catherine Testa - I'd like to make a motion to decline the request to change the zoning from BU-1 to BU-2 on account that it is inconsistent with the surrounding residential and AU properties. It is also inconsistent with the character of the neighborhood, everything in the area being BU-1; there is no BU-2 in the vicinity. Also, with the inconsistency of what has gone on in this general vicinity where the development taking place is purely residential. There has been no increase in commercial activity to the BU-2 level. There is BU-2 available to the north of Crisafulli Road, so something like this could easily be up there. There is land available that is already BU-2. My recommendation is to decline it based on those items.

Jim Carbonneau - I'll second.

Gina Lindhorst - We could also list some of the policies.

Mary Hillberg - Which ones would you like to list?

Jack Ratterman - 3.C., 4, 8(1), (4), and (5).

Mary Hillberg called for a vote on the motion and it passed unanimously.

Prepared by:

MBV Engineering, Inc.

Address:

1250 W. Eau Gallie Blvd., Melbourne, FL 32935

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this ______ day of _______, 20___ between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Cooltural Land, LLC (hereinafter referred to as "Developer/Owner").

RECITALS

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

WHEREAS, Developer/Owner has requested the BU-2 zoning classification(s) and desires to develop the Property as contractor trades, warehouse, and storage, and pursuant to the Brevard County Code, Section 62-1157; and

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

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

NOW, THEREFORE, the parties agree as follows:

- 1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
- 2. The Developer/Owner shall limit the allowable permitted uses in BU-2 to those shown on Exhibit B that are not stricken through.

Rev. 5/18/2021

- 3. 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 prior to issuance of an approved development order.
- Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court all costs of recording this Agreement in the Public Records of Brevard County, Florida.
- 5. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and shall be subject to the above referenced conditions as approved by the Board of County Commissioners on _______. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
- Violation of this Agreement shall constitute a violation of the zoning classification and of this
 Agreement. This Agreement may be enforced by Sections 1-7 and 62-5 of the Code of Ordinances of
 Brevard County, Florida, as may be amended.
- 7. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and shall be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any condition is a violation of this Agreement and constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 14 above.
- Severability clause. If any provision of this BDP is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision shall continue in full force and effect without being impaired or invalidated in any way.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above. ATTEST: **BOARD OF COUNTY COMMISSIONERS** OF BREVARD COUNTY, FLORIDA 2725 Judge Fran Jamieson Way Viera, FL 32940 Rachel Sadoff, Clerk of Court Rita Pritchett, Chair (SEAL) As approved by the Board on_____ (Please note: You must have two witnesses and a notary for each signature required. The notary may serve as one witness.) (INSERT BUSINESS NAME or INDIVIDUAL NAME(s)) WITNESSES: as DEVELOPER/OWNER (Witness Name typed or printed) (Address) (President) (Witness Name typed or printed) (Name typed, printed or stamped) STATE OF ______ § COUNTY OF ______§ The foregoing instrument was acknowledged before me, by means of physical presence or ____ online notarization, this ____ day of _____, 20__, by President of , who is personally known to me or who has produced ______ as identification. My commission expires **Notary Public**

(Name typed, printed or stamped)

SEAL

Commission No.:

Sec. 62-1483. Retail, warehousing and wholesale commercial, BU-2.

(1) Permitted uses.

- a. All business uses and all materials and products shall be confined within substantial buildings completely enclosed with walls and a roof, however, retail items of substantial size or which of necessity must remain outside of a building may be permitted to be displayed outside the building. Such retail items include but are not limited to motor vehicles, utility sheds, nursery items such as plants and trees, boats and mobile homes.
- All uses listed below, or other uses of a similar nature compatible with the character of uses described herein:

Administrative, executive and editorial offices.

Antique shops.

Aquariums.

Art goods and bric-a-brac shops.

Artists' studios.

Auditoriums.

Automobile hire.

Automobile repairs, minor and major, as defined in section 62-1102 (also see section 62-1837.6).

Automobile washing.

Bait and tackle shop.

Bakery sales, with baking permitted on the premises.

Banks and financial institutions.

Barbershops and beauty parlors.

Bicycle sales and service.

Billiard rooms and electronic arcades (soundproofed).

Bookstores.

Bottling beverages.

Bowling alleys (soundproofed).

Cafeterias.

Ceramics and pottery; finishing and sales, including production and firing.

Child or adult day care centers.

Civic, philanthropic or fraternal organizations.

Colleges and universities.

Commercial schools offering instruction in dramatic, musical or other cultural activity, including martial arts.

Confectionery and ice cream stores.

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Conservatories.

Convenience stores, with or without gasoline sales.

Curio shops.

Dancing halls and academies (soundproofed).

Display and sales rooms.

Dog and pet hospitals and beauty parlors.

Drug and sundry stores.

Dry cleaning and laundry pickup stations.

Dry cleaning plants.

Dyeing and carpet cleaning.

Electrical appliance and lighting fixtures.

Employment agencies.

Feed and hay for animals and stock.

Fertilizer stores.

Florist shops.

Foster homes.

Fraternities and sororities.

Fruit stores (packing on premises).

Funeral homes and mortuaries.

Furniture stores.

Furriers.

Gift shops.

Glass installation.

Grocery stores.

Group homes, levels I and II.

Hardware stores.

Hat cleaning and blocking.

Hobby shops.

Hospitals.

Ice-plants.

Interior decorating, costuming and draperies.

Jewelry stores.

Kindergartens.

Laboratories.

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Laundries.

Lawn mower sales.

Leather good stores.

Luggage shops.

Mail order offices.

Meat markets.

Medical buildings and clinics, and dental clinics.

Messenger offices.

Millinery stores.

Music, radio and television shops and repairs.

Newsstands.

Non-overnight commercial parking.

Nursing homes.

Optical stores.

Paint and body shops.

Paint and wallpaper stores.

Parks and public recreational facilities.

Pawnshops.

Pet kennels.

Pet shops, with property enclosed to prevent any noxious odors.

Photograph galleries.

Photographic studios.

Plant nurseries.

Plumbing and electrical shops.

Post offices.

Printing services.

Professional offices and office buildings.

Resort dwellings.

Restaurants.

Sale of alcoholic beverages, package only.

Schools for business training.

Schools, private or parochial.

Seafood processing plants not located within 300 feet of any residential zone boundary.

Sharpening and grinding shops.

Ship chandlery.

Shoe repair shops.

Shoe stores.

Single-family residence.

Soft drink stands.

Souvenir stores.

Stationery stores and bookstores.

Tailor shops.

Tearooms.

Telephone and telegraph stations and exchanges.

Television and broadcasting stations, including studios, transmitting stations and towers, power plants and other incidental uses usually pertaining to such stations.

Testing laboratories.

Theaters, but no drive ins.

Ticket offices and waiting rooms for common carriers.

Tobacco stores.

Upholstery shops.

Wearing apparel stores.

Welding repairs (except metal fabrication).

Wholesale salesroom and storage rooms.

Worship, places of.

c. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Assisted living facility.

Automobile and motorcycle repair (major) and paint and body work.

Automobile sales and storage.

Automobile tires and mufflers (new) (sales and service).

Boat sales and service.

Building materials and supplies.

Cabinetmaking and carpentry.

Cemeteries and mausoleums.

Commercial entertainment and amusement enterprises (small scale), subject to conditions in section 62-1921.

Contractor's offices, plants and storage yards.

Crematoriums.

Engine sales and service.

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Farm machinery sales and services.

Garage or mechanical service.

Gasoline service stations.

Manufacturing, compounding, processing, packaging, storage, treatment or assembly of certain products.

Mini-warehouses.

Minor automobile repairs.

Mobile home and travel trailer sales.

Motorcycle sales and service.

Outdoor restaurant seating.

Outside sale of mobile homes.

Preexisting use.

Railroad, motor truck and water freight and passenger stations.

Recovered materials processing facility.

Security mobile home.

Service station for automotive vehicles and U-haul service.

Substations, and transmission facilities.

Tourist efficiencies and hotels and motels.

Treatment and recovery facility.

Warehouses.

Exhibit A

LEGAL DESCRIPTION:

BEGIN AT THE NORTHEAST CORNER OF SECTION 27, TOWNSHIP 23 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA. THENCE RUN SOUTH 00 DEGREES 46'22" WEST ALONG THE EAST LINE OF SECTION

27, A DISTANCE OF 285 FEET TO THE POINT OF BEGINNING. FROM SAID POINT OF BEGINNING CONTINUE SOUTH 00 DEGREES 46'22" WEST ALONG THE EAST LINE OF SECTION 27 A DISTANCE OF 227.88 FEET TO A POINT; THENCE FOR A SECOND COURSE RUN NORTH 89 DEGREES 30'51" WEST PARALLEL TO THE NORTH LINE OF SECTION 27 A DISTANCE OF 191.87 FEET MORE OR LESS TO THE EASTERLY RIGHT OF WAY OF SAID ROAD (COURTENEY PARKWAY) OR STATE ROAD 3; THENCE FOR A THIRD COURSE RUN NORTH 01 DEGREES 04'40" WEST ALONG THE EASTERLY RIGHT OF WAY OF SAID ROAD, A DISTANCE OF 227.88 FEET; THENCE FOR A FOURTH COURSE RUN SOUTH 89 DEGREES 30'51" EAST, A DISTANCE OF 199.29 FEET TO THE POINT OF BEGINNING.

Prepared by:

MBV Engineering, Inc.

Address:

1250 W. Eau Gallie Blvd., Melbourne, FL 32935

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this _____ day of ______, 20__ between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Cooltural Land, LLC (hereinafter referred to as "Developer/Owner").

RECITALS

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

WHEREAS, Developer/Owner has requested the BU-2 zoning classification(s) and desires to develop the Property as contractor trades, warehouse, and storage, and pursuant to the Brevard County Code, Section 62-1157; and

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

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

NOW, THEREFORE, the parties agree as follows:

- 1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
- 2. The Developer/Owner shall limit the allowable permitted uses in BU-2 to those shown on Exhibit B that are not stricken through.

Rev. 5/26/2021

- 3. The Developer/Owner shall provide a twenty (20) foot wide perimeter buffer where subject property abuts a residential zoning and install an eight (8) foot tall opaque fence along the abutting property boundary line.
- 4. 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 prior to issuance of an approved development order.
- Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court all costs of recording this Agreement in the Public Records of Brevard County, Florida.
- 6. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and shall be subject to the above referenced conditions as approved by the Board of County Commissioners on ______. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
- 7. Violation of this Agreement shall constitute a violation of the zoning classification and of this Agreement. This Agreement may be enforced by Sections 1-7 and 62-5 of the Code of Ordinances of Brevard County, Florida, as may be amended.
- 8. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and shall be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any condition is a violation of this Agreement and constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 14 above.
- Severability clause. If any provision of this BDP is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision shall continue in full force and effect without being impaired or invalidated in any way.

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

ATTEST:	BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA 2725 Judge Fran Jamieson Way Viera, FL 32940		
Rachel Sadoff, Clerk of Court (SEAL)	Rita Pritchett, Chair As approved by the Board on		
(Please note: You must have two witnesses serve as one witness.)	and a notary for each signature required. The notary may		
WITNESSES:	(INSERT BUSINESS NAME or INDIVIDUAL NAME(s)) as DEVELOPER/OWNER		
(Witness Name typed or printed)	(Address)		
	(President)		
(Witness Name typed or printed)	(Name typed, printed or stamped)		
STATE OF §			
COUNTY OF §			
The foregoing instrument was acknowled	ledged before me, by means of physical presence or		
online notarization, this day of	, 20, by		
	, President of, who is		
personally known to me or who has produced	as identification.		
My commission expires SEAL	Notary Public		
Commission No.:	(Name typed, printed or stamped)		

Sec. 62-1483. Retail, warehousing and wholesale commercial, BU-2.

(1) Permitted uses.

- a. All business uses and all materials and products shall be confined within substantial buildings completely enclosed with walls and a roof, however, retail items of substantial size or which of necessity must remain outside of a building may be permitted to be displayed outside the building. Such retail items include but are not limited to motor vehicles, utility sheds, nursery items such as plants and trees, boats and mobile homes.
- b. All uses listed below, or other uses of a similar nature compatible with the character of uses described herein:

Administrative, executive and editorial offices.

Antique shops.

Aquariums.

Art goods and bric-a-brac shops.

Artists' studios.

Auditoriums.

Automobile hire.

Automobile repairs, minor and major, as defined in section 62-1102 (also see section 62-1837.6).

Automobile washing.

Bait and tackle shop.

Bakery sales, with baking permitted on the premises.

Banks and financial institutions.

Barbershops and beauty parlors.

Bicycle sales and service.

Billiard rooms and electronic arcades (soundproofed).

Bookstores.

Bottling beverages.

Bowling alleys (soundproofed).

Cafeterias.

Ceramics and pottery; finishing and sales, including production and firing.

Child or adult day care centers.

Civic, philanthropic or fraternal organizations.

Colleges and universities.

Commercial schools offering instruction in dramatic, musical or other cultural activity, including martial arts.

Confectionery and ice cream stores.

Conservatories.

Convenience stores, with or without gasoline sales.

Curio shops.

Dancing halls and academies (soundproofed).

Display and sales rooms.

Dog and pet hospitals and beauty parlors.

Drug and sundry stores.

Dry cleaning and laundry pickup stations.

Dry cleaning plants.

Dyeing and carpet cleaning.

Electrical appliance and lighting fixtures.

Employment agencies.

Feed and hay for animals and stock.

Fertilizer stores.

Florist shops.

Foster homes.

Fraternities and sororities.

Fruit stores (packing on premises).

Funeral homes and mortuaries.

Furniture stores.

Furriers.

Gift shops.

Glass installation.

Grocery stores.

Group homes, levels I and II.

Hardware stores.

Hat cleaning and blocking.

Hobby shops.

Hospitals.

Ice-plants.

Interior decorating, costuming and draperies.

Jewelry stores.

Kindergartens.

Laboratories.

Laundries.

Lawn mower sales.

Leather good stores.

Luggage shops.

Mail order offices.

Meat markets.

Medical buildings and clinics, and dental clinics.

Messenger offices.

Millinery stores.

Music, radio and television shops and repairs.

Newsstands.

Non-overnight commercial parking.

Nursing homes.

Optical stores.

Paint and body shops.

Paint and wallpaper stores.

Parks and public recreational facilities.

Pawnshops.

Pet kennels.

Pet shops, with property enclosed to prevent any noxious odors.

Photograph galleries.

Photographic studios.

Plant nurseries.

Plumbing and electrical shops.

Post offices.

Printing services.

Professional offices and office buildings.

Resort dwellings.

Restaurants.

Sale of alcoholic beverages, package only.

Schools for business training.

Schools, private or parochial.

Seafood processing plants not located within 300 feet of any residential zone boundary.

Sharpening and grinding shops.

Ship chandlery.

Shoe repair shops.

Shoe stores.

Single-family residence.

Soft drink stands.

Souvenir stores.

Stationery stores and bookstores.

Tailor shops.

Tearooms.

Telephone and telegraph stations and exchanges.

Television and broadcasting stations, including studios, transmitting stations and towers, power plants and other incidental uses usually pertaining to such stations.

Testing laboratories.

Theaters, but no drive ins.

Ticket offices and waiting rooms for common carriers.

Tobacco stores.

Upholstery shops.

Wearing apparel stores.

Welding repairs (except metal fabrication).

Wholesale salesroom and storage rooms.

Worship, places of.

Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Assisted living facility.

Automobile and motorcycle repair (major) and paint and body work.

Automobile sales and storage.

Automobile tires and mufflers (new) (sales and service).

Boat sales and service.

Building materials and supplies.

Cabinetmaking and carpentry.

Cemeteries and mausoleums.

Commercial entertainment and amusement enterprises (small scale), subject to conditions in section 62-1921.

Contractor's offices, plants and storage yards.

Crematoriums.

Engine sales and service.

Farm machinery sales and services.

Garage or mechanical service.

Gasoline service stations.

Manufacturing, compounding, processing, packaging, storage, treatment or assembly of certain products.

Mini-warehouses.

Minor automobile repairs.

Mobile home and travel trailer sales.

Motorcycle sales and service.

Outdoor restaurant seating.

Outside sale of mobile homes.

Preexisting use.

Railroad, motor truck and water freight and passenger stations.

Recovered materials processing facility.

Security mobile home.

Service station for automotive vehicles and U-haul service.

Substations, and transmission facilities.

Tourist efficiencies and hotels and motels.

Treatment and recovery facility.

Warehouses.

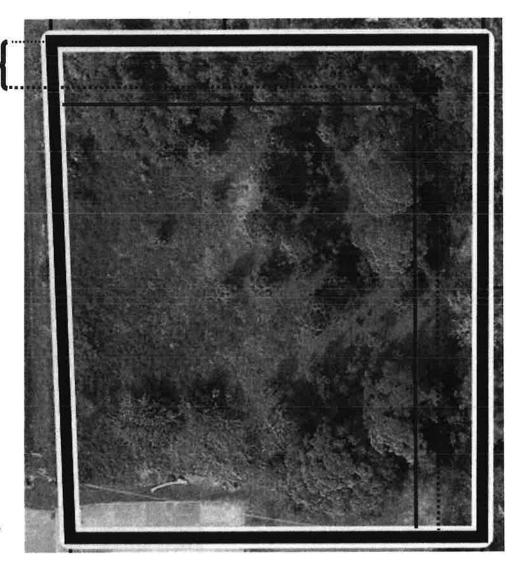
new BDP



Vegetative {
Suffer on N & E

(No administrative waiver of any portion of this as would normally be allowed down to 13.2'. 20' is > 50% larger.)

NOT TO SCALE

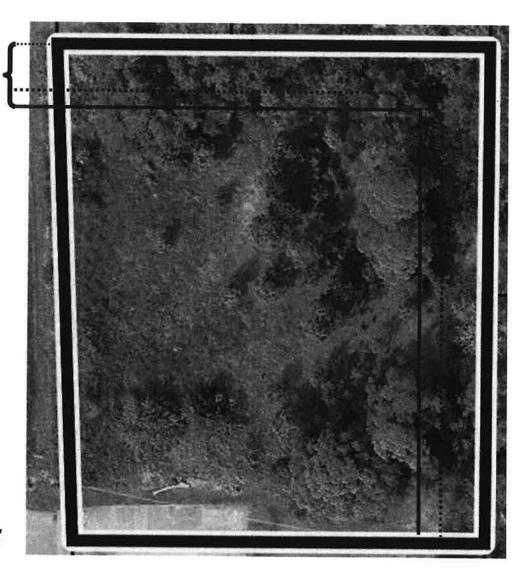


25' Use Buffer on N & E

Basically all that can be done here is maintaining buffer and fencing.

No parking, storage, sales, etc.

NOT TO SCALE

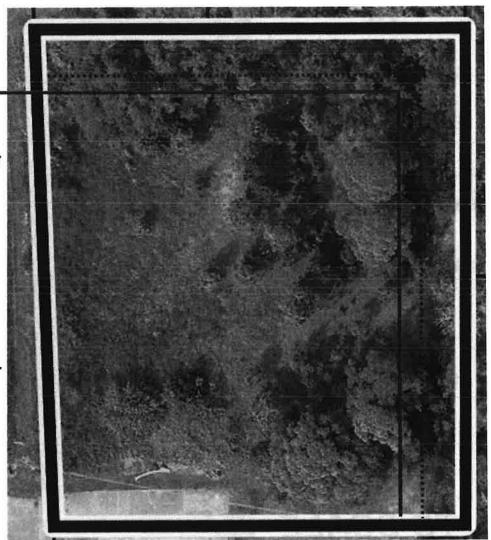


In addition to veg.
buffer and use buffer:
8' (from finished floor
elevation)
OR
12' (from filled grade)
OPAQUE FENCE
(applicant's choice of PVC or
wood)
installed at 25' use
buffer along N & E

(BU2 typically have req't between 0 and 6' from existing grade at Installation location.)

F.F.E. (fill + slab + flooring) or even filled grade is substantially higher...

> NOT TO SCALE



BDP PRECLUDED USES NORMALLY PERMITTED UNDER BU-2:

From Sec. 62-1483 (1) b.:

Aguariums

Auditoriums

Automobile hire

Automobile repairs (as defined in Section 62-1102)

Automobile washing

Billiard rooms and electronic arcades

Bottling beverages

Bowling alleys

Cafeterias

Child or adult day care centers

Colleges and universities

Commercial schools offering instruction in dramatic, musical or other cultural activity, including martial arts

Conservatories

Convenience stores, with or without gasoline sales

Dancing halls and academies

Dry cleaning and laundry pickup stations

Dry cleaning plants

Dyeing and carpet cleaning

Fertilizer stores

Foster homes

Fraternities and sororities

Funeral homes and mortuaries

Furriers

Group homes, levels I and II

Hospitals

Ice plants

Kindergartens

Laundries

Nursing homes

Paint and body shops

Parking lots (commercial)

Pawn shops

Pet kennels

Pet shops

_Resort dwellings

Add Boat Sales

BDP PRECLUDED USES NORMALLY PERMITTED UNDER BU-2 (continued):

From Sec. 62-1483 (1) b. (continued):

Sale of alcoholic beverages, package only
Seafood processing plants (would not be allowed anyway due to contiguous residential property to the east)
Sharpening and grinding shops
Television and broadcasting stations
Theaters
Tobacco stores
Welding repairs

From Sec. 62-1483 (1) c.:

Assisted living facility Automobile and motorcycle repair (major) and paint and body work Automobile tires and mufflers (new) (sales and service) Boat sales and service Cemetaries and mausoleums Commercial entertainment and amusement enterprises Crematoriums Engine sales and service Farm machinery sales and services Garage or mechanical service Gasoline service stations Manufacturing, compounding, processing, packaging, storage, treatment or assembly of certain products Motorcycle sales and service Railroad, motor truck and water freight and passenger stations Recovered materials processing facility Service station for automotive vehicles and U-haul service Substations, and transmission facilities Tourist efficiencies and hotels and motels Treatment and recovery facility