



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

22Z00022

Derosa Holdings, LLC

**Amendment to an Existing Binding Development Plan (BDP)
in RU-2-12 (Medium-Density Multiple-Family Residential)**

Tax Account Number: 2534267
Parcel I.D.: 25-37-26-25-H-2.01
Location: 2050 S Atlantic Ave Cocoa Beach FL 32931; West side of S. Atlantic Avenue, 96 feet north of Summer Street, Cocoa Beach (District 2)
Acreage: 0.24 acres

Planning and Zoning Board: 7/18/2022

Board of County Commissioners: 8/04/2022

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	RU-2-12 with BDP	RU-2-12 with amendment to existing BDP
Potential*	2-units (detached on 1-lot)	2-units (detached on 1-lot)
Can be Considered under the Future Land Use Map	YES CC	YES CC

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

Background and Purpose of Request

The applicant requests to amend the existing BDP recorded in ORB 9482, Pages 763 – 768 to change the restriction of single-ownership of the 0.24 acre subject property. The existing BDP, approved under **21Z00059** on April 21, 2022, as submitted by the applicant, allows for the development of two (2) detached residential units for residency or rental, and stipulates that the property shall remain under one ownership. The proposed BDP amendment adds this language as follows: *The property shall remain under one ownership, unless platted or developed as a condominium.*

The existing BDP replaced a prior BDP that was approved as part of Zoning action **Z-11033** on February 15, 2005 and recorded in ORB 5422, Pages 5613 – 5619. The prior BDP, of which the 0.24 acre subject property represented only a fraction of the overall BDP area, allowed for the development of a 13-unit luxury townhouse project on 1.41 acres.

A prior zoning action request was denied on August 2, 2012 under **12PZ-00038**. That request attempted to change the RU-2-12 with BDP zoning to BU-1-A (Restricted Neighborhood Retail Commercial) with removal of the existing BDP.

Land Use

The subject property is currently designated as Community Commercial FLU. The RU-2-12 zoning classification can be considered consistent with the Community Commercial FLU designation. The amendment of the BDP does not impact the FLU designation and does not increase the development density of this site.

Applicable Land Use Policies

FLUE Policy 1.2 - Public Facilities and Services Requirements

Minimum public facilities and services requirements should increase as residential density allowances become higher. The following criteria shall serve as guidelines for approving new residential land use designations:

Criteria:

- C. In the Residential 30, Residential 15, Residential 10, Residential 6 and Residential 4 land use designations, centralized potable water and wastewater treatment shall be available concurrent with the impact of the development.
- D. Where public water service is available, residential development proposals with densities greater than four units per acre shall be required to connect to a centralized sewer system.
- E. Where public water service is not available, residential development proposals with densities greater than two units per acre shall be required to connect to a centralized sewer system.
- F. The County shall not extend public utilities and services outside of established service areas to accommodate new development in Residential 2, Residential 1 and Residential 1:2.5 land use designations, unless an overriding public benefit can be demonstrated. This criterion is not intended to preclude acceptance of dedicated facilities and services by the County through MSBU's, MSTU's and other means through which the recipients pay for the service or facility.

As the project's intensity is 12 units per acre based on zoning, connection to centralized sewer and potable water is required under Criterion C, above. Site is currently unimproved and not connected to utilities. The subject site is within the City of Cocoa service area for potable water and within the City of Cocoa Beach service area for wastewater treatment.

FLUE Policy 2.10 - Residential Development in Neighborhood Commercial and Community Commercial Land Use Designations

Residential development or the integration of residential development with commercial development shall be permitted in the Neighborhood Commercial and Community Commercial land use

designations, provided that the scale and intensity of the residential/mixed use development is compatible with abutting residential development and areas designated for residential use on the Future Land Use Map. Residential development is permissible in these commercial land use designations at density of up to one category higher than the closest residentially designated area on the Future Land Use Map (FLUM) which is on the same side of the street. Increases in density beyond this allowance may be considered through a public hearing. In the CHHA, however, residential development is strictly limited to the density of the closest residentially designated area on the FLUM that is on the same side of the street. Such residential development, as described above, shall be allowed to utilize the following characteristics:

a) Residential uses within Neighborhood Commercial and Community Commercial designations shall be encouraged to utilize neotraditional neighborhood development techniques, such as narrower road rights-of-way, mid-block pedestrian pass-throughs, alleys, smaller lot sizes, on-street parking, reduced lot line setbacks and public transit facilities.

b) Residential density bonuses as set forth in Policy 11.2 may be considered in addition to the bonus stated in the above policy within Neighborhood Commercial and Community Commercial designations as an incentive for redevelopment and regentrification if the proposed development will address serious incompatibility with existing land uses, is adequately buffered from other uses, is located along major transportation corridors, and meets the concurrency requirements of this Comprehensive Plan.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 of the Future Land Use Element.

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

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

Criteria:

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

The applicant has stated the intent to develop two (2) detached residential units for residency or rental. It is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area.

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

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

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

1. historical land use patterns;

There is a mix of multi-family and commercial zoning classifications in the general area. There are five (5) FLU designations (CC, NC, RES 30 DIR, RES 15, and REC) within 500 feet of the subject property. The most recent FLU amendment request in this area proposed to change the FLU from RES 15 to CC and was denied under 16PZ00055 (16S.05) on November 3, 2016 (Resolution 16-223). The original future land use designations in this area at the time of the 1988 adoption of the comprehensive plan was Mixed Use on the west side of S. Atlantic Avenue and Residential on the east side with a maximum density of 30 dwelling units per acre.

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

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

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

While there has not been any actual development within this area in the preceding three (3) years, two zoning actions have been approved within one-half mile.

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

Per Policy 1.2(D) of the Future Land Use Element, residential development proposals with densities greater than four units per acre shall be required to connect to a centralized sewer system. As the project's intensity is 12 units per acre, connection to centralized sewer and potable water is required. Site is currently unimproved and not connected to utilities. The subject site is within the City of Cocoa service area for potable water and within the City of Cocoa Beach service area for wastewater treatment.

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

The character of the area is multi-family residential use with supportive commercial establishments servicing the area. While the subject property is immediately adjacent to undeveloped lots, commercial uses in the surrounding area include a self-storage mini-warehousing and a religious facility to the north. The property to the west across Atlantic Avenue is developed as multi-family and to the east, across highway A1A is undeveloped land zoned GML and owned by Brevard County.

There were three zoning actions within a half-mile of the subject property within the last three years. **21Z00050**, approved by the Board on April 7, 2022, was a request to change RU-2-15 (Medium Density Multi-Family) to BU-1 (General Retail Commercial) on 0.67 acres located on the west side of Highway A1A (S. Orlando Ave.), approximately 185 feet north of Crescent Beach Drive. **21PZ00091**, approved by the Board on March 22, 2022, requested the removal of a BDP in an RU-2-12 (Medium Density Multi-Family Residential) zoning classification, with a new BDP limiting development to a maximum of two units on 0.23 acres located on the southeast corner of S. Atlantic Ave. and Summer Street (2060 S. Atlantic Ave.). **21PZ00090**, approved by the Board on March 3, 2022, requested the removal of a BDP in an RU-2-12 (Medium Density Multi-Family Residential) zoning classification, with

a new BDP limiting development to a maximum of two units on 0.19 acres located at the northeast corner of Summer Street and Highway A1A (S. Orlando Ave.). The current RU-2-12 classification permits multiple-family residential uses or single-family residences at a density of up to 12 units per acre on 7,500 square foot lots.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Undeveloped land	RU-2-12	CC
South	Undeveloped land	RU-2-12	CC
East	Undeveloped land (across S. Atlantic Ave.)	GML	REC
West	Undeveloped land	RU-2-12	CC

The adjacent lots to the north, south and west within this block are all undeveloped and zoned RU-2-12 with BDP restrictions. The BDP restriction requires that the development style for these lots is to be as attached luxury townhouses (fee-simple ownership). In this scenario, the BDP doesn't require all buildings to be attached in one building, only that thirteen (13) such units can be created over the property. It is unknown whether a site plan will be submitted for individual attached duplex style townhomes or whether a single 11-unit townhouse building will be proposed upon the remaining lot area.

To the east lying east of S. Atlantic Avenue is vacant property zoned Government Managed Lands (GML) and owned by Brevard County. This site is undeveloped at this time but may be utilized for its beach frontage as a passive park.

RU-2-12 classification permits multiple-family residential uses or single-family residences at a density of up to 12 units per acre on 7,500 square foot lots.

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

Preliminary Concurrency

The closest concurrency management segment to the subject property is US Highway A1A, between South end of One-way pairs to Minutemen Causeway, which has a Maximum Acceptable Volume (MAV) of 19,440 trips per day, a Level of Service (LOS) of D, and currently operates at 47.00% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development potential of this site falls below the minimum number of new residential lots that would require a formal review.

The parcel has access to public water by the City of Cocoa and centralized sewer may be available from the City of Cocoa Beach.

Environmental Constraints

- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- Land Clearing and Landscape Requirements
- Protected Species

No noteworthy land use issues were identified. The subject parcel appears to contain aquifer recharge soils and is located within the Indian River Lagoon Septic Overlay Map. Gopher tortoises can be found in areas of aquifer recharge soils. 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.

No formal review by the Natural Resources Management Department is required for this change to Binding Development Plan (BDP). Natural Resources Management (NRM) reserves the right to assess consistency with environmental ordinances at all applicable future stages of development, including any land alteration permits or landscape restoration plans.

For Board Consideration

The Board may wish to consider whether the request is consistent and compatible with the surrounding area.