



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>

BOARD OF COUNTY COMMISSIONERS

STAFF COMMENTS

22Z00027

Jacob Aaron Corporation, Gigi II, LLC, BDM Corp., and Michael & Lori Melzer

GU (General Use), TU-2 (Transient Tourist Commercial), and BU-1 (General Retail Commercial) with One BDP to RU-2-15 (Medium-Density Multiple-Family Residential) and Removal of BDP

Tax Account Numbers: 2312160, 2312187, 2312250, 2312251, 2312255, 2312260, 2312262, 2312264, 2312276, 2312301, 2312307, 2312312, 2312332, 2312333, 2312334, 2312339, 2319284

Parcel I.D.s: 23-35-27-00-03, 23-35-27-00-29, 23-35-27-00-92, 23-35-27-00-93, 23-35-27-00-96, 23-35-27-00-273, 23-35-27-00-309, 23-35-27-00-336, 23-35-27-00-304, 23-35-27-00-298, 23-35-27-00-257, 23-35-27-00-252, 23-35-27-00-329, 23-35-27-00-330, 23-35-27-00-261, 23-35-27-00-331, & 23-35-27-00-259

Location: On the north side of Port St. John Parkway approximately 1,600 feet west of Grissom Parkway (District 1)

Acreage: 20.88± acres

Planning & 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 cannot 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	GU, TU-2, and BU-1	RU-2-15
Potential*	<ul style="list-style-type: none"> • 0 SFR unit in GU • Up to 842,015 sq. ft. (1.0 FAR) of commercial 	313 multi-family units
Can be Considered under the Future Land Use Map	YES CC and NC	No; Requires RES 15**

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. ** A companion application, **22SS00006**, if approved would change the Future Land Use designation on 20.88 acres from Community Commercial (CC) and Neighborhood Commercial (NC) to Residential 15 (RES 15).

Background and Purpose of Request

The applicants are requesting to change the zoning of a 20.88± acre property from GU (General

Use), TU-2 (Transient Tourist Commercial), and BU-1 (General Retail Commercial) with One BDP to RU-2-15 (Medium-Density Multiple-Family Residential) and Removal of BDP in order to develop an apartment complex.

The subject property consists of seventeen parcels that are undeveloped.

The GU portion of the property retains the original zoning. The BU-1 and TU-2 portions of the property were rezoned from GU to BU-1 and TU-2 with a BDP on May 7, 2009 as zoning action **Z-11493**. That BDP, recorded in ORB 5945, Pages 1177-1182, limits the number of hotel rooms to a maximum of 220 rooms on the property and limits commercial square footage, excluding hotel, to 335,000 square feet.

Land Use

The subject property is currently designated as Community Commercial (CC) and Neighborhood Commercial (NC) Future Land Use (FLU). A companion application, **22SS00006**, if approved, would change the Future Land Use designation from CC and NC to RES 15 on the entire property. The proposed RU-2-15 zoning is consistent with the proposed RES 15 FLU.

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 15 units per acre, connection to centralized sewer and potable water is required under Criterion C, above. Site is currently unimproved and not connected to utilities.

FLUE Policy 1.4 - The Residential 15 land use designation affords the second highest density allowance, permitting a maximum density of up to fifteen (15) units per acre, except as otherwise may be provided for within this element.

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 proposed use of developing an apartment complex. 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;

Port St. John Parkway is a commercial corridor with CC Future Land Use designations along the majority of the corridor to provide an array of services for local and regional neighborhoods and tourist markets.

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 have not been any development approvals within the past three (3) years, there is one pending zoning action, 22Z00020, to rezone 17.70 acres from GU, BU-1 and BU-1-A with two BDPs to all BU-2 and removal of two BDPs.

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

In general, the character of the area along Port St. John Parkway is mostly undeveloped commercial parcels. Existing developed commercial parcels include an office building immediately south of the subject property and a medical center further to the east on the south side of Port St. John Parkway. Due to the I-95 interchange, Port St. John Parkway provides vehicular access into the Port St. John community and is intended to serve as a commercial corridor to provide an array of services for local and regional neighborhoods and tourist markets.

The applicants are proposing a 313-unit apartment complex. The closest established residential neighborhood is approximately 2,000 feet to the north of the subject property, and undeveloped residential land is adjacent to the north, south and west of the subject property.

If the zoning is approved, the subject property would be introducing RU-2-15 zoning in this area. Currently, there is no multi-family zoning on Port St. John Parkway. The closest developed RU-2-15 zoning is approximately 2.4 miles to the east at Cedar Lake Drive.

The proposed RU-2-15 zoning classification permits multiple-family residential uses or single-family residences at a density of up to 15 units per acre on 7,500 square foot lots.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Undeveloped land	GU and RU-1-11	RES 4 and PUB-CONS
South	One office building and Undeveloped land (across Port St. John Parkway)	GU, RU-1-11 and TU-2	CC and RES 4
East	Undeveloped land	GU and BU-1	CC and RES 4
West	Stormwater pond	RU-1-11	PUB-CONS

BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

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

The RU-1-11 classification permits single family residences on minimum 7,500 square foot lots, with a minimum width and depth of 75 feet. The minimum house size is 1,100 square feet. RU-1-11 does not permit horses, barns or horticulture.

TU-2 is a transient tourist commercial classification, intended to accommodate tourist needs adjacent to interstate and expressway interchanges.

There have been no zoning actions within a half-mile radius of the subject property within the last three years.

There are two pending applications: **22SS00003** is an application for a small scale comprehensive plan amendment to change the future land use on 17.70 acres from RES 4, CC and NC to all CC and **22Z00020** is the companion application to rezone from GU, BU-1 and BU-1-A with two BDPs to all BU-2 and removal of two BDPs.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Port St. John Parkway, between I-95 to Grissom Parkway, which has a Maximum Acceptable Volume (MAV) of 39,800 trips per day, a Level of Service (LOS) of D, and currently operates at 27.54% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 7.49%. The corridor is anticipated to operate at 35.03% of capacity daily. The proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review.

The school concurrency indicates there is enough capacity for the total of projected and potential students from the proposed development. There is sufficient capacity at Fairglen Elementary School and Cocoa Jr Sr High School for the total of projected and potential students from this development.

The subject parcel is within the City of Cocoa's service area for potable water. The closest Brevard County sewer line is approximately 0.8 miles north of the subject property at Fay Boulevard.

Environmental Constraints

- Wetlands/Hydric Soils
- Aquifer Recharge Soils
- Floodplain
- Protected Species
- Protected and Specimen Trees

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

The subject parcel contains mapped wetlands. A wetland delineation will be required prior to any land clearing activities or site plan application. Per Section 62-3694(c)(2), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one unit per five acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property as defined in Section 65 694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with Section 62-3696.

The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

For Board Consideration

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

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Rezoning Review & Summary
Item # 22Z00027**

Applicant: Rezanka for Miller

Zoning Request: TU-2, GU, & BU-1 w/ BDP to RU-2-15 & remove BDP

Note: Applicant wants to develop a 313-unit apartment complex.

P&Z Hearing Date: 07/18/22; **BCC Hearing Date:** 08/04/22

Tax ID Nos: 2312160, 2312187, 2312250, 2312251, 2312255, 2312260, 2312262, 2312264, 2312276, 2312301, 2312307, 2312312, 2312332, 2312333, 2312334, 2312339, & 2319284

- 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:

- Wetlands/Hydric Soils
- Aquifer Recharge Soils
- Floodplain
- Protected Species
- Protected and Specimen Trees

The subject parcel contains mapped wetlands. A wetland delineation will be required prior to any land clearing activities. The wetland delineation shall be verified at time of site plan submittal. Per Section 62 3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For multi-family parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65 3694(c)(6). Any permitted wetland impacts must meet the requirements of Section 62 3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.

A majority of the project area is mapped as being within the isolated floodplain. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Per Section 62-3724(3)(d), compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within the isolated floodplain greater than one third (1/3) acre in size.

Land Use Comments:

Wetlands/Hydric Soils

The subject parcel contains mapped National Wetlands Inventory (NWI) wetlands, SJRWMD wetlands, and hydric soils (Anclote sand & St. Johns sand), as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service Soils Survey maps, respectively. All are indicators that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities. The wetland delineation shall be verified at time of site plan submittal. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For multi-family parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.

Floodplain

A majority of the project area is mapped as being within the isolated floodplain as identified by the Federal Emergency Management Agency and as shown on the FEMA Flood Map. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Per Section 62-3724(3)(d), compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within the isolated floodplain greater than one third (1/3) acre in size. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Aquifer Recharge Soils

St. Johns sand may also function as an aquifer recharge soil. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. There is a large area of mapped Florida Scrub Jay occupancy in the vicinity of the property, and there is potential that Gopher Tortoises inhabit the site. 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.

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees may exist on the parcel. A tree survey will be required at time of a site plan submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. During site plan design, the applicant is encouraged to use a low-water use plant palette such as xeriscape plants and trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.