



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

25Z00035

Paul S & Cheryl A Pearson – Steve Totty

RU-1-9 (Single Family Residential) to RU-2-6 (Low-Density Multi-Family residential)

Tax Account Number: 2611660
Parcel I.D.: 26-38-32-52-*-18
Location: East Side of Highway One 600 feet South of Coquina Ridge and
670 feet north of E. Elm St. (District 4)
Acreage: 0.81 acres

Planning & Zoning Board: 11/17/2025
Board of County Commissioners: 12/11/2025

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-1-9	RU-2-6
Potential*	1 Single-Family	4 Multi-Family units
Can be Considered under the Future Land Use Map	YES RES 6	YES RES 6

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

Background and Purpose of Request

The applicant is requesting to change the zoning from RU-1-9 to RU-2-6 on a 0.81 acre site. The purpose of the request is to retain improvements that were in place at the time of purchase (April 25, 2025). The improvements include a single-family home built in 1976, as well as a detached structure built in 2006. The 2006 structure includes a 792 square foot ground-level drive-through portico, and a ground-level 900 square foot garage on the west side of the portico. On the east side of the portico is a 891 square foot rental unit 1. The remainder of the 2006 structure includes a second-floor area with rental units 2 and 3, each containing 660 square feet. The request for RU-2-6 low-density multi-family units is consistent with the RES 6 FLU.

Potential land development constraints include, but are not limited to, structural height standards (Section 62-1371(8)(a), Brevard County Code of Ordinances), breezeway/visual corridor requirements (Section 62-2105), and parking requirements (Section 62-3206). The subject property abuts a single-family zoned parcel to the north, which will restrict building height to 35 feet. The subject property requires a 30% breezeway corridor with its new zoning. The existing improvements impede this requirement, and a variance has been submitted. The site is sufficient in size to accommodate the required parking, which will be addressed in a site plan.

RU-2-6 zoning classifications encompass lands devoted to low-density multifamily residential purposes, together with such accessory uses as may be necessary or are normally compatible with residential surroundings. RU-2-6 permits multi-family or single-family residential at a density of up to six units per acre on 7,500 square foot lots. The subject property is 0.81 acres. With an allowable density of 6 units per acre (RES 6), the site can support 4 units. Permitted uses within the RU-2-6 zoning classification include multifamily and single family dwellings, duplexes, and resort dwellings (i.e. short-term rentals).

RU-1-9 classification encompasses lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet. Multifamily dwellings are not permitted within this zoning classification. Resort dwellings are permitted with conditions in the RU-1-9 classification, but the subject property does not currently meet the locational standards under Section 62-1841.5.5, Brevard County Code of Ordinances.

25V00055 variance application addressed required setbacks of the new RU-2-6 zoning. The variance addresses the breezeway requirements for a multi-family use as well. Item 1) is requesting 6.1 feet from the south 10 ft breezeway requirements. Item 2) is to allow 1.6 ft from the required 10 ft side (north) setback for the principal structure; 3) is to allow 6.1 feet from the required 10 ft side (south) setback for the principal structure and 4) is to allow 2.2 ft from the required 10 ft side (south) setback for a second primary structure.

The Board of Adjustment Hearing for the proposed variances occurred on October 15, 2025. The variances were granted with a vote of 4 to 0. No objections were noted.

The subject property was created July 1, 1983, and recorded in ORB 2440, Page 53. It is located at 4295 N Highway 1, Melbourne.

Zoning History:

Z-2980. The subject property had a blanket rezoning as of June 1, 1972, that changed the RU-1-A to its current RU-1-9.

There are no active code enforcement cases on the subject property. However, there have been multiple past code enforcement complaints involving the subject property including, but not limited to, complaints regarding the operation of resort dwellings. The most recent of these cases was in 2021 (21CE-00319); the case was complied prior to hearing (advertisements were taken down).

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Single Family House	RU-1-9	RES 6
South	Vacant Site	BU-1	NC
East	Class III waters	N/A	N/A
West	Retention Pond By DOT	BU-1 and RU-1-7	CC and RES 15

To the North of the subject property is a single-family home on a 0.60 acre site. It was built in 1956 and is located on a site with RU-1-9 zoning and a RES 6 FLU.

To the South is a vacant parcel that is 0.91 acres in size, zoned BU-1 and has a NC (neighborhood commercial) FLU designation.

To the East of the subject property is the Indian River and to the West across Highway 1 is a retention pond owned by the State of Florida Department of Transportation.

The BU-1 general retail commercial zoning classification encompasses land devoted to general retail shopping, offices and personal services to serve the needs of the community. 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.

RU-1-9 classification encompasses lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet.

RU-1-7 classification encompasses lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings on minimum 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet. The minimum house size is 700 square feet.

Future Land Use

The subject property's RU-1-9 zoning classification is considered consistent with the RES 6 Future Land Use designation provided on the FLUM series contained within Chapter XI – Future Land Use Element of Brevard County's Comprehensive Plan. The applicant's request for RU-2-6 zoning classification is considered consistent under the current RES 6 FLUM designation.

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.

The parcel is within the City of Melbourne utilities service area for public water and within Brevard County's service area for centralized sewer.

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

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

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

Criteria:

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

Development would need to meet performance standards set forth in code sections 62-2251 through 62-2272 and will be reviewed at the site plan review stage should the zoning action and Future Land Use change be approved. The proposal 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 (Master Appraiser Institute) appraisal can determine if material reduction has or will occur due to the proposed request.

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

- 1. historical land use patterns:

The subject property fronts on Highway 1 south of the Palm Shores municipality. Highway 1 is urban principal arterial roadway with a mixture of

residential, commercial and waterfront residential. The FLU designations along this section of Highway 1 vary and include RES 6, RES 15, NC (Neighborhood Commercial) and CC (Community Commercial). The subject property is located between the east side of Highway 1 and the Indian River.

25SS00007 was recently approved (October 2, 2025). It was a change from a dual classification of CC and RES 15 to all CC across from the subject property on the west side of Highway 1.

There are two parcels in proximity with multi-family zoning. Four hundred feet southwest of the subject property is an RU-2-10 parcel on the west side of Highway 1. The address of this parcel is 4246 N. Highway 1. This property is currently improved with a single-family house built in 1951; a duplex built in 1973 as well as a single wide manufactured house built in 1975.

The second parcel is vacant and located approximately 400 feet to the south on the same side of the highway. This parcel has a dual zoning of RU-2-15 on the river front portion and BU-1 on the west side.

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.

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

There has been a recent rezoning across from the subject property on the west side of Highway 1 under application 25Z00029. This action changed the zoning from RU-1-7 and BU-1 to BU-2 zoning classification. This action was approved October 2, 2025.

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

No material violation of relevant policies has been identified.

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

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

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic (including but not limited to

volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

Based on staff analysis, the requested rezoning from RU-1-9 to RU-2-6 zoning classification is not anticipated to materially or adversely affect the surrounding developments. Traffic from the multi-family development will have a minimal impact on the surrounding area, while the corridor is anticipated to operate within the Maximum Acceptable Volume (MAV). The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.16%. The corridor is anticipated to operate at 73.50% of capacity daily. The rental units would be considered a commercial use, however, already present.

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.

Staff analysis has determined while it is not an established residential neighborhood, there are clearly established roads and residential lot boundaries.

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.

The proposed use is for a multi-family 4-unit development. As an income producing property, the proposed use is considered a commercial 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.

This area is presumed not to be primarily residential in character. While one commercial rezoning was approved in October 2025 within the vicinity, the area is not considered transitional in nature, but rather a continuation of the established development pattern.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Highway 1 Post Road and Pineda Causeway which has a Maximum Acceptable Volume (MAV) of 54,100 trips per day, a Level of Service (LOS) of D, and currently operates at 73.35% of capacity daily. The

maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.16%. The corridor is anticipated to operate at 73.50% of capacity daily. Specific concurrency issues will be addressed at the time of site plan review. This is only a preliminary review and is subject to change.

The subject property is serviced by the City of Melbourne for water and Brevard County for sewer service.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Coastal High Hazard Area
- Floodplain Protection
- Indian River Lagoon (IRL) Nitrogen Reduction Septic Overlay
- Surface Waters of the State
- Land Clearing and Landscape Requirements
- Protected Species

See full NRM comments at the end of this report.

For Board Consideration

The Board may wish to consider if the request is consistent and compatible with the surrounding area. The Board may also wish to consider the impact of multifamily residential zoning, and the uses permitted in the RU-2-6 zoning classification in particular, on neighboring properties.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary**

Item No. 25Z00035

Applicant: Steve Trotty (Owners: Paul and Cheryl Pearson)

Zoning Request: RU-1-9 to RU-2-6

Note: To legitimize existing improvements and retain rental 3 units

Zoning Hearing: 11/17/2025; **BCC Hearing:** 12/11/2025

Tax ID No.: 2611660

- 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 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:

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Land Use Comments:

Aquifer Recharge Soils

This property contains Candler fine sand, classified as an aquifer recharge soil. Additionally, the mapped topographic elevations show that the property falls within a Type 3 Aquifer Recharge area, which is subject to impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Coastal High Hazard Area

The very eastern portion of this property, on the IRL shoreline, is located within the Coastal High Hazard Area (CHHA) as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates Coastal High Hazard Areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute. Objective 7 of the Coastal Management Element aims to limit densities within the coastal high hazard area and direct development outside of this area.

Floodplain Protection

The very eastern portion of this property, on the IRL shoreline is mapped within estuarine floodplain as identified by FEMA and as shown on the FEMA SFHA Map. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. 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." **The applicant is encouraged to continue communication with NRM prior to any plan or permit submittal or performing any land clearing activities.**

Indian River Lagoon Nitrogen Reduction Septic Overlay

A portion of this property is mapped within the Indian River Lagoon Nitrogen Reduction Overlay. Per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay, if adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

Surface Waters of the State

The subject property is located on the Indian River Lagoon, designated as a Class III Water in this location. A 25-foot Surface Water Protection Buffer is required. Primary structures shall be located outside the Buffer. Accessory structures are permissible within the Buffer with conditions (e.g., storm water management is provided, avoidance/minimization of impacts, and maximum 30% impervious. The removal of native vegetation located within the Buffer is prohibited unless approved through an active development order. Temporary impacts to native vegetation require in-kind restoration. The Florida Department of Environmental Protection (FDEP) regulates mangrove trimming and can be reached at 407-897-4101. The

applicant is encouraged to contact NRM at 321-633-2016 prior to any activities, plan, or permit submittal.

Land Clearing and Landscape Requirements

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for Protected and Specimen tree preservation. Land clearing is not permitted without prior authorization by NRM. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**

Protected Species

Federally and/or state protected species may be present on the property. Specifically, 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 (FWC), and/or U.S. Fish and Wildlife Service, as applicable. The applicant is advised to call Valeria Guerrero at 561-882-5714 (O) or 561-365-5696 (C) with the FWC to obtain any necessary permits or clearance letters for Gopher Tortoises.