



BOARD OF COUNTY COMMISSIONERS

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
24Z00042

RHR Construction & Development LLC (Robert Robinson)

GU (General Use) and RU-1-11(Single Family Residential) to RU-1-11 (Single Family Residential) for entire parcel.

Tax Account Number: 2320049
Parcel I.D.: 23 3513-JZ-B-2
Location: North side of Curtis Boulevard, 880 feet East of Belfast Avenue. (District 1)
Acreage: 1.1 Acres
PSJ Board 11/06/2024
Planning & Zoning Board: 11/18/2024
Board of County Commissioners: 12/12/2024

Consistency with Land Use Regulations

- Current zoning cannot 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 request would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

Table with 3 columns: Zoning, CURRENT, PROPOSED. Rows include Zoning (GU and RU-1-11 to RU-1-11), Potential\* (0 Single-family to 2 Single-family), and Can be Considered under the Future Land Use Map (NO PI to YES RES 4\*\*).

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations including, but not limited to impacts and limitations to wetlands.

\*\* Pending approval of companion request 24SS00012 which proposes to amend the Future Land Use designation from Planned Industrial (PI) to Residential 4 (RES 4).

Background and Purpose of Request

The applicant is requesting to rezone the subject property from GU (General Use) and RU-1-11 to all RU-1-11 (Residential Single Family), and to split the parcel into two separate lots; the requested zoning classification would allow two single-family residences. The subject parcel is located on the north side of Curtis Boulevard, a county-maintained roadway.

A portion of the subject property is currently zoned GU and is substandard to the minimum lot 5 acres. On May 20, 1975 GU zoning was changed, establishing a five (5) acre minimum lot size requirement in the GU zoning districts. Prior to that GU, required 1 acre. The current owner purchased the property in November 2023.

This request would allow a unified zoning classification across the entire parcel.

A majority of the subject parcel contains mapped National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands and hydric soils (Tomoka muck, undrained). The subject property is bifurcated by a 40 foot drainage easement as recorded in O.R. 3327, Page 4501. The open ditch traversing the property is classified as a riverine wetland. These are indicators that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit 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. This density may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total residential acreage as set forth in Section 62-3694(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.

This parcel measures 1.1 acres and was subdivided after September 9, 1988. **Therefore, the maximum allowable area of wetland impacts is 0.02 acres (870 square feet).** The applicant intent is to split the parcel into two separate lots to construct 2 single-family residences. The RU-1-11 requires a minimum 1,100 square feet of living area. The applicant has been advised of the current code limitations regarding impacts to wetlands.

Zoning action applicable to the GU portion of the subject property includes zoning action **Z-414** which changed zoning classification from GU (General Use) to RU-1 (Single Family Residential) October 6, 1960. Administrative Action **AZ-77** in July 1975 changed the zoning classification back to GU zoning.

Zoning action applicable to the RU-1-11 portion of the subject property includes zoning action **Z-414** which changed zoning classification from GU (General Use) to RU-1 (Single Family Residential) October 6, 1960. Administrative zoning action **Z-2980** from changed the zoning from RU-1 to RU-1-9 (Single Family Residential), June 1972. Administrative Action **AZ-77**, July 1975 changed the zoning classification back to GU zoning. And zoning action **Z-9188** changed the zoning from GU and RU-1-9 to RU-1-11 (Single Family Residential), August 23, 1993.

There is also a Small-Scale Comprehensive Plan Amendment (SSCPA) companion application, **24SS00012** requesting to change the Future Land Use Element from PI (Planned Industrial) to RES 4 (Single-family Residential).

## Surrounding Area

	Existing Land Use	Zoning	Future Land Use
<b>North</b>	Vacant	PIP	PI
<b>South</b>	Vacant	RU-1-9	RES 4
<b>East</b>	Vacant	PIP	PI
<b>West</b>	Single-family residence	RU-1-11	RES 4

To the north and east is a 48.25 acre vacant parcel owned by FPL. The parcel has a PI (Planned Industrial) Land Use designation and a zoning classification of PIP (Planned Industrial Park).

To the south is Curtis Blvd., a county maintained road, and across the street is a 0.24 acre vacant parcel. The property has RU-1-9 (Single-family Residential) zoning, and a RES 4 FLU designation.

Adjacent to the west of the subject parcel is a .28 acre developed residential lot. The property is zoned RU-1-11 11 (Single-family Residential) with a RES 4 FLU designation.

RU-1-9 classification permits single family residential development on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet.

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.

PIP is a light industrial zoning classification, allowing light manufacturing within enclosed buildings with strict buffering, storage and other requirements.

## Future Land Use

The subject property's GU and RU-1-11 zoning classification is not consistent with the PI Future Land Use designation provided on the FLUM series contained within Chapter XI – Future Land Use Element of Brevard County's Comprehensive Plan. The proposed RU-1-11 is zoning classification is not consistent under the current FLUM designation. Companion application to amend the Future Land Use designation from Planned Industrial (PI) to Residential 4 (RES 4) is pending approval.

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

**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 intends to construct 2 single-family residences on this vacant property. This request is not anticipated to significantly diminish the enjoyment, safety or quality of life if the subject property is developed with a single-family residence.**

- 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 a 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 historical land use patterns of the surrounding development to the west can be characterized as single-family residences built on properties between 0.23 acres to six (6) acres in size.**

**There are six (6) FLU designations (RES 4, PI, PUB, IND, CC and RES8\_DIR) within a 0.5 mile radius of the subject property. RES 4 is the prominent FLU to the west and south of the subject property; and Industrial and Commercial are the prominent designations to the east. The RES8\_DIR is located to the east across the FEC railway.**

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

**There has been no actual development within the last three (3) years.**

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

**There has been no approved development within the last three (3) years that is yet to be constructed. However, approximately quarter-mile south of the subject property, one zoning action under 24Z00010 was approved for a self storage warehouse on October 3, 2024.**

- D. Whether 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.**

#### **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.

**There are multiple zoning classifications within a 0.5-mile radius of the subject. They include residential zones of GU, AU, RR-1, RRMH-1, EU-2, RU-1-7, RU-1-9, RU-1-11; government managed land (GML); PIP industrial zoning; and BU-2 commercial zoning classification.**

**The request would recognize existing development trends. Single-family residential is established to the west and south of the subject property. The requested RU-1-11 zoning is already established to the west. The intent to construct 2 single family residences is not anticipated to impact the surrounding established residential area materially or adversely.**

- 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.

**The property is not located in an existing residential neighborhood rather a residential area. The subject property is the last property before it transitions to industrial to the east.**

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.

**Not applicable**

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.

**The area is primarily single-family residential to the west and south with commercial and industrial zoning is located exclusively to the east and north of the subject property.**

**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 unmitigable impact on significant natural wetlands, water bodies or habitat for listed species.

**A majority of the subject parcel contains mapped National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands and hydric soils (Tomoka muck, undrained). The open ditch traversing the property is classified as a riverine wetland. These are indicators that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit 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. This density may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total residential acreage as set forth in Section 62-3694(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.**

**This parcel measures 1.1 acres and was subdivided after September 9, 1988. Therefore, the maximum allowable area of wetland impacts is 0.02 acres (870 square feet).**

**Information available to NRM also indicates that federally and/or state protected species may be present on the property. There is a large area of mapped Florida Scrub Jay habitat / occupancy approximately 540 feet to the north of this property.**

**The provided Environmental Assessment, dated November 2023, indicates the site contains approximately 0.8 acres of upland, 0.2 acres of canal, and 0.1 acres of wetlands (along the banks of the canal).**

**The report also indicates the site is not suitable habitat for federally listed species, and no state-listed gopher tortoises were observed during the October 2023 site**

visit. However, the report does indicate suitable gopher tortoise habitat exists on the eastern portion of the site, and a gopher tortoise survey is recommended prior to any clearing activities.

The development potential of the subject property may be limited due to environmental impacts.

### **Preliminary Concurrency**

The closest concurrency management segment to the property is Fay Blvd. located between Carole Ave. and US Highway 1, which has a Maximum Acceptable Volume (MAV) of 33,800 trips per day, a Level of Service (LOS) of D, and currently operates at 48.11% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.06%. The corridor is anticipated to operate at 48.17% 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 subject parcel has access to City of Cocoa potable water and Brevard County sewer.

### **Environmental Constraints**

#### **Summary of Mapped Resources and Noteworthy Land Use Issues:**

- Wetlands and Hydric Soils
- Floodplain Protection
- Land Clearing and Landscape Requirements
- Protected Species

### **For Board Consideration**

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

The Board may also consider if RU-1-11 is consistent and compatible with Administrative Policy 7.

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

**Item No. 24Z00042**

**Applicant:** Robert Robinson (Owner: RHR Construction & Development LLC)

**Zoning Request:** RU-1-11 and GU to all RU-1-11

**Note:** to split lot and build 2 SFRs

**Zoning Hearing:** 10/14/2024; **BCC Hearing:** 11/07/2024

**Tax ID No.:** 2320049

- 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 and Hydric Soils
- Floodplain Protection
- Land Clearing and Landscape Requirements
- Protected Species

**Land Use Comments:**

**Wetlands and Hydric Soils**

A majority of the subject parcel contains mapped National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands and hydric soils (Tomoka muck,



undrained). The open ditch traversing the property is classified as a riverine wetland. These are indicators that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit 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. **This density may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total residential acreage as set forth in Section 62-3694(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.

This parcel measures 1.1 acres and was subdivided after September 9, 1988. **Therefore, the maximum allowable area of wetland impacts is 0.02 acres (870 square feet). The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.**

### **Floodplain Protection**

This property is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) A, as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. Additional research is required to determine if the property is in the St. Johns River riverine floodplain or isolated floodplain.

The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and Chapter 62, Article X, Division 5, entitled Floodplain Protection. **Per Section 62-3724(1) and (3), compensatory storage shall be required in either floodplain designation. The property may also be subject to the residential densities within riverine floodplains as established by Section 62-3724(1).** The Floodplain Protection ordinance also requires that development within floodplain areas shall not have adverse impacts upon adjoining properties. Chapter 62, Article X, Division 6, entitled Stormwater, states, "No site alteration shall adversely affect the existing surface water flow pattern."

### **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 ( $\geq$  10 inches in

diameter) and Specimen ( $\geq 24$  inches in diameter) 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**

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 habitat / occupancy approximately 540 feet to the north of this 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 (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.