



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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**STAFF COMMENTS
 24Z00069**

Frank Mastroianni

BU-1 (General Retail Commercial) and RU-2-10(6) (Medium-Density Multi-Family Residential) to RA-2-6 (Single-Family Attached Residential)

Tax Account Number(s): 2600118
 Parcel I.D.: 26-36-01-00-753
 Location: East side of Highway 1 approximately 0.4 miles south of Viera Blvd (District 2)
 Acreage: 14.8 acres

Planning & Zoning Board: 02/17/2025
 Board of County Commissioners: 03/13/2025

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 | BU-1, RU-2-10(6) | RA-2-6 with removal of the cap of six (6) units per acre |
| Potential* | FAR 0.75 157 multifamily units** | 88 units |
| Can be Considered under the Future Land Use Map | YES CC and RES15 | YES CC and RES15 |

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

** Development potential at 30 units per acre pursuant to F.S. 125.01055 (Live Local Act)

Background and Purpose of Request

The applicant is requesting a change of zoning classification from BU-1 (General Retail Commercial) on 2.88 acres and RU-2-10(6) (Multiple-Family Residential) with a density cap of six (6) units per acre on the remaining 11.92 acres to all RA-2-6 (Single-Family

Attached Residential) with removal of the cap of six (6) units per acre on 14.8 acres. Approval of this request will provide consistent zoning across the entire subject property.

The subject property consists of one (1) parcel located on the east side of Highway 1, approximately 0.4 miles south of Viera Blvd and bounded by Ruby St to the north and Laguna Vista Condos to the south. The site is currently undeveloped. The site has access along a Florida Department of Transportation (FDOT) maintained road highway: Highway 1 (to the west).

In 2023, the Live Local Act was enacted and was revised in 2024. The Act is intended to address the state's growing housing affordability crisis through significant land use, zoning, and tax benefits. Pursuant to **Florida Statute 125.01055**, a county must authorize multifamily and mixed-use as allowable uses in any area zoned for commercial, industrial, or mixed use if at least 40 percent of the residential units in a proposed multifamily rental development. In unincorporated Brevard County, the Live Local Act effectively allows for development of up to 30 dwelling units per acre. The subject property, encompassing 2.88 acres zoned BU-1, allows for development options that include either commercial use with a Floor Area Ratio (FAR) of 0.75 or 86 multi-family units as stipulated by the Live Local Act. Additionally, the remaining RU-2-10(6) area has the potential for 71 multi-family dwelling units, with a maximum density of six (6) units per acre. In total, this results in the possibility of 157 multi-family units.

The subject property has been mapped as including 5.72 acres within the CHHA. Chapter XI of the Comprehensive Plan, Policy 1.4(E) restricts the density of that 5.72 acres of the subject property strictly to the RES 15 designation. However, current and proposed density of the subject property is and would be a maximum of six (6) dwelling units per acre within the RES 15 FLU designation.

The proposed RA-2-6 single-family attached residential zoning classifications provide a transition between single-family residential detached zoning classifications and multifamily residential zoning classifications, permitting fee simple ownership of individual attached units constructed in accordance with the Standard Building Code for townhouses. The maximum density of RA-2-6 is six (6) dwelling units per gross acre. As such, approval of the RA-2-6 zoning request will reduce the current effective development potential (pursuant to the Live Local Act) of the subject property by 69 dwelling units.

Zoning history actions:

- **Z-1106; August 1963, AU to RU-1 & BU-1**
- **Z-1539; October 1964, RU-1 & BU-1 to Trailer Park; Denied**
- **Z-2980; June 1972, Administrative Rezoning RU-1 to RU-11**
- **Z-3322; June 1973, (BU-1 & RU-1-11 to BU-1 East 250 ft. of US Hwy. 1, Balance as RU-2-15),**
- **AZ-54; (RU-2-15 to RU-1-11),**
- **Z-5279; May 1980, (RU-1-11 to RU-2-10(6)) and**
- **23PUD00001; 11/05/2024, BU-1 & RU-2-10(6) to PUD, Application withdrawn.**

Surrounding Area Zoning classifications and Land Use designations

| | Existing Use | Zoning | Future Land Use |
|--------------|---------------------------------|-------------------|-----------------|
| North | Single-family residential | EU-2 | CC, NC & RES 15 |
| South | Single-family attached | BU-1 & RU-2-10(6) | CC & RES 15 |
| East | Indian River | N/A | N/A |
| West | FDOT Highway & Funeral services | BU-1 & IN(L) | CC & NC |

To the north are seven (7) lots. One vacant parcel, approximately 0.52 acres with split zoning classifications of EU-2 and BU-1-A, CC FLU designation, abuts Highway US 1 to the east. The remaining six (6) lots are developed with single-family homes. With EU-2 zoning and RES 15 FLU designations.

To the south is Laguna Vista Condo with 24 residential units on approximately 4.53 acres. The property has BU-1 & RU-2-10 with a density cap of 6 units per acres and CC & RES 15 FLU designations.

To the east is the Indian River.

West of the subject property: FDOT Highway US 1.

EU-2 zoning classification encompasses lands devoted to single-family residential development of a spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surrounding. The minimum lot size is 9,000 square feet with a minimum lot width of 90 feet and depth of 100 feet. The minimum living area is 1,500 square feet.

RU-2-10(6) with a cap of six (6) units per acre classification permits medium-density multiple-family residential zoning classification encompasses lands devoted to medium-density multifamily residential purposes, together with such accessory uses as may be necessary or are normally compatible with residential surroundings. Additionally, single-family residences on minimum lot sizes of 7,500 square feet up to the allowable density limitation of the zoning classification.

BU-1-A classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods.

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. The BU-1 classification does not permit warehousing or wholesaling.

IN(L) is an Institutional (Light) zoning classification, intended to promote low impact private, nonprofit, or religious institutional uses to service the needs of the public for facilities of an educational religious, health or cultural nature.

Land Use

The subject property is currently designated as Community Commercial (CC) and RES 15 FLU. The existing BU-1 can be considered consistent with the CC FLU designation. The RU-2-10 zoning classifications can be considered consistent with the RES 15 FLU designation.

Applicable Land Use Policies

FLUE Policy 1.2

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:

- A. Adequate roadways, solid waste disposal, drainage and recreation facilities to serve the needs of associated development shall be available concurrent with development in all residential land use designations.

The corridor is anticipated to operate within the Maximum Acceptable Volume (MAV). The proposal would not create a deficiency in Adopted Level of Service (LOS). Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

The proposed development will be required to connect to Brevard County sewer system.

- B. Fire and police protection and emergency medical services to serve the needs of associated development shall be available concurrent with development in all residential land use designations in accordance with policies set forth in the 'Service Delivery, Concurrency and Growth' section of this Future Land Use Element.

No issues are anticipated with regards to fire and emergency medical services.

- 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.

There is a 16" public water main that runs along the east side of US-1 that will provide water for the proposed development. The City of Cocoa, water utility provider, will be able to service this property.

The proposed development will connect to Brevard County sewer via a 6" force main that runs along US-1. Brevard County utilities has the capacity to service this property.

- 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.

The density of the proposed is a maximum of six (6) units per acre and will require a connection to a centralized sewer system.

Coastal Residential Densities

Objective 7

Limit densities within the coastal high hazard area and direct development outside of this area.

Staff analysis indicates that the density would not exceed 6 dwelling units per acre within the CHHA area. The subject property has been mapped as including 5.72 acres within the CHHA. Chapter XI of the Comprehensive Plan, Policy 1.4(E) restricts the density of 5.72 acres of the subject property strictly to the RES 15 designation. However, current and proposed density of the subject property is and would be a maximum of six (6) dwelling units per acre within the RES 15 FLU designation. This limits density within the CHHA to 34 units.

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 proposed development increases the percentage of MAV utilization by 1.48%. The corridor is anticipated to operate at 62.12% of capacity daily. The proposed development is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

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.

- 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 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 surrounding land use patterns within half a mile of the subject property includes single-family-residential, cemetery, mini-warehousing, warehousing, professional offices, commercial and retail uses on the west side of Highway 1. East of Highway US 1 is a mix of residential types and one (1) restaurant along Highway US 1.

There are five (5) FLU designations within 500 feet of the subject site: NC, CC, RES 6, RES 15, and PI. The predominant FLU designation in this area is RES 15.

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.

There has not been any development approved but not yet constructed within this area in the preceding three (3) years.

No zoning actions has been approved within one-half mile in the preceding three (3) years.

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 of the Comprehensive Plan has been identified.

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

FLUE 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 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.

Traffic from the proposed development is not anticipated to impact the surrounding area. The corridor is anticipated to operate within the Maximum Acceptable Volume (MAV). The proposal would not create a deficiency in Adopted Level of Service (LOS). No commercial or industrial activity is proposed.

- 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.

There are no established platted subdivisions within a 500 ft. radius of the subject property.

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 east side corridor of Highway 1 has existing commercial FLU designations. This request does not include a commercial component.

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.

There has not been commercial, industrial, or other non-residential uses approved in this area during the previous five (5) years.

Analysis of 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.

Natural Resources has noted the subject parcel contains mapped wetlands and hydric soils. Mapped topographic elevations indicate the soils may consist of Type 3 Aquifer Recharge soils that have 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.

The subject property is partially located within the Coastal High Hazard Area; within estuarine floodplain as identified by FEMA; and in the Indian River Lagoon Nitrogen Reduction Septic Overlay. Protected and specimen trees and protected species may also be present on the subject property.

Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US 1, from Viera Blvd to Suntree, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 60.64% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 1.48%. The corridor is anticipated to operate at 62.12% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. 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 preliminary school concurrency review indicates there is sufficient capacity for the total of projected and potential students from the proposed development.

The parcel has access to a 16" public water main that runs along the east side of US-1 that will provide water. The water utility provider is the City of Cocoa. The applicant stated the City of Cocoa has been engaged and will be able to service this property. The Proposed Development will connect to Brevard County sewer via a 6" force main that runs along US-1. Brevard County utilities have already been engaged and will be able to service this property.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands and Hydric Soils
- Aquifer Recharge Soils
- Surface Waters of the State
- Coastal High Hazard Area
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

For Board Consideration

The Board should consider if the request is consistent and compatible with the surrounding area.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item No. 24Z00069

Applicant: Jason Searl (Owner: Frank Mastroianni)

Zoning Request: BU-1 and RU-2-10 to RA-2-6

Note: requesting 6 units per acre

Zoning Hearing: 02/17/2025; **BCC Hearing:** 03/13/2025

Tax ID No.: 2600118 (14.6 ac)

- 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
- Aquifer Recharge Soils
- Coastal High Hazard Area
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Surface Waters of the State
- Protected and Specimen Trees
- Protected Species

Land Use Comments:

Wetlands and Hydric Soils

The subject parcel contains mapped National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands and hydric soils (Canaveral-Anclote complex, gently undulating; Pompano sand, 0 to 2 percent slopes; and Satellite sand, 0 to 2 percent slopes); indicators that wetlands may be present on the property. The applicant provided a Wetland Delineation Report (Report), completed by Terracon, June 2, 2023, identifying two jurisdictional wetlands on the property. The wetlands

delineation is subject to confirmation by St. Johns River Management District (SJRWMD).

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

Aquifer Recharge Soils

This property contains soil types that may also function as aquifer recharge soils (Canaveral-Anclote complex, gently undulating; Pompano sand, 0 to 2 percent slopes; and Satellite sand, 0 to 2 percent slopes). Mapped topographic elevations indicate the soils may consist of Type 3 Aquifer Recharge soils that have 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

A portion of this property 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. The parcel may be susceptible to nuisance flooding.

Floodplain Protection

This property is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) AE, as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. The Report also identifies SFHA A on the property, however, NRM did not observe SFHA A in our review of FEMA maps. The parcel 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."

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 II Water in this location. A 50-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.

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees likely exist on the parcel. The applicant shall perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, 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. 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 and buffer requirements. **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.