



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

24Z00023

Ibrahim and Haroon Realestate, Inc.

TR-3 with BSP to BU-1 with removal of BSP

Tax Account Number: 2317736
Parcel I.D.: 23-36-31-00-754 (less the westerly 250 feet)
Location: N side of Canada Drive, 254 feet east of US Highway 1. (District 1)
Acreage: 2.86 acres

Planning and Zoning Board: 08/12/2024

Board of County Commissioners: 09/05/2024

Consistency with Land Use Regulations

- Current TR-3 zoning with BSP 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 proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	TR-3 with BSP	BU-1 with removal of BSP
Potential*	5 units**	(FAR) of 1.00 85 dwelling units****
Can be Considered under the Future Land Use Map	No RES 2	Yes Community Commercial (CC)***

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

The current Binding Site Plan (BSP) under Zoning Action **Z-7827 allows 7 mobile home sites which is not consistent with the residential density allowance of two (2) units per acre – five (5) units is the residential limit to be consistent with the RES 2 FLU designation.

***Commercial development is not allowed under the current RES 2 FLU designation; however, the owner/applicant is proposing a companion Small Scale Comprehensive Plan amendment # **24SS00008** to change the FLU from RES 2 to Community Commercial.

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

Background and Purpose of Request

The applicant is proposing to utilize a multi-business flex space concept to permit retail, office and personal service uses upon their entire site; the western portion of which has existing BU-1, General

Retail commercial zoning. As a combined site, access will be provided by the US Highway 1 corridor. The applicant states that each unit would range from 1,000 – 1,500 square feet; no plan has been submitted for review and no BDP has been submitted. The Board may wish to memorialize the applicant's request by requiring a BDP to be submitted. The applicant has submitted a companion application for a Small-Scale Comprehensive Plan amendment # **24SS00008** to request a change of the FLU from RES 2 to Community Commercial. Should the Small-Scale application be approved by the Board, then this zoning request can be heard.

This property is located along the north side of Canada Drive lying 254 feet easterly of US Highway 1. The current Binding Site Plan (BSP) limits the site development to seven (7) lots of at least 15,000 square feet in size and provides a 50-foot buffer to the east and a 75-foot buffer to the north. The BSP was part of Zoning Resolution **Z-7827** adopted by the Board on June 22, 1987.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Elementary School	AU	RES 1
South	Mobile home park	TR-3	RES 2
East	Single-family residential use	AU and EU	RES 2
West	Site is improved with a nonconforming billboard	BU-1	CC

To the north, the area is developed as Fairglen Elementary School, under the AU zoning classification.

To the south, the area is developed as the Tradewinds Mobile Home Park under the TR-3 zoning classification.

To the east the adjacent lots are zoned for single-family use and each lot is developed with a homesite under the AU and EU zoning classifications.

To the west, the unimproved portion of the lot is developed with a nonconforming billboard and is zoned BU-1.

TR-3 zoning is a mobile home park zoning classification with a minimum lot size of 10 acres for the park. Mobile home sites must be at least 4,000 square feet, with a minimum width of 40 feet. 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.

AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

EU zoning classification is an estate single family residential zoning classification. The minimum lot size is 15,000 square feet with a minimum lot width and depth of 100 feet. The minimum living area is 2,000 square feet.

EU-2 zoning classification is an estate single family residential zoning classification. 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.

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

Future Land Use

The subject property is currently designated under the Residential 2 FLU designation. The TR-3, Mobile home park zoning classification is not consistent with this FLU designation. Commercial development is not allowed under the current RES 2 FLU designation.

Role of the Comprehensive Plan in the Designation of Commercial Lands

FLUE Policy 2.1

The Comprehensive Plan takes into consideration broad criteria for evaluating requests for commercial land use designations within Brevard County. At a minimum, these criteria address the following:

Criteria:

- A. Overall accessibility to the site;

The subject parcel is located along the north side of Canada Drive lying 254 feet easterly of US Highway 1. The applicant proposes to access the property through the existing commercial US Highway 1 frontage, which they own.

- B. Compatibility and inter-connectivity with adjacent adopted Future Land Use designations and land uses;

This parcel lies between an existing elementary school to the north and an existing mobile home park to the south. To the east single-family homes have been developed. No interconnectivity is proposed.

- C. Existing commercial development trend in the area;

The east side of US Highway 1 has a commercial depth between 200 to 400 feet established. A portion of this overall parcel is developed with a billboard use. To the south is an existing retail business in operation.

- D. Fundamental changes in the character of an area prompted by infrastructure improvements undertaken by the County;

No fundamental changes in the character of the area prompted by infrastructure improvements undertaken by the County have been identified.

- E. Availability of required infrastructure at/above adopted levels of service;

The preliminary concurrency analysis did not indicate that the maximum development potential from the proposed Future Land Use Map change would cause a deficiency in the transportation adopted level of service. The parcel is not serviced by public sewer or within the Brevard County service area for potable water. The lot can be serviced by the City of Cocoa for potable water. Concurrency will be reviewed during the site plan process.

- F. Spacing from other commercial activities:

The eastward expansion encroaches into existing residential designations. The expansion of Community Commercial clusters up to 10 acres in size should be spaced at least 2 miles apart, located at the intersection of arterial roads. This parcel is not located at the intersection of arterial roads.

- G. Size of proposed commercial designation compared with current need for commercial lands;

A market study was not provided nor required.

- H. Adherence to the objectives/policies of the Conservation Element and minimization of impacts upon natural resources and systems:

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

A majority of the subject parcel contains mapped St. Johns River Water Management District (SJRWMD) wetlands and hydric soils; indicators that wetlands may be present

on the property. **A wetland delineation will be required prior to any land clearing or land alteration activities, site plan design, or building permit submittal.**

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). N. Highway 1 is a MQRs at this location. If wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. 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.**

- I. Integration of open space; and

The provisions of this Criterion will be addressed at the site plan stage.

- J. Impacts upon strip commercial development.

The applicant is proposing to develop a multi-business flex space concept to permit retail, office and personal service uses. This proposal could be considered as infill commercial development, however, the depth of the proposal could negatively impact the abutting properties to the north, east and south of the project limits.

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 CC FLU allows for an array of light manufacturing, warehouse, retail, personal and professional uses. This property will need to comply with Brevard County Performance Standards noted within Section 62-1482 of Brevard County Code. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the zoning change be approved.

- 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 (Member Appraisal 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 historical land use pattern along the east side of the US Highway 1 corridor is a commercial component ranging from 200 to 400 feet in depth followed by residential zoning classifications. In the vicinity of the subject property request, the residential character includes single-family zonings and mobile home park use. A few vacant residential properties remain within the area between US Highway 1 and the Indian River. A majority of the properties abutting the east side of US Highway 1 in this segment have BU-1 or BU-1-A zoning.

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

There has been no new development within 0.5 miles of the subject property within the last three years.

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

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

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.

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.

Staff analysis indicates the subject property is not located in an established residential neighborhood but can be considered a residential area. The subject property abuts single-family residential to the east. The Tradewinds mobile home park is developed to the south under a BDP limiting density to 3.4 units per acre recorded in ORB 3249 PG 4775. The elementary school (Fairglen Elementary) to the north requested a buffer from the prior mobile home zoning request. With the requested removal of the Binding Site Plan as part of the zoning request

under 24Z00023, the potential building setback from the school board property will reduce to 15 feet.

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 area has development of roads, open spaces, and similar existing features. It is not located in a neighborhood or subdivision but is along a commercial corridor on the east side of US Highway 1.

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.

Staff analysis indicates that the surrounding area along US Highway 1 is a commercial corridor. The request, if approved, would extend the potential commercial usage another 640 feet further east of US Highway 1. The request could be considered an encroachment into a residential area.

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 has not seen recent commercial changes during the previous five years.

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.

Based on Natural Resources analysis, the presence of wetlands and hydric soils on the property may inhibit development of the property to not more than one (1) dwelling unit per five (5) acres or 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. A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). N. Highway 1 is a MQRs at this location. If wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. 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.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US Highway 1, between Hwy 528 to Canaveral Groves Blvd., which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 66.94% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 11.03%. The corridor is anticipated to continue to operate at 77.97% of capacity daily (LOS C). The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development proposal is for commercial and not residential use.

The subject property can be served potable water by the City of Cocoa. Sewer does not appear to be available and the site may need to utilize septic systems.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

A majority of the subject parcel contains mapped St. Johns River Water Management District (SJRWMD) wetlands and hydric soils; indicators that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing or land alteration activities, site plan design, or building permit submittal.**

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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 whether the request is consistent and compatible with the surrounding area.

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

Item No. 24Z00023

Applicant: Kimberly Rezanka (Owner: Ibrahim and Haroon Real Estate, Inc)

Zoning Request: TR-3 to BU-1

Note: to develop multi-unit business flex space with each unit being from 1,000-1,500 sf

Zoning Hearing: 08/12/2024; **BCC Hearing:** 09/05/2024

Tax ID No.: 2317736

- 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
- Protected and Specimen Trees
- Protected Species

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Land Use Comments:

Wetlands and Hydric Soils

A majority of the subject parcel contains mapped SJRWMD wetlands and hydric soils (Copeland-Bradenton-Wabasso complex, limestone substratum); 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.**

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). N. Highway 1 is a MQRs at this location. If wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. 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 Orsino fine sand, classified as an aquifer recharge soil. Pompano sand, 0 to 2 percent slopes may also function as an aquifer recharge soil. 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.

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 properties with aquifer recharge soils and/or wetlands. Gopher tortoises have been observed in this area. If applicable, 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 prior to any plan, permit submittal, or development activity, including land clearing.