

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

*Small Scale Plan Amendment 21S.1 (21PZ00082)
Township 24, Range 36, Section 14*

Property Information

Owner / Applicant: Sunil Rajan, Sughir Rajan, and Suresh Rajan

Adopted Future Land Use Map Designation: Neighborhood Commercial (NC)

Requested Future Land Use Map Designation: Community Commercial (CC)

Acreage: .92 acres

Tax Account #: 2412234

Site Location: On the east side of North Courtenay Parkway approximately .3 miles south of Pioneer Road

Commission District: 2

Current Zoning: Restricted Neighborhood Retail Commercial (BU-1-A)

Requested Zoning: Restricted Neighborhood Retail Commercial (BU-1-A)

Background & Purpose

The applicant is seeking to amend the Future Land Use designation on .92 acres of land from Neighborhood Commercial (NC) to Community Commercial (CC) in order to develop a Dunkin Donut coffee shop with a drive thru window. The zoning regulations of BU-1-A specifically prohibits a drive thru window on property with a NC Future Land Use designation.

This segment of N. Courtenay Parkway had a Mixed Use (MIX) Future Land Use designation since 1997. In 2001, the Future Land Use designations were changed from MIX to NC and CC along this segment of N. Courtenay Parkway when Brevard County updated the Comprehensive Plan and the Future Land Use Map. Currently, the subject parcel has a NC Future Land Use designation and remains vacant.

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Vacant Single-Family land	BU-1-A	NC
South	Diocese of Orlando	IN(L)	NC
East	Vacant Single-Family land	AU	NC
West	Single-Family Residential	RU-1-11	RES 15

To the north of the subject property is vacant land with a NC Future Land Use designation with Restricted Neighborhood Retail Commercial (BU-1-A) zoning, to the east is vacant land with a NC designation and Agricultural Residential (AU) zoning, to the south is the Diocese of Orlando with a Future Land Use designation of NC and Institutional Use- Low Intensity (IN(L)) zoning and to the west are developed single-family residences with a RES 15 Future Land Use designation and Single-Family Residential (RU-1-11) zoning.

Comprehensive Plan Policies/Comprehensive Plan Analysis

Comprehensive Plan Policies are shown in plain text; Staff Findings of Fact are shown in *italics*

Notice: The Comprehensive Plan establishes the broadest framework for reviewing development applications and provides the initial level of review in a three layer screening process. The second level of review entails assessment of the development application's consistency with Brevard County's zoning regulations. The third layer of review assesses whether the development application conforms to site planning/land development standards of the Brevard County Land Development Code. While each of these layers individually affords its own evaluative value, all three layers must be cumulatively considered when assessing the appropriateness of a specific development proposal.

Administrative Policy 3

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered. 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 a specific commercial use of a Dunkin Donuts with a drive-thru window. There are potential impacts on the future residential developments directly to the north and east and across N. Courtenay Parkway to the west from the subject site. The effects of lighting, site activity and traffic will be evaluated at the time of site plan review.

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;

N. Courtenay Parkway is a commercial corridor with NC Future Land Use designations along the majority of it to provide a buffer to the abutting residential land uses of less intense commercial activity than the uses provided for at major intersections along the corridor with CC Future Land Use designations.

There is a commercial node of approximately forty-four (44) acres located at S.R. 528 and N. Tropical Trail. The CC nodes located at major intersections along N. Courtenay Parkway provide an array of services for local, subregional and regional neighborhoods whereas NC typically provides services to the local residential neighborhoods.

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 have not been any development approvals within the past three (3) years.

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.

The proposed use of a Dunkin Donut coffee shop with a drive thru window could be buffered by a strip of NC between the proposed use and the undeveloped RES 15 neighborhood to the east.

- 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 surrounding the subject site has clearly distinct established boundaries. The subject property is within an area of NC with neighborhood commercial uses such as a church to the south.

Role of the Comprehensive Plan in the Designation of Commercial Lands

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 .92 acre parcel has frontage on N. Courtenay Parkway to the west.

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

A CC Future Land Use designation is compatible to the north, east and south of the subject site and inter-connectivity could be provided between these adjacent uses.

- C. Existing commercial development trend in the area;

The existing historical trend in the area are CC Future Land Use designations along N. Tropical Trail at Arterial/Arteria intersections such as S.R. 528 and N. Tropical Trail approximately .8 miles to the north, and NC Future Land Use designations on the east and west side of N. Tropical Trail where there are residential developments.

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

There are no fundamental changes in character within this area prompted by County infrastructure improvements.

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

The parcel is serviced by Brevard County sewer and potable water by the City of Cocoa. Based upon Floor Area Ratio (FAR) used for traffic analysis when considering Future Land use changes, N. Courtenay Parkway would be operating below the Acceptable Level of Service (LOS) of E. Specific concurrency issues will be addressed at the time of Site Plan review.

- F. Spacing from other commercial activities;

The subject parcel is .92 acres. N. Tropical Trail is a commercial corridor that is classified as an Urban Principal Arterial roadway meant to service residents from local, subregional and regional neighborhoods.

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

The Natural Resource Management (NRM) Department has provided a preliminary summary of adherence to the objectives/policies of the Conservation Element and the minimization of impacts upon natural resources and systems. (See attached NRM Department Summary on pages 8 and 9).

- I. Integration of open space; and

Open space will be evaluated during the site plan review process.

- J. Impacts upon strip commercial development.

The subject .92 acre site would not be considered infill but rather an extension of strip commercial development. Along this section of N. Tropical Trail, the adjacent Future Land Uses are NC because it abuts residential developments. To introduce a CC Future Land use in the middle of adjacent NC Future Land Uses would be considered an extension of strip commercial development.

Activities Permitted in Community Commercial (CC) Future Land Use Designations

Policy 2.7

Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation, provided that the guidelines listed in Table 2.2 are met, include the following:

- a) Existing strip commercial;

With a Future Land Use designation of CC, the subject parcel would be extending strip commercial along this segment of N. Tropical Trail from S.R. 528 south to Diana Boulevard.

Locational and Development Criteria for Community Commercial Uses

Policy 2.8

Locational and development criteria for community commercial land uses are as follows:

Criteria:

- A. Community Commercial clusters of up to ten (10) acres in size should be located at arterial/arterial intersections. Collector/arterial intersections are acceptable for clusters of up to ten (10) acres in size; however, the collector roadways must serve multiple residential areas. Intrusion of these land uses into the surrounding residential areas shall be limited. For Community Commercial clusters greater than ten (10) acres in size, they must be located at principal arterial/principal arterial intersections.

The subject parcel is not located at an arterial/arterial intersection nor a collector/arterial intersection. CC Future Land uses are to be limited to intersections so as not to intrude in the surrounding residential areas.

- B. Community commercial complexes should not exceed 40 acres at an intersection.

The subject site is not located at an intersection and won't exceed 40 acres.

- C. Community commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.

The subject site is located along a commercial corridor and is not clustered at an intersection.

- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size

and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size.

The gross floor area is regulated through the land development regulations at the time of site plan review.

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites.

The overall subject site has the potential for a forty thousand seventy-five square foot (40,075 s.f.) building. The FAR of up to 1.00 is permitted for CC designated sites. The Floor Area Ratio (FAR) is regulated through the land development regulations at the time of site plan review.

Environmental Resources

Mapped resources include National Wetlands Inventory (NWI) Wetlands, Indian River Lagoon Nitrogen Reduction Overlay, Protected and Specimen trees and Protected Species.

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

Historic Resources

There are no recorded historic or archaeological sites on the project site according to the Master Site File from the Florida Division of Historic Resources.

For Board Consideration

The Board should also consider if the request is consistent with the Comprehensive Plan and compatible with the surrounding area

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Future Land Use (FLU) Review & Summary
Item # 21PZ00082

Applicant: Rezanka for Rajan

FLU Request: NC to CC

Note: Applicant wants to build a Dunkin Donuts with drive-through lane.

P&Z Hearing Date: 01/10/22; **BCC Hearing Date:** 02/03/22

Tax ID No: 2412234

- 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:

- National Wetlands Inventory (NWI) Wetlands
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped NWI wetlands. A wetland was delineated on the northern portion of the property. The wetland delineation will require agency verification. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). North Courtenay Parkway is an MQR in this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners 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 site plan design or permit submittal.

The entire parcel is mapped within the Indian River Lagoon 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.

Land Use Comments:

Wetlands

The subject parcel contains mapped Freshwater forested/Shrub wetlands as shown on the NWI Wetlands map. A wetland has been delineated on the northern portion of the property. The wetland delineation will require agency verification. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). North Courtenay Parkway is an MQR in this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by Brevard County Board of County Commissioners 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 site plan design or permit submittal.

Indian River Lagoon Nitrogen Reduction Overlay

The entire parcel 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.

Protected and Specimen Trees

The subject property is within a mapped polygon of SJRWMD FLUCCS code 4340-Upland mixed coniferous/hardwood. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are included in this FLUCCS code and may be found on the property. Per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, 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 tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the 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 and/or U.S. Fish and Wildlife Service, as applicable.