



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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

STAFF COMMENTS

22Z00067

Wendy Kleefisch

RU-1-11 (Single-family residential) to RU-2-12 (Medium-density multi-family residential)

Tax Account Number: 2731680

Parcel I.D.: 27-38-31-EW-F-4

Location: On the south side of Franklyn Ave., approximately 275-feet west of Highway A1A (District 5)

Acreage: 0.36 acres

Planning and Zoning Board: 03/13/2023

Board of County Commissioners: 04/06/2023

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-1-11	RU-2-12
Potential*	1 SF Unit	4 MF units
Can be Considered under the Future Land Use Map	YES RES 15	YES RES 15

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

Background and Purpose of Request

The applicant is requesting to rezone from RU-1-11 (Single-family residential) to RU-2-12 (Medium-density multi-family residential) for the purpose of constructing up to (4) four multi-family residential units as two (2) duplexes. The RU-1-11 classification permits one single-family residential dwelling, on a 7,500 sq. ft. lot. RU-2-12 allows single-family dwellings, duplexes, and resort dwellings, also on a 7,500 sq. ft. lot.

The RU-2-12 setbacks are more restrictive than RU-1-11. The RU-1-11 classification requires a front setback of 20 feet from the front lot line, side setbacks of 7.5 feet and a rear setback of 20 feet. The property has double frontage. Principal buildings or structures shall be spaced a minimum of 15-feet from other principal buildings or structures on the same site. RU-2-12 would allow up to 4 dwelling units on 0.36-acres.

On June 1, 1972, the subject property was rezoned from RU-1 to RU-1-11 (Z-2980).

Land Use

The subject property is currently designated as Residential 15 (RES 15) FLU. RES 15 is the second highest density designation, permitting a maximum density of up to fifteen (15) units per acre. Both the RU-1-11 and the RU-2-12 zoning classifications can be considered consistent with the RES 15 FLU designation.

Applicable Land Use Policies

FLUE Policy 1.4 –The Residential 15 Future land use designation. The Residential 15 affords the second highest density allowance, permitting a maximum density of up to 15 units per acre.

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 applicant proposes the development of four (4) multi-family units as two (2) duplexes. It is not anticipated to have hours of operation, lighting, odor noise levels, additional traffic or site activity that would 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 Appraisers 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 historic land use pattern is a mixture of commercial and residential along Highway A1A with single-family residences to the west and multi-family residences mainly east of Highway A1A. Commercial retail lines the west corridor of Highway A1A.

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

There have been two (2) zoning actions within a half-mile radius. The first zoning action is 315-feet west of the subject property on Franklyn Ave.. 21Z00033 was an approved application to rezone from RU-1-11 to RU-2-12 with a BDP limiting uses for the property to not be used as a resort dwelling. The density is limited to two (2) units, constructed as a duplex. Access of ingress and egress is limited to one (1) unit to Franklyn Avenue and one (1) unit to Gross Pointe Avenue.

The second zoning action, 22Z00046, was a rezoning from BU-1-A to RU-2-12 with a resolution date of November 3, 2022. This rezoned parcel is directly to the east of the subject property.

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

It appears there has been no development approved but not yet constructed in the area within the last three 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 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.

The developed character of the surrounding area to the north is a commercial retail building adjacent Highway A1A. To the northwest across Franklyn Ave., is a multi-family residence zoned RU-2-10. West is a single-family attached residence with a zoning classification of RA-2-6. The vacant parcel to the east was recently rezoned in November 2022 from BU-1-A to RU-2-12. To the south across Grosse Pointe are multi-family residences zoned multi-family (R-P and SC) within the City of Indian Shores.

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.

While BU-1 zoning exists along Highway A1A, there is a history of commercial parcels being rezoned to multi-family residential classifications. This rezoning could be considered consistent with the character of the area. The request could be considered as a buffer between the commercial and single-family residential zoning further away from Highway A1A.

There are 3 FLU designations in the immediate area: Community Commercial (CC), Neighborhood Commercial (NC) and Residential 15 (RES 15). The subject property is located in the RES 15 designation.

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 request is not for 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.

The closest RU-2-12 zoning classification to the subject property is directly to the east. The subject parcel is not requesting to be rezoned for commercial, industrial or other non-residential uses.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Road ROW/Multi-Family Residence	RU-2-10	RES 15
South	City of Indialantic	R-P & SC (multi-family)	N/A
East	Undeveloped	RU-2-12	NC
West	Single-family	RA-2-6	RES 15

The current RU-1-11 zoning 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. RU-1-11 does not permit horses, barns or horticulture.

The RU-2-10 classification permits multi-family dwellings, duplexes, resort dwellings and single-family dwellings with a minimum lot size of 7,500 square feet having a minimum lot width and depth of 75 feet. The maximum density is ten (10) units per acre.

The proposed RU-2-12 zoning classification would allow up to 12 units per acre of multi-family residential zoning classification. It permits multi-family residential development or single-family residences at a density of up to 12 units per acre on 7,500 square foot lots.

The RA-2-6 zoning classification is a single family attached residential classification providing a transition between single family residential detached zoning and multi-family residential zoning. The maximum density is six (6) dwelling units per acre having a minimum lot of 7,500 square feet with a minimum width of 75 feet and depth of 100 feet.

There have been two (2) zoning actions within a half-mile radius. The first is 315-feet of the subject property. **21Z00033** was an approved application to rezone from RU-1-11 to RU-2-12 with a BDP limiting uses for the property to not be used as a resort dwelling. The density is limited to two (2) units, constructed as a duplex. Access of ingress and egress is limited to one (1) unit to Franklyn Avenue and one (1) unit to Gross Pointe Avenue.

The second zoning action, **22Z00046**, was a rezoning from BU-1-A to RU-2-12 with a resolution date of November 3, 2022. This rezoned parcel is directly to the east of the subject property.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Highway A1A between US 192 and Paradise 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 52.29% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 0.07%. The corridor is anticipated to operate at 52.35% 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.

Central sewer is directly north of the parcel on Franklyn. Potable water is directly north of the parcel on Franklyn. According to the City of Melbourne they have the capacity to service this parcel.

Environmental Constraints

- Aquifer Recharge
- Indian River Lagoon Nitrogen Reduction Septic Overlay

NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

For Board Consideration

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

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary**

Item #22Z00067

Applicant: Wendy Kleefisch

Zoning Request: RU-1-11 to RU-2-12

Note: Applicant wants to build six (6) multi-family residential units as three duplexes.

P&Z Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID No: 2731680

- 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:

- Aquifer Recharge
- Indian River Lagoon Nitrogen Reduction Septic Overlay

NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

Aquifer Recharge Soils

The site has mapped aquifer recharge soils (Canaveral-Palm Beach- Urban Land Complex) on the entire parcel as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is

hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Indian River Lagoon Nitrogen Reduction Septic 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 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 and minimum landscaping requirements. 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 potential for the presence of Gopher Tortoises on site. 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.