



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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

**STAFF COMMENTS**

**24Z000051**

**Schwa Inc.**

**BU-1 (General Retail Commercial) to RA-2-4(Single-Family Attached Residential)**

Tax Account Number: 2318721  
 Parcel I.D.: 23-36-35-00-276  
 Location: Northeast corner of North Courtenay Parkway and Norwich Street  
 (NMI Special District and District 2)  
 Acreage: 2.47 acre  
 NMI Board: 11/14/2024  
 Planning & Zoning Board: 11/18/2024  
 Board of County Commissioners: 12/12/2024

**Consistency with Land Use Regulations**

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The request can be considered under the Future Land Use Designation, Section 62-1255.
- The request would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	BU-1	RA-2-4
<b>Potential*</b>	1 Single-Family	4 dwelling units per acre
<b>Can be Considered under the Future Land Use Map</b>	YES CC	YES CC

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

**Background and Purpose of Request**

The applicant is requesting a change of zoning classification from BU-1 (General Retail Commercial) to RA-2-4 (Single-family Attached Residential) to allow single-family townhomes to be developed on the property.

The property is directly East of N. Courtenay Pkwy., which is a State maintained highway, and would be pursuant to Florida Department of Transportation (FDOT) requirements and Brevard

County Code. The property would have no access to Norwich St., which is South of the subject property, due to a spite strip.

On January 8, 1990, an approved rezoning from AU to BU-1 was done under zoning action Z-8548.

**Surrounding Area**

	<b>Existing Land Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Vacant Land and Single-family residence	BU-1, AU	CC
<b>South</b>	Entrance to Egrets Landing Subdivision	EU-2	CC
<b>East</b>	Single-family residence that is part of Egrets Landing Subdivision	EU-2	RES 2
<b>West</b>	Single-family residence across N. Courtenay Pkwy.	BU-1	CC

North of the subject property are 2 parcels, one parcel is 1.36 acres, vacant with BU-1 zoning designation and the second parcel is 2.52 acres developed with a single-family residence with AU zoning designation.

South of the subject property is Egrets Landing buffer tract and Egrets Landing right of way, Norwich St., a County maintained roadway.

East of the subject property is Egrets Landing, a platted subdivision, per PB 67, PG 30 of Brevard County records.

West of the subject property is 1 parcel located across N. Courtenay Pkwy. and is 3.09 acres developed with a single-family residence, and zoning designation BU-1.

The current 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.

The proposed RA-2-4 classification is a four unit per acre multiple-family attached residential zoning classification. It permits multi-family residential development or single-family residences at a density of up to four units per acre on 7,500 square foot lots. RA-2-4 classification does not permit apartments.

## **Future Land Use**

The subject property is currently designated as Community Commercial (CC) FLUM designation. The current BU-1 zoning and the proposed RA-2-4 zoning are consistent with the existing CC FLUM designation.

### **FLUE Policy 2.10 Residential Development in Neighborhood Commercial and Community Commercial Land Use Designations**

Residential development or the integration of residential development with commercial development shall be permitted in the Neighborhood Commercial and Community Commercial land use designations, provided that the scale and intensity of the residential/mixed use development is compatible with abutting residential development and areas designated for residential use on the Future Land Use Map. Residential development is permissible in these commercial land use designations at density of up to one category higher than the closest residentially designated area on the Future Land Use Map (FLUM) which is on the same side of the street. Increases in density beyond this allowance may be considered through a public hearing. In the CHHA, however, residential development is strictly limited to the density of the closest residentially designated area on the FLUM that is on the same side of the street. Such residential development, as described above, shall be allowed to utilize the following characteristics:

Criteria:

A. Residential uses within Neighborhood Commercial and Community Commercial designations shall be encouraged to utilize neo-traditional neighborhood development techniques, such as narrower road rights-of-way, mid-block pedestrian pass-throughs, alleys, smaller lot sizes, on-street parking, reduced lot line setbacks and public transit facilities.

**Single-family attached residential zoning can be used as a transition to buffer from the higher intensity impacts along N. Courtenay Pkwy. to lower intensity impacts, which the abutting residential use to the East of the subject parcel can be considered.**

B. Residential density bonuses as set forth in Policy 11.2 may be considered in addition to the bonus stated in the above policy within Neighborhood Commercial and Community Commercial designations as an incentive for redevelopment and regentrification if the proposed development will address serious incompatibility with existing land uses, is adequately buffered from other uses, is located along major transportation corridors, and meets the concurrency requirements of this Comprehensive Plan.

**With the parcel located within the Community Commercial FLU designation, residential density could be rated up to 4 units per acre as the closest residential FLUM is RES 2 and the parcels FLUM of CC, allows for one density higher than closest residential density. The applicant wishes to utilize a zoning consistent with RA-2-4 for a residential density of 4 units per acre. The requested rezoning can be considered a transition from high and low intensity uses.**

The applicant's request can be considered consistent with the proposed Future Land Use. The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 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 intends to build nine attached residential townhomes on the subject parcel. The request would be a down zoning to the intensity of the current commercially zoned use for the parcel. The request is not anticipated to diminish the enjoyment of, safety or quality of life in the existing commercial and residential 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 Appraiser 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 patterns of the surrounding development can be characterized as a commercial and residential area located along N. Courtenay Pkwy. The developed character of the surrounding area on the East side of N. Courtenay Pkwy. to the North is vacant land zoned commercial with CC FLUM, single-family residence on agriculturally zoned land with NC FLUM. South on N. Courtenay Pkwy is a professional office on commercially zoned land with CC FLUM. Further South along N. Courtenay Pkwy. is a parcel developed as a mobile home park with RES 2 FLUM. Abutting the subject property to the East is a subdivision of single-family residences that has RES 2 FLUM. West side of N. Courtenay Pkwy. is a single-family residence on commercial land with CC FLUM.**

**The prominent FLU designations in this area include Neighborhood Commercial (NC), Community Commercial (CC), and Residential 4 (RES 4).**

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

**In Egrets Landing which abuts the subject parcel, 33 single-family residences were developed which completed the subdivision's Phase I, II and III portions.**

**North Island Villas located North of the subject property along N. Courtenay Pkwy., currently has 88 townhomes being constructed.**

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

**There has been no development approved and not constructed within the past three years. There have been multiple zoning actions.**

**Zoning actions within one-half mile within the past three years:**

- **22Z00033: Approximately 0.5 miles from the subject property on N. Tropical Trail is RU-1-13 zoning which was rezoned from AU to RU-1-13 with Binding Development Plan (BDP) to limit the maximum density to two lots with one house on each lot, on 10/12/2022.**
- **23Z00030: South of the subject property on the West side of N. Courtenay Pkwy. is GML zoning which was rezoned on 07/13/2023 from AU to GML to build a new fire station for Brevard County Fire Rescue.**
- **21Z00047: Approximately 0.17 miles (directly North of the subject property N. Courtney Pkwy. is RU-2-4 zoning which was rezoned on 03/03/2022 from BU-1 and RU-2-30 to RU-2-4.**
- **21Z00042: Approximately 0.17 miles South of the subject property on the West side of N. Courtenay Pkwy. is RU-2-4 zoning which was rezoned on 05/31/2022 from AU to RU-2-4 with BDP.**

- 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.

**Staff analysis indicates the request is located along a commercial and residential area of character along N. Courtenay Pkwy. Since 1990, the subject property has had a commercial zoning designation, BU-1. BU-1 can be considered the predominant zoning classification in the area.**

**Per Section 62-1343 of Brevard County Code, RA-2-4 is intended to provide a transition between single-family detached zoning classifications and multiple-family zoning classifications, permitting fee simple ownership of individual attached units. RA-2-4 does not permit apartments. Under RA-2-4 zoning designation, the parcel will be required to be platted and have a site plan.**

**The parcels current BU-1 zoning classification permits the use of short-term rentals and is also permissible under RA-2-4. Short-term rentals are categorized under Resort Dwellings, per Section 62-1102 of Brevard County Code. Generally, Resort Dwellings means any single-family dwelling or multifamily dwelling unit which is rented for periods of less than 90 days or three calendar months.**

**Within the search radius, there are no additional RA-2-4 properties, however just outside the search radius approximately 1 mile to the South of the subject property on the same side of N. Courtenay Pkwy at Gator Dr. is a property with RA-2-10(4) zoning that is capped at 4 units to the acre.**

**The request is not anticipated to impact the surrounding established area of commercial and residential uses materially or adversely.**

**At the time of the submitted request, the applicant has not provided a concept plan.**

- 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 located within an established corridor of commercial and residential uses along with vacant land situated along N. Courtenay Pkwy. There are clearly established roads and lot boundaries.**

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 adjacent area is both commercial and residential uses along with vacant land along N. Courtenay Pkwy.**

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 subject parcel is located along a commercial, residential with vacant land corridor. The subject parcel is proposed to be rezoned from BU-1 to RA-2-4 which is considered a transitional zoning. The proposed use provides a buffer from high intensity to low intensity uses.**

**The closest parcel with RA-2-4 zoning is North of the subject property and West across N. Courtenay Pkwy. approximately 0.23 miles from the subject property.**

**There is one residential subdivision, Egrets Landing, that abuts the subject property to the East and a mobile home park, Sun Island Lakes which is located South of the subject property on the same side of N. Courtenay Pkwy.**

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is N. Courtenay Pkwy., from Hall Rd. to N. Tropical Trail which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 36.83% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.21%. The corridor is anticipated to operate at 37.03% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

School concurrency indicates there is enough capacity at Carroll Elementary School, Jefferson Middle School, and Merritt Island High School for the total of projected and potentials students from this development.

The parcel is within public potable water and sewer lines. The proposed townhomes will connect to public water and sewer.

### **Environmental Constraints**

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

- Hydric Soils
- Aquifer Recharge Soils

- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

No noteworthy land use issues were identified. 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 request is consistent and compatible with the surrounding area.

It should be noted that the property's configuration and proximity to existing driveways may present site design challenges with complying all applicable land development regulations and code. This may affect the unit yield for the property.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Zoning Review & Summary**  
**Item No. 24Z00051**

**Applicant:** Kimberley Rezanka (Owner: Schwa, Inc.)

**Zoning Request:** BU-1 to RA-2-4

**Note:** to develop 9 townhomes

**Zoning Hearing:** 11/18/2024; **BCC Hearing:** 12/12/2024

**Tax ID Nos.:** 2318721

- 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:**

- Hydric Soils
- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

**Land Use Comments:**

**Hydric Soils**

A portion of the subject parcel contains mapped hydric soils (Basinger sand); an indicator 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.

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

### **Aquifer Recharge Soils**

This property contains Basinger sand that may also function as aquifer recharge 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.

### **Indian River Lagoon Nitrogen Reduction Septic Overlay**

The entire 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.

### **Protected and Specimen Trees**

Protected ( $\geq 10$  inches in diameter) and Specimen ( $\geq 24$  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. **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. The property is mapped within a large area of Florida Scrub Jay habitat / occupancy. Additionally, there is potential for existence of Gopher Tortoises on site. 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.