



Planning and Development Department

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BOARD OF COUNTY COMMISSIONERS

STAFF COMMENTS

24Z00015

Scott A. Martin

BU-1 and RU-2-15 to All RU-2-15

Tax Account Number: 2520270
 Parcel I.D.: 25-37-26-50-A-7
 Location: 2370 S. Atlantic Ave., Cocoa Beach, FL 32931. (District 2)
 Acreage: 0.2 acres

Planning and Zoning Board: 06/10/2024
 Board of County Commissioners: 07/11/2024

Consistency with Land Use Regulations

- Current RU-2-15 and BU-1 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 and RU-2-15	All RU-2-15
Potential*	BU-1 (4,356 sq. ft.) and RU-2-15 (1 unit)	3 unit apartment building
Can be Considered under the Future Land Use Map	YES CC and NC	YES CC and NC

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

Background and Purpose of Request

The applicant is proposing to demolish the existing retail structure and develop a 3 story, 3 unit multi-family structure. Based upon Brevard County Property Appraiser records, the existing structure appears to have been constructed in 1963 and is a one-story 4 unit retail building. The BU-1 portion was last administratively zoned under zoning action # **Z-4116** in September, 1976. A prior zoning changed the zoning from RU-3 to BU-1 under a Special Use Permit (SUP) for a restaurant on February 10, 1966; performed under zoning action **Z-1863**. Other older zoning actions include **Z-934** for a SUP for Office building on March 7, 1963. **Z-615** for rezoning from BU-1 to RU-3, December 7, 1961, and **Z-376** from RU-3 to BU-1 on July 7, 1960. The residential portion of the property shares the following zoning history: **Z-1863**, **Z-615** and **Z-376**.

This property is located at the NW corner of 24th Street and S. Atlantic Avenue Cocoa Beach. Its BU-1 zoning abuts S. Atlantic Avenue while the RU-2-15 zoned portion lies to the rear (western portion).

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Multi-family use	RU-2-15	RES 15
South	Single-family residential use	RU-2-15 and RU-1-7	Neighborhood Commercial
East	Multi-family condominium	RU-2-15	RES 15
West	Single-family residential use	RU-2-15	Neighborhood Commercial

To the north, the area is developed with multi-family uses.

To the south, the area is developed with single-family uses under multi-family zoning.

To the east across Highway A1A is a multi-family condominium.

To the west, is developed as single-family home.

Future Land Use

The subject property is currently designated with two FLUM designations. Those designations are Neighborhood Commercial and Community Commercial designations. The current RU-2-15 zoning is consistent with the Neighborhood Commercial FLUM designation. The BU-1 portion is consistent with the Community Commercial FLUM designation. The proposed zoning request to "All" RU-2-15 is consistent with both of these existing FLUM designations.

FLUE Policy 2-10. Residential Development in Neighborhood Commercial and Community Commercial Land Use Designations Policy 2.10.

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.

The owner proposes to replace an existing commercial development with a multi-family development. The zoning request abuts other multi-family zoning and removes prior commercial use from the street intersection. Multi-family zoning can be used as a transition from the highway impacts to abutting multi-family uses to the west of this site.

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 parcel location within the Neighborhood Commercial FLU designation residential density could be rated up to 30 units per acre. The applicant wishes to utilize a zoning consistent with RU-2-15 for a residential density of 15 units per acre. The zoning pattern is consistent with other abutting residential lots.

The applicant's request can be considered consistent with the existing 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 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;

Redevelopment will 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 area has been developed with both single-family and multi-family uses. Commercial development has been limited to the Highway A1A corridor.

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

No external development noted.

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

One zoning action has been approved within one-half mile:

- **21Z00050, approved by the Board on April 7, 2022, was a request to rezone from RU-2-15 to BU-1 on 0.67 acres located approximately 370 feet north of the subject property on the west side of S. Orlando Avenue.**

There is one pending zoning action within one-half mile of the subject property.

- **Pending Actions: 23Z00058 and accompanying Small Scale Amendment 23SS00018, have been on hold since December 19, 2023. This property is located approximately 100 feet west of the subject property. The zoning request was to change from RU-2-15 to RU-2-30 with a FLUM change from RES 15 to Neighborhood Commercial. Request pending since area is within the Coastal High Hazard Area which limits any increase to residential density.**

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.

The character of the area is residential with commercial uses along the Hwy A1A corridor.

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.

This block of properties between Crescent Beach Drive and 24th Street is all zoned RU-2-15. The rezoning of this property from BU-1 to RU-2-15 is consistent and compatible with the existing development trend within this block.

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 if approved would actually remove an existing commercial use and replace it with a 3-unit multi-family 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.

As a corner lot, this property has undertaken several past zoning changes to come to this juncture.

RU-2-15 classification permits multiple-family residential uses or single-family residences at a density of up to 15 units per acre on 7,500 square foot lots.

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.

Preliminary Concurrency

The closest concurrency management segment to the subject property is SR A1A, between Patrick Main Gate to south end of one-way pairs (S. Orlando Avenue and S. Atlantic Avenue), which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 44.39% of capacity daily. The maximum development potential from the proposed rezoning reduces the percentage of MAV utilization by 0.44%. The corridor is anticipated to continue to operate at 43.95% 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 potential of this site is below minimum thresholds for reporting purposes.

The subject property is served by potable water provided by the City of Cocoa. The subject property is on City of Cocoa Beach sewer.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- 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.

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. 24Z00015

Applicant: Scott Martin (Owner: Scott Martin)

Zoning Request: BU-1 and RU-2-15 to all RU-2-15

Note: To demo existing structure and build 3-story multi-family residential

Zoning Hearing: 06/10/2024; **BCC Hearing:** 07/11/2024

Tax ID No.: 2520270

- 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.**

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Land Use Comments:

Aquifer Recharge Soils

The entire property contains Canaveral-Palm Beach-Urban land complex, classified 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.**

Indian River Lagoon Nitrogen Reduction Septic Overlay

The eastern 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.

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.