



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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

STAFF COMMENTS

21Z00041

Edic and Ashley Moreno

GU (General Use) to RR-1 (Rural Residential)

Tax Account Number: 2423907

Parcel I.D.: 24-36-31-00-17

Location: 1640 Sue Drive Cocoa, FL 32922 (District 1)

Acreage: 1.11 acres

Planning and Zoning Board: 1/10/2022

Board of County Commissioners: 2/03/2022

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	GU	RR-1
Potential*	0-units	1-unit
Can be Considered under the Future Land Use Map	YES NC	YES NC

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

Background and Purpose of Request

The applicant requests to change the zoning classification from GU (General Use) to RR-1 (Rural Residential) in order to develop the property with a residence. The lot is currently undeveloped and does not abut a county-maintained road (a requirement of Section 62-102 in order to obtain a building permit). According to Section 62-102, development rights for single-family building permit use can be accommodated by approval of an exclusive access easement. That section does not grant other rights such as agricultural or commercial development.

The lot's GU zoning is original zoning. This property lost its nonconforming status when the SE quadrant was split off from the parent tract on April 3, 1986. A failed attempt to rezone the property from GU to BU-2 (General Retail and Wholesale Business) was heard under Zoning action **DNZ-1098** on September 5, 1963.

Land Use

The subject property is currently designated as Neighborhood Commercial (NC) FLU. Both the GU and RR-1 zoning classifications are consistent with the Neighborhood Commercial (NC) FLU designation.

Applicable Land Use Policies

Residential Development in Neighborhood Commercial and Community Commercial Land Use Designations

Policy 2.13

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:

a) Residential uses within Neighborhood Commercial and Community Commercial designations shall be encouraged to utilize neotraditional 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 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.

The subject 1.11-acre property lies within the Neighborhood Commercial FLU designation. This property is bounded by the Neighborhood Commercial FLU designation along each of its borders.

The applicant intends to maintain the parcel as one lot/parcel for horticultural uses along with horses and chickens.

Analysis of Administrative Policy #4 - Character of a neighborhood or area.

The developed character of the surrounding area along Sue Drive is a mixture of single-family homes and duplexes developed within the Medium-Density Multi-Family Residential RU-2-10 Zoning classification. At the eastern end of Sue Drive adjacent to Clearlake Road are multiple parcels

commercially developed under the Retail, Warehousing and Wholesale Commercial, BU-2 Zoning classification. To the west of this lot (within 1,000 feet) are existing AU and RR-1 zoned parcels.

Surrounding Area

To the north, west, and south of this parcel are residential parcels zoned GU. To the east are found: multiple-family zoned lots under the Medium-density Multi-family RU-2-10 zoning classification and one developed single-family zoned lot, zoned Single-family Residential (RU-1-7). The property lies west of the western terminus of Sue Drive.

GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet.

RU-2-10 classification permits multiple-family residential development or single-family residences at a density of up to 10 units per acre on minimum lot sizes of 7,500 square feet.

RU-1-7 classification permits single family residences on minimum 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet. The minimum house size is 700 square feet.

There has been no zoning actions within a half-mile radius of the subject property within the last three years. No recent development trends have been identified in this area.

This location could function as a transition from the AU and GU zoning classifications located to the west and the existing single-family and multi-family zoning classifications to the east. The Board may wish to determine whether this location for RR-1 zoning is compatible with the area. The Board may also wish to limit horticultural ventures that the RR-1 zoning classification may otherwise allow as the site fails to abut an approved county road right-of-way.

RR-1 zoning allows the following accessory uses identified in Section 62-2100.5 (2) of Brevard County Code:

Accessory agricultural uses: The keeping of horses and agricultural pursuits are accessory to a principle residence within the following rural residential zoning classifications: (REU, RR-1, RRMH-1, RRMH-2.5 & RRMH-5) pursuant to the following limitations. Horses, not to exceed four per acre, are permitted for the personal, noncommercial use of the occupant of the property, provided there is a minimum of 10,000 square feet of land for each animal. Agricultural pursuits shall be limited to the keeping of horses and activities of a horticultural nature. No other farm animals or fowl shall be kept on the property except as provided in this chapter, and no produce shall be sold from the premises.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Clearlake Road, between SR 520 to Lake Drive, which has a Maximum Acceptable Volume (MAV) of 39,800 trips per day, a Level of Service (LOS) of D, and currently operates at 28.46% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 0.03%. The corridor is anticipated to operate at 28.49% 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.

The parcel is connected to City of Cocoa water. The parcel is not connected to sanitary sewer.

Environmental Constraints

- Wetlands
- Hydric Soils
- Land Clearing and Landscape Requirements
- Protected Species

The subject parcel contains mapped National Wetland Inventory (NWI) wetlands, 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 activities or building permit application submittal. Per Section 62-3694(c)(2), 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. The preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total property. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with Section 62-3696.

Information available to NRM indicates that unpermitted land clearing activities may have occurred. The discovery of unpermitted wetland impacts or land clearing activities may result in code enforcement action.

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

For Board Consideration

The Board may wish to consider whether the requested rezoning action is consistent and compatible with the surrounding area.

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

Item # 21Z00041

Applicant: Edie Moreno

Zoning Request: GU to RR-1

Notes: Applicant wants to build a duplex and a single-family residence.

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

Tax ID No: 2423907

- 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
- Hydric Soils
- Land Clearing and Landscape Requirements
- Protected Species

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Land Use Comments:

Hydric Soils/Wetlands

The subject parcel contains mapped NWI and SJRWMD wetlands, and hydric soils (Anclote sand and Terra Ceia Muck-frequently flooded) as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes and USDA Soil Conservation Service Soils Survey maps, respectively; indicators that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities or building permit application submittal. Per Section 62-3694(c)(2), 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. The preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total property. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with 62-3696.

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Land Clearing and Landscape Requirements

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for Protected and Specimen tree preservation, and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM. The discovery of unpermitted land clearing activities may result in code enforcement action.

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.