



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

2725 Judge Fran Jamieson Way

Building A, Room 114

Viera, Florida 32940

(321)633-2070 Phone / (321)633-2074 Fax

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

STAFF COMMENTS

22Z00001

Rushing Wind LLC

RR-1 (Rural Residential) and IN(L) (Institutional – Low Intensity) to RU-1-11 (Single-Family Residential)

Tax Account Numbers: 3008616

Parcel I.D.s: 30G-38-01-HJ-* -38

Location: South side of Micco Rd. approximately 0.37 miles west of Dottie Drive
(District 3)

Acreage: 34.65

Planning & Zoning Board: 3/14/2022

Board of County Commissioners: 4/07/2022

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	RR-1 and IN(L)	RU-1-11
Potential*	<ul style="list-style-type: none">• 25 SFR units (RR-1 portion)• Low-intensity institutional uses	138 SFR units
Can be Considered under the Future Land Use Map	YES RES 1 & RES 6	YES** RES 4 & RES 6

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. **Approval is pending approval of companion request **22PZ00003** which proposes to change the Future Land Use Designation from Residential 1 (RES 1) to Residential 6 (RES 6).

Background and Purpose of Request

The applicants are requesting to change the zoning of a 34.65-acre property from RR-1 (Rural Residential) and IN(L) (Institutional – Low Intensity) to RU-1-11 (Single-Family Residential) in order to develop a subdivision. The parcel is currently vacant.

The site has access along Micco Road, which is a paved county-maintained road. In order to develop the parcel at a density of four units per acre or higher, the applicants will be required to connect to potable water and sewer.

The original zoning of the property was AU (Agricultural Residential). On November 3, 2005, 28.866 acres of the parcel were rezoned from AU to RR-1 as part of zoning action **Z-11135**. On September 4, 2008, 9.026 acres were rezoned from AU and RR-1 to IN(L) as part of zoning action **Z-11440**.

Land Use

The subject property is currently designated as Residential 1 (RES 1) and Residential 6 (RES 6) FLU. The proposed RU-1-11 zoning is consistent with the existing Residential 6 (RES 6) FLU designation, but not with the existing Residential 1 (RES 1) FLU designation. A companion application, **22PZ00003**, if approved, would change the Future Land Use designation on the RES 1 portion of the parcel to RES 4.

Applicable Land Use Policies

Policy 1.2 - Minimum public facilities and services requirements should increase as residential density allowances become higher. The following criteria shall serve as guidelines for approving new residential land use designations:

Criteria:

- C. In the Residential 30, Residential 15, Residential 10, Residential 6 and Residential 4 land use designations, centralized potable water and wastewater treatment shall be available concurrent with the impact of the development.

Connection to centralized potable water and wastewater treatment is required. The nearest potential potable water connection is directly to the east of the subject site servicing The Lakes at St. Sebastian Preserve. Presently, there are no wastewater treatment connections to this site.

Policy 1.7 - The Residential 4 land use designation affords an additional step down in density from more highly urbanized areas. This land use designation permits a maximum density of up to four (4) units per acre, except as otherwise may be provided for within this element. The Residential 4 land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan:

Criteria:

- A. Areas adjacent to existing Residential 4 land use designation; or

The subject site is not immediately adjacent to RES 4 land use designation; however, it is located adjacent to RES 6 immediately to the north which is a higher density than what is being proposed on the subject site.

The closest RES 4 land use designation is approximately .4 miles to the east on the north side of Micco Road at Barefoot Bay.

- B. Areas which serve as a transition between existing land uses or land use designations with density greater than four (4) units per acre and areas with density of less than four (4) units per acre; or

The subject site does not serve as a transition between densities greater than four (4) units per acre and areas with density of less than four (4) units per acre.

- C. Unincorporated areas which are adjacent to incorporated areas and may be considered a logical transition for Residential 4.

The subject site is adjacent to the incorporated area of Palm Bay along the west side.

- D. Up to a 25% density bonus to permit up to five (5) units per acre may be considered with a Planned Unit Development where deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses. This density bonus shall not be utilized for properties within the CHHA.

The applicant is not proposing a Planned Unit Development.

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.

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 proposed use (residential subdivision) is not anticipated to have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly

diminish the quality of life in the existing neighborhood in the area. Currently the only other subdivision in the area is located to the east of the subject property.

- 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 use.

- 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;

There has been a historical pattern of residential development along Micco Road.

Approximately .4 miles east of the subject site is the Barefoot Bay manufactured home community with a RES 4 Future Land Use designation with development beginning in the 1970's and continuing up to the present.

Directly adjacent to the east of the subject site is The Lakes at St. Sebastian Preserve, a single-family development with houses constructed in 2019 through the present.

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.

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

In general, the character of the area is rural with a low-density residential neighborhood to the east. Across Micco Road to the north is property within the City limits of Palm Bay. To the east of the subject property is the Lakes at St. Sebastian Preserve, a subdivision with RU-1-13 zoning that was approved in August 2013. Lot sizes in this subdivision are around 0.25 acres. The site has a Binding Development Plan limiting the overall density to 2 units per acre in order to be consistent with the RES 2 land use. To the south of the subject property is state-owned land that is undeveloped. The area to the west of the subject property is entirely undeveloped, with some of it within the jurisdiction of Palm Bay. The City of Palm Bay has stated that there are currently no plans to develop these large parcels to the west.

There is no RU-1-11 in the area, with the RU-1-13 directly to the east being the closest similar zoning classification. RU-1-11 and RU-1-13 have the same requirements for minimum lot size, lot width, and lot depth, and have the same setback requirements. RU-1-13 requires a minimum living area of 1,300 sq. ft. whereas RU-1-11 requires a minimum living area of 1,100 sq. ft. The rezoning to RU-1-13 on the adjacent property included a Binding Development Plan limiting development to two units per acre.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	City of Palm Bay Vacant Orchard Groves	GU & AU	RES 1
South	State-owned land	AU	PUB-CONS
East	Residential Common Area and Single-Family Residences	GU	RES 1
West	City of Palm Bay Grazing Land	City of Palm Bay Rural Residential	City of Palm Bay Micco Park Village (MPVD)

RU-1-11 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.

RU-1-13 permits single-family residences on minimum 7,500 square foot lots, with minimum widths and depths of 75 feet. The minimum house size is 1,300 square feet. RU-1-13 does not permit horses, barns or horticulture.

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.

AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

TRC-1 encompasses lands devoted to planned single-family mobile home development which permits mobile homes or residences on lots of minimum 6,500 square feet with a lot width of 65 feet and a lot depth of 80 feet.

The purpose of the GML government managed lands zoning classification is to recognize the presence of lands and facilities which are managed by federal, state and local government, special districts, nongovernmental organizations (NGOs) providing economic, environmental and/or quality of life benefits to the county, electric, natural gas, water and wastewater utilities that are either publicly owned or regulated by the Public Service Commission, and related entities.

There have been no zoning actions within a half-mile radius of the subject property within the last three years.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Micco Rd., between Babcock and Dottie Dr., which has a Maximum Acceptable Volume (MAV) of 14,200 trips per day, a Level of Service (LOS) of C, and currently operates at 16.33% of capacity daily. This rezoning is anticipated to increase the MAV utilization by 6.44%. The corridor is anticipated to operate at 22.77% of capacity daily (LOS C). The proposal is not anticipated to create a deficiency in LOS.

The applicants provided a school impact analysis letter dated January 7, 2022, that indicates there is sufficient capacity for 96 single-family homes.

The subject property is not connected to potable water or sewer. The nearest potential potable water connection is directly to the east of the subject site servicing The Lakes at St. Sebastian Preserve. Presently, there are no wastewater treatment connections to this site.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils/Wetlands
- Indian River Lagoon Nitrogen Reduction Overlay
- Land Clearing and Landscape Requirements
- Protected Species

Approximately 1/3 of the 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. The parcel is connected to the Indian River Lagoon by way of drainage ditches/canals that encompass three sides of the parcel.

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Rezoning Review & Summary
Item # 22Z00001

Applicant: Rushing Wind

Zoning Request: RR-1 and IN(L) to RU-1-11

Note: Applicant wants to increase density for a subdivision

P&Z Hearing Date: 03/14/22; **BCC Hearing Date:** 04/07/22

Tax ID No: 3008616

- 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:

Hydric Soils/Wetlands

The entire parcel contains mapped hydric soils (Eau Gallie sand, Riviera sand, and Pineda sand) as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that wetlands may be present on the property. 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. For subdivisions greater than five acres in area, 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 non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). 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. At time of site plan review, a wetland determination/delineation will be required.

Indian River Lagoon Nitrogen Reduction Overlay

Approximately 1/3 of the 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. The parcel is connected to the Indian River Lagoon by way of drainage ditches/canals that encompass three sides of the parcel. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

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 preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM. Septic systems may limit tree planting locations.

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.