



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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**STAFF COMMENTS
 21Z00050**

South Beach Cove Development Corp.

RU-2-15 (Medium-Density Multiple-Family Residential) to BU-1 (General Retail Commercial)

Tax Account Numbers: parts of: 2520069 & 2520070
 Parcel I.D.s: 25-37-26-00-25 & 25-37-26-00-25.01
 Location: 2210 Atlantic Avenue Cocoa Beach, FL 32931 (District 2)
 Acreage: 0.673 acres

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	RU-2-15	BU-1
Potential*	10 SF/MF units	29,315 sq. ft. commercial
Can be Considered under the Future Land Use Map	YES CC	YES CC

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

Background and Purpose of Request

The applicant requests to change the property from RU-2-15 (Medium-Density Multiple-Family Residential) to the BU-1 (General Retail Commercial) zoning classification. This parcel is developed with an existing multi-tenant commercial building. With this rezoning to BU-1 would make the use of the property consistent with the Future Land Use. According to the Property Appraiser's record the building was constructed in 1965.

The property is currently under Zoning Resolution **Z-11290** adopted on November 2, 2006. That request changed BU-1 and RU-2-10 with a BDP to all RU-2-15 and the removal of the existing BDP. The original BU-1 area was rezoned from RU-3 to BU-1 under Ordinance 73-13 adopted August, 1973.

Land Use

The subject property is currently designated Community Commercial (CC). The BU-1 request would be consistent with the Community Commercial (CC) FLU designation.

Applicable Land Use Policies

FLUE Policy 2.2 – Role of Zoning Regulations in the Designation of Commercial Lands

The zoning process regulates the types and intensities of uses for a parcel of land. Criteria which aid in assessing zoning compatibility, shall include consideration of the following standards:

Criteria:

A. Permitted/prohibited uses;

Applicant wishes to retain the existing multi-tenant commercial building.

B. Existing commercial zoning trends in the area;

There has not been any other commercial rezoning requests within the BU-1 zoning classification within the last three years. The next lot to the north has a Mediation Settlement Agreement that was approved on March 21, 2017 allowing the nonconforming commercial use to remain on the property.

C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;

The adjacent properties remain vacant. The modified area of this request will comply with current buffering and setback requirements.

D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;

As the property is already commercial, no change is expected to change the LOS standards.

E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and
As the property is already used as commercial, no change is expected to change the LOS standards

F. Other issues which may emerge specific to a particular property which may be addressed through performance-based zoning criteria.

This property will need to comply with Brevard County Performance Standards noted within Section Sections 62-2251 through 62-2272 of Brevard County Code.

FLUE Policy 2.3 – Role of Land Development Regulations in the Designation of Commercial Lands

Land development regulations provide performance standards for evaluating the acceptability of proposed commercial development activities. Criteria include:

Criteria:

A. Integration of vehicular and non-vehicular access into the site and access management features of site in terms of driveway cuts and cross access between adjacent sites, including use of frontage roads and/or shared access, where feasible, as determined by Brevard County;

Site already has a commercial building on it.

B. Buffering from adjacent existing/potential uses;

Building is existing. Expansion area is used for parking.

C. Open space provisions and balance of proportion between gross floor area and site size;

Not applicable for commercial usage.

D. Adequacy of pervious surface area in terms of drainage requirements;

Existing building less than FAR (Floor area ratio) of 1:1.

E. Placement of signage;

Location not identified on submitted survey.

F. Adequacy of site lighting and intrusiveness of lighting upon the surrounding area;

External site lighting is existing, modified or new lighting will need to comply with Section 62-2257 of Brevard County Code.

G. Safety of on-site circulation patterns (patron, employee and delivery vehicles), including parking layout and drive aisles, and points of conflict;

Site is already developed.

H. Landscaping, as it relates to the requirements of the Comprehensive Plan and Land Development Regulations;

Review will be performed at site plan review stage.

I. Unique features and resources which may constrain site development, such as soils, existing vegetation and historic significance; and

None identified by the NRMD review.

J. Performance based zoning requirements which may serve as a substitute for or accompany land development regulations in attaining acceptable site design.

No waivers, administrative approvals, or variances have been applied for.

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 to continue the existing commercial uses that the property had retained as nonconforming uses. Proposed modifications will be reviewed at the site plan review stage for the enlarged parking lot 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 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;

Commercial use has been allowed on this property since August, 1973. It is currently identified as nonconforming use since rezoning from BU-1 to RU-2-15 on November 2, 2006.

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 has not been any actual development within this area in the preceding three (3) years.

D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

As this site was previously developed, no material violation of relevant policies have been identified.

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

The developed character of the surrounding area is a mixture of commercial and multi-family residential zoning classifications developed with restaurant, retail, single-family and multi-family uses. To the north of the subject property is the remainder of this residentially zoned parcel and adjacent to that is a developed nonconforming restaurant. To the south, is a vacant multi-family zoned lot that used to be operated as a nonconforming trailer park under designation NMH-62. To the east is a single-family residence that was built in 1973. To the west, is the remainder of the parent parcel which is currently undeveloped.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Vacant	RU-2-15	CC
South	Vacant	RU-2-15	CC
East	SF residence	RU-2-15	RES 15
West	Vacant	RU-2-15	CC & RES 15

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.

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.

There are three pending zoning actions within a half-mile radius of the subject property within the last three years. All three actions are located approximately 780 feet to the north at the NE corner of Summer Street and S. Orlando Avenue. Those actions are: **21PZ00059** which was heard by the Board on December 2, 2021 and a BDP is pending approval/recording; **21PZ00090** and **21PZ00091** are to be heard on March 3, 2022 and are adjacent applications to remove/modify the same BDP limitations that **21PZ00059** was obtaining relief from.

Preliminary Concurrency

The closest concurrency management segment to the subject property is SR Highway A1A, between Minuteman Causeway to one-way pairs (SR A1A north and south bound meet), which has a Maximum Acceptable Volume (MAV) of 19,440 trips per day, a Level of Service (LOS) of D, and currently operates at 58.93% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 1.54%. The corridor is anticipated to operate at 60.47% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development proposal is for commercial and not residential use.

The parcel has access to public water by the City of Cocoa and centralized sewer may be available from the City of Cocoa Beach.

Environmental Constraints

- Aquifer Recharge Soils
- Coastal High Hazard Area
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected Species

- Land Clearing and Landscape Requirements

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 whether the request is consistent and compatible with the surrounding area.

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

Item # 21Z00050

Applicant: Menzel for Baugher

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

Note: Applicant wants commercial uses retained

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

Tax ID Nos: 2520070 and portion of 2520069

- 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 Soils
- Coastal High Hazard Area
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected Species
- Land Clearing and Landscape Requirements

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:

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Canaveral-Palm Beach urban land complex) 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.

Coastal High Hazard Area

A small portion of the property is located within the Coastal High Hazard Area (CHHA) as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates coastal high hazard areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute.

Indian River Lagoon Nitrogen Reduction 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 Species

Information available to NRM indicates that 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 and/or U.S. Fish and Wildlife Service, as applicable.

Land Clearing and Landscape Requirements

Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Specimen trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.