



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

22Z00031

CGCR Holdings, LLC (Kelly Hyvonen)

IN(L) (Institutional Use-Low Intensity) to BU-2 (Retail, Warehousing and Wholesale Commercial)

Tax Account Number: 2400719
Parcel I.D.: 24-35-01-25-13-10
Location: Approximately 500 feet east of Grissom Parkway and 4,238 feet south of Canaveral Groves Boulevard (District 1)
Acreage: 4.83 acre portion of 10.7 acre parcel

Planning & Zoning Board: 09/12/2022
Board of County Commissioners: 10/06/2022

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal cannot be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would not maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	IN(L)	BU-2
Potential*	Low-intensity institutional uses	210,395 sq. ft. of commercial (using 1.0 FAR for CC)
Can be Considered under the Future Land Use Map	YES RES 4, NC	NO** CC

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. **Approval is pending approval of companion request **22SS00009** which proposes to amend the Future Land Use designation from Residential 4 (RES 4) and Neighborhood Commercial (NC) to Community Commercial (CC).

Background and Purpose of Request

The applicant is requesting a change of zoning classification from IN(L) (Institutional Use-Low Intensity) to BU-2 (Retail, Warehousing and Wholesale Commercial) on an undeveloped, 4.83-acre portion of a larger 10.7-acre parcel for future development purposes. The parent parcel is bifurcated by Right Of Way (ROW) (Al Klinefeldt Way, constructed as a private drive) where the southern portion of the larger parcel is currently zoned IN(L) for the existing religious institution. The 4.83-acre subject parcel on the north side of the ROW is currently zoned IN(L) and abuts an undeveloped, 2.5-acre BU-2 portion of the larger parcel.

The applicant states that the property owner, CGCR Holdings, LLC, recently purchased the undeveloped portion of Tax Account 2400719 north of the religious institution and is seeking to change the zoning of the newly acquired property from IN(L) to BU-2 to provide a unified zoning across the newly acquired property for future development purposes.

The larger 10.7-acre parcel has frontage along Grissom Parkway; however, the 4.83-acre subject parcel is not located on a county-maintained roadway.

The parcel was originally zoned GU and was administratively rezoned from GU to IN(L) on December 2, 2004, as zoning action **Z-10985(27)**.

Land Use

The subject property is currently designated as Residential 4 (RES 4) and Neighborhood Commercial (NC) FLU. The proposed BU-2 zoning cannot be considered consistent with the existing RES 4 and NC FLU designations. A companion application, **22SS00009**, if approved, would amend the Future Land Use designation from Residential 4 (RES 4) and Neighborhood Commercial (NC) to Community Commercial (CC) FLU.

The proposed BU-2 zoning can be considered consistent with the proposed Community Commercial (CC) FLU designation.

Applicable Land Use Policies

FLUE 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.

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 has not proposed a specific commercial use or provided hours of operation, a lighting plan, or a traffic analysis. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the zoning and Future Land Use change be approved.

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 is Community Commercial, Neighborhood Commercial and single-family residential in character. There are four (4) FLU designations within 500 feet of the subject site: CC, NC, RES 4, and RES 1:2.5 east of Grissom Parkway.

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.

While there has not been any actual development within this area in the preceding three (3) years, one zoning action has been approved within one-half mile.

20PZ00021, approved by the Board on May 6, 2020, was a request to change GU (General Use) to BU-1 (General Retail Commercial) on 0.44 acres located approximately 2,460 feet northwest of the subject property.

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.

The developed character of the surrounding area is institutional and single-family residential on lots one (1) acre in size or larger. There is an existing pattern of commercial, institutional and residential zoning surrounding the subject parcel.

One zoning action has been approved within a half-mile radius of the subject property within the last three years: **20PZ00021**, approved by the Board on May 6, 2020, was a request to change GU (General Use) to BU-1 (General Retail Commercial) on 0.44 acres located approximately 2,460 feet northwest of the subject property.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Vacant	GU	NC, RES 4
South	Religious Institution	IN(L)	NC, RES 4
East	Vacant	GU	RES 4
West	Vacant	BU-2	CC

To the north is an undeveloped 2.3-acre parcel with GU zoning. To the south is a 4.5-acre (approximate) portion of the larger 10.7-acre parcel developed as a religious institution with IN(L) zoning, and further south is Manufacturing and Industrial zoning within the City of Cocoa. To the east are two undeveloped 1.15-acre parcels with GU zoning. To the west is an undeveloped 2.5-acre portion of the larger 10.7-acre parcel with BU-2 zoning.

The current IN(L) classification of the subject parcel is an Institutional (Light) zoning classification, intended to promote low impact private, nonprofit, or religious institutional uses to service the needs of the public for facilities of an educational religious, health or cultural nature.

The proposed BU-2 classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. Possible incompatibilities are due to the intensive nature of commercial activities permitted by the BU-2 classification and possible noise, light, traffic and other nuisance factors potentially associated with BU-2 activities.

GU zoning 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.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Grissom Parkway, from Industry to Canaveral Groves, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 60.76% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 99.70%. The corridor is anticipated to operate at 160.46% of capacity daily. The proposal could create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review.

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

The parcel is within the City of Cocoa utilities service area for public water. The closest Brevard County sewer line is approximately 2.8 miles southwest on Adamson Road.

Environmental Constraints

- Wetlands/Hydric Soils
- Aquifer Recharge Soils
- Protected Species
- Protected and Specimen Trees

A portion of the project area is mapped with National Wetlands Inventory (NWI) wetlands and SJRWMD wetlands; indicators that wetlands may be present on the property. A wetland determination was performed by Toland Environmental Consulting, and found the parcel to contain an area of wetlands. Section 62-3694(c)(3)b has allowances for wetland impacts for properties with commercial uses and located with frontage along "Mitigation Qualified Roadways" (MQRs). Grissom Parkway is classified as an MQR at this location. The applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. 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.

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item #22Z00031

Applicant: Hyvonen for Mitchell

Zoning Request: IN(L) to BU-2

Note: Applicant wants to unify zoning across parcel for future development

P&Z Hearing Date: 09/12/22; **BCC Hearing Date:** 10/06/22

Tax ID No: 2400719

- 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.
- A rezoning zoning or Future Land Use approval by the Board of County Commissioners does not vest the property from meeting the current wetland ordinance. A formal review of current proposed wetland impacts at time of building permit or site plan review is required, regardless of any previously approved wetland impacts from any Federal, State or local agency. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands/Hydric Soils
- Aquifer Recharge Soils
- Protected Species
- Protected and Specimen Trees

A portion of the project area is mapped with National Wetlands Inventory (NWI) wetlands and SJRWMD wetlands; indicators that wetlands may be present on the property. A wetland determination was performed by Toland Environmental Consulting, and found the parcel to contain an area of wetlands. Section 62-3694(c)(3)b has allowances for wetland impacts for properties with commercial uses and located with frontage along "Mitigation Qualified Roadways" (MQRs). Grissom Parkway is classified as an MQR at this location. The applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. 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.

The subject parcel contains mapped aquifer recharge soils. Mapped topographic elevations indicate the soils may consist of Type 2 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.

There is a large area of mapped Florida Scrub Jay occupancy on the project site, and there is potential for existence of Gopher Tortoises on site. 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. If applicable, the applicant is advised to call the FWC at (561)882-5714 (O) or (561)365-5696 (C) with to obtain any necessary permits or clearance letters for Gopher Tortoises.

Land Use Comments:

Wetlands

A large portion of the project area is mapped with NWI wetlands and SJRWMD wetlands (freshwater marshes); indicators that wetlands may be present on the property. A wetland determination was performed by Toland Environmental Consulting, and found the parcel to contain an area of wetlands. Section 62-3694(c)(3)b has allowances for wetland impacts for properties with commercial uses and located with frontage along "Mitigation Qualified Roadways" (MQRs). Grissom Parkway is classified as an MQR at this location. The applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. 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

The subject parcel contains mapped aquifer recharge soils (Pomello sand & St. Lucie fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Type 2 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.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. There is a large area of mapped Florida Scrub Jay occupancy on the project site, and there is potential for existence of Gopher Tortoises on site. 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. If applicable, the applicant is advised to call the FWC at 561-882-5714 (O) or 561-365-5696 (C) with to obtain any necessary permits or clearance letters for Gopher Tortoises.

Protected and Specimen Trees

A large portion of the subject property is mapped with SJRWMD FLUCCS code 4100-Pine Flatwoods. Protected Trees (≥ 10 inches in diameter) and Specimen Trees (≥ 24 inches in diameter) are included in this FLUCCS code, and may be found on the project area. A tree survey is required prior to any land clearing activities, site plan design or site plan submittal. The applicant is encouraged

incorporate valuable vegetative communities or robust trees into the site plan design. 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 Heritage Specimen trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, 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 tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM. The applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.