



BOARD OF COUNTY COMMISSIONERS

## Planning and Development Department

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### STAFF COMMENTS

22Z00039

Dieter Tytko

#### RR-1 (Rural Residential) to RU-2-4 (Low-density Multiple-family Residential)

Tax Account Number: 2955625  
Parcel I.D.: 29-38-23-00-3.1  
Location: East side of State Road A1A approximately 700 feet north Cortez Street  
(District 3)  
Acreage: 1.01 acres  
  
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 can 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
<b>Zoning</b>	RR-1	RU-2-4
<b>Potential*</b>	1 SF units	4 SF units
<b>Can be Considered under the Future Land Use Map</b>	YES RES 4	YES RES 4

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

#### Background and Purpose of Request

The applicant is requesting a change of zoning classification from RR-1 (Rural Residential) to RU-2-4 (Low-density Multiple-family Residential) on a 1.01-acre parcel to develop four (4) multiple-family units.

The subject property is currently undeveloped and was administratively rezoned from RU-2-4 to RR-1 on October 5, 1998, per zoning action **Z-10170(D)**. The original zoning was RU-2-4. The subject property has frontage on State Road A1A.

#### Land Use

The subject property is currently designated as Residential 4 Directive (RES 4 Directive) Future Land Use, adopted in Comprehensive Plan Amendment 1992B by Brevard County Ordinance 93-02. The subject property, which was located within the boundaries of the 1992 South Beaches Small Area Plan Study, was not included in the residential density reductions on over 4,000 acres in the south

beaches that resulted from the recommendations of the Study (referred to as the South Beaches amendments). The South Beaches Future Land Use Element Directives excluded nine specific properties (totaling 3.5 acres) from those residential density changes because it was recognized that lower densities would result in significant incompatibilities based upon areas of existing higher land use densities and intensities. The subject property, located between two parcels that were constructed at ten (10) dwelling units per acre, was adopted with a maximum density to be considered of four (4) dwelling units per acre under the South Beaches Future Land Use Element Directives. The directives did not increase density, rather, densities were not reduced.

The existing RR-1 zoning can be considered consistent with the existing RES 4 FLU designation, and the proposed RU-2-4 zoning can be considered consistent with the existing RES 4 FLU designation.

### **Applicable Land Use Policies**

**FLUE Policy 1.7** –The Residential 4 Future land use designation. 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 the Future Land Use Element.

### **FLUE Policy 1.2 - Public Facilities and Services Requirements**

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.
- D. Where public water service is available, residential development proposals with densities greater than four units per acre shall be required to connect to a centralized sewer system.
- E. Where public water service is not available, residential development proposals with densities greater than two units per acre shall be required to connect to a centralized sewer system.

**As the project's density is 4 units per acre, connection to centralized sewer and potable water could be required under Criterion C, above. Site is currently unimproved and not connected to utilities. Central water and sewer is approximately 5 miles away to the North.**

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 proposes to rezone the 1.01-acre lot to RU-2-4 zoning classification for the purpose of developing four (4) multiple-family units. Development would need to meet performance standards set forth in code sections 62-2251 through 62-2272. The proposal is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the 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;

**The surrounding area is residential in character on lots approximately one-half acre or larger in size. There are three FLU designations within 500 feet of the subject property: RES 1, RES 4 Directive, and PUB-CONS. The predominant FLU designation along the east side of Highway A1A is RES 1.**

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 development approved but not yet constructed 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.

**Coastal Management Element Policy 7.1 “States Brevard County shall not increase residential density designations for properties located on the barrier island between the southern boundary of Melbourne Beach and the Sebastian Inlet.” While this application does not affect the subject property’s Future Land Use “residential density designation”, the RU-2-4 zoning will allow three additional units than the current RR-1 will allow.**

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

The developed character of the surrounding area is multi-family residential and single-family residential on lots approximately one-half acre or larger in size.

The current RR-1 zoning classification permits single-family residential land uses on a minimum one-acre lot, with a minimum lot width and depth of 125 feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The minimum house size is 1,200 square feet.

The proposed RU-2-4 classification is a four unit per acre multiple-family residential zoning classification. It permits multi-family residential development or single family residences at a density of up to four units per acre on 7,500 square foot lots.

#### **Surrounding Area**

	<b>Existing Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Multi-Family	RU-2-10	RES 1
<b>South</b>	Multi-Family	RU-2-10	RES 1
<b>East</b>	(Ocean)	(Ocean)	(Ocean)
<b>West</b>	SF residence	RU-1-13	RES 1

To the north is a 3.9-acre (approximate) multi-family development with RU-2-10 zoning, and to the south is a 0.8-acre (approximate) multi-family development with RU-2-10 zoning. To the west is a single-family residence on 1.97-acres (approximate) with RU-1-13 zoning. To the east is the Atlantic Ocean.

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.

SR classification permits single family residences on minimum half acre lots, with a minimum width of 100 feet and a depth of 150 feet. The minimum house size in SR is 1,300 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.

GML government managed lands zoning classification recognizes 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.

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is State Road A1A, from Strawberry Lane to Heron Drive, which has a Maximum Acceptable Volume (MAV) of 24,200 trips per day, a Level of Service (LOS) of D, and currently operates at 18.71% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.03%. The corridor is anticipated to operate at 18.74% of capacity daily. The proposal is not anticipated to 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 potential of this site falls below the minimum number of new residential lots that would require a formal review.

The parcel is not serviced with centralized potable water or sanitary sewer. The closest Brevard County water and sewer lines are approximately 5.1 miles north on Highway A1A.

### **Environmental Constraints**

- Coastal Management
- Floodplain
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

The Coastal Management Element of the Comprehensive Plan, Policy 7.1, Coastal Residential Densities, states that Brevard County shall not increase residential density designations for properties located on the barrier island between the southern boundary of Melbourne Beach and the Sebastian Inlet.

The applicant is encouraged to contact NRM at 321-633-2016 prior to any land clearing, site plan design 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 (NRM) DEPARTMENT**  
**Zoning Review & Summary**  
**Item #22Z00039**

**Applicant:** Rezanka for Tytko

**Zoning Request:** RR-1 to RU-2-4

**Note:** Applicant wants to rezone for development of 4-unit multi-family complex.

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

**Tax ID No:** 2955625

- 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:**

- Coastal Management
- Floodplain
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

The Coastal Management Element of the Comprehensive Plan, Policy 7.1, Coastal Residential Densities, states that Brevard County shall not increase residential density designations for properties located on the barrier island between the southern boundary of Melbourne Beach and the Sebastian Inlet.

**Land Use Comments:**

**Coastal Management**

The Coastal Management Element of the Comprehensive Plan, Policy 7.1, Coastal Residential Densities, states that Brevard County shall not increase residential density designations for properties located on the barrier island between the southern boundary of Melbourne Beach and the Sebastian Inlet.

The property is located adjacent to the Atlantic Ocean and is subject to Chapter 62, Article XIII of the Coastal Setback and Control Lines ordinance. The applicant is encouraged to call NRM at 321-633-2016 prior to any land clearing, site plan design or building permit submittal.

**Floodplain**

The eastern two-thirds of the property is mapped within the coastal floodplain (VE) as identified by the Federal Emergency Management Agency and as shown on the FEMA Flood Map. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance.

**Indian River Lagoon Nitrogen Reduction Overlay**

The parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If sewer is not available, then 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 and Specimen Trees**

Aerials show mature canopy on the subject parcel. The applicant is encouraged to incorporate robust trees into the site plan design. 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.

**Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. There is 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. 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.