



BOARD OF COUNTY COMMISSIONERS

## Planning and Development Department

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### STAFF COMMENTS

**23Z00003**

**QW Trust**

### **GU (General Use) and IU-1 (Heavy Industrial) to BU-1 (General Retail Commercial)**

Tax Account Numbers: 2407578 and 2407572

Parcel I.D.: 24-35-25-00-512 and 24-35-25-00-519

Location: North side of Lake Drive, approximately 171 feet east of Cox Road  
(District 2)

Acreage: 13.36 acres

Planning & Zoning Board: 3/13/2023

Board of County Commissioners: 4/06/2023

### Consistency with Land Use Regulations

- Current zoning cannot 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 may not maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	GU and IU-1	BU-1
<b>Potential*</b>	0	581,962 sq. ft. commercial
<b>Can be Considered under the Future Land Use Map</b>	NO RES 15, NC, and CC	YES** CC

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. \*\*Approval is pending approval of companion request 23SS00001 which proposes to amend the Future Land Use designation from Residential 15 (RES 15), Neighborhood Commercial (NC) and Community Commercial (CC) to all Community Commercial (CC).

### Background and Purpose of Request

The applicant is requesting to change the zoning classification from GU (General Use) and IU-1 (Heavy Industrial) to BU-1 (General Retail Commercial) on 13.36 acres to develop the site as a grocery store and retail commercial. The subject property consists of two parcels, 24-35-25-00-512 and 24-35-25-00-519. Currently, parcel 24-35-25-00-512 (approximately 0.19 acres) is classified as GU zoning, and parcel 24-35-25-00-519 (approximately 13.17 acres) retains IU-1 and GU zoning classifications. The subject property is currently undeveloped and has frontage on Lake Drive as well as Cox Road (50 feet in width).

The subject property was originally zoned GU and was rezoned to BU-2 on September 8, 1960 as zoning action **Z-396**. The property was rezoned from BU-2 to TR-3 on November 8, 1962, as zoning action **Z-858** and then reverted back to GU in July 8, 1963, as referenced in zoning file Z-858. A 12-acre portion of the subject property was rezoned from GU to IU-1 on June 5, 1975, as zoning action **Z-3892**.

A CUP renewal for temporary trailer for security purposes was approved on October 11, 1984 as zoning action **Z-6858**. The original CUP was approved on June 16, 1983 as zoning action **Z-6379**. There is no CUP associated with the subject property currently.

## **Land Use**

The subject property is currently designated as Residential 15 (RES 15), Neighborhood Commercial (NC) and Community Commercial (CC) FLU. The existing GU zoning classification can be considered consistent with the existing RES 15, NC and CC Future Land Use designations. However, the existing IU-1 zoning classification may not be considered consistent with the existing RES 15, NC and CC Future Land Use designations.

The proposed BU-1 zoning classification cannot be considered consistent with the existing RES 15 and NC Future Land Use designations; however, the proposed BU-1 zoning classification can be considered consistent with the requested CC Future Land Use designation.

A companion application, **23SS00001**, if approved, would amend the Future Land Use designation from Residential 15 (RES 15), Neighborhood Commercial (NC) and Community Commercial (CC) to all Community Commercial (CC).

## **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;
- B. Existing commercial zoning trends in the area;
- C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;
- D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;
- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and
- F. Other issues which may emerge specific to a particular property which may be addressed through performance based zoning criteria.

### **FLUE Policy 2.7 – Activities Permitted in Community Commercial (CC) Future Land Use Designations**

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, include the following:

- a) Existing strip commercial;
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices;
- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;
- h) Residential uses;
- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;
- l) Transitional uses pursuant to Policy 2.1; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

**The applicant has proposed to develop the site as a grocery store and retail commercial use.**

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 is proposing the development of a grocery store and retail commercial. 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 commercial in character with government facilities and residential land uses north and east of the subject site. The west side of Cox Road is within the City of Cocoa and is designated as Industrial FLU. There are four (4) FLU designations within 500 feet of the subject site: RES 15, CC, NC, and PUB. The predominant FLU designation in this area is CC.**

**Cox Road and Lake Drive both connect to W. King Street (SR 520) which has a historic pattern of strip commercial development.**

2. actual development over the immediately preceding three years; and

**There has not been any new development immediately adjacent to the subject property in the preceding three (3) years.**

3. development approved within the past three years but not yet constructed.

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

**21Z00031, approved by the Board on December 2, 2021, was a request to rezone from RU-1-9 and RU-2-10 to all RU-2-10 on a 9.19-acre parcel located approximately 0.4 miles south of the subject property on the north side of Parrish Road.**

**There are no pending zoning actions within one-half mile 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.**

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

**The developed character of the surrounding area is commercial and government managed lands, with a mix of residential to the north and further east. Industrial use is located along the west side of Cox Road (City of Cocoa). Cox Road and Lake Drive both connect to W. King Street (SR 520), a commercial corridor that serves regional and tourist markets.**

## Surrounding Area

	Existing Use	Zoning	Future Land Use
<b>North</b>	Commercial mixed use; Single-family	BU-2; AGR	CC; RES 15
<b>South</b>	Commercial undeveloped; Commercial retail	BU-2; BU-1	CC
<b>East</b>	Warehousing	GML	PUB
<b>West</b>	Commercial retail; Commercial warehousing; Commercial undeveloped; Two (2) single-family residences	GU; BU-1-A; BU-1; BU-2	RES 15; CC

To the north is a 1.13-acre parcel with BU-2 zoning and developed as a mixed use commercial property with an office building and residence. Also, to the north is an 8.68-acre parcel with AGR zoning and developed as a single-family residence (built in 1910) with horse stables (built in 2005).

To the south, across Lake Drive, is a 2.42-acre undeveloped parcel with BU-2 zoning. Further to the south, across W. King Street (SR 520), are two parcels (8.27-acres and 1.2-acres) both with BU-1 zoning and each developed as retail commercial stores.

To the east is 20-acre parcel owned by Brevard County with GML zoning and developed as warehousing and storage.

To the west, along Cox Road, are several commercial properties, including a 0.8-acre parcel with BU-2 zoning developed as convenience store/gas station; a 1.46-acre parcel with BU-2 zoning developed as warehousing; a 0.67-acre parcel with BU-2 zoning developed as warehousing; and a 0.38-acre undeveloped commercial parcel with BU-1 zoning. There is one commercial parcel (0.77-acres) with BU-1-A zoning developed as a retail store.

Also, to the west, along Cox Road, is a 0.69-acre parcel developed as a single-family residence (built in 1959) with BU-2 zoning; and a 0.38-acre parcel developed as a single-family residence (built in 1962) with GU zoning. Further west, across Cox Road, is the City of Cocoa.

The current 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.

The current IU-1 classification is the heaviest industrial zoning classification in the Code. It permits heavy manufacturing, including outside activities such as livestock yards and commercial incinerators. The minimum lot size is 40,000 square feet with a minimum width and depth of 200 feet.

The proposed BU-1 classification encompasses land devoted to general retail shopping, offices and personal services to serve the needs of the community and allows for retail commercial land uses on

minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

The 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.

The 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. Resort dwelling use is allowed as a permitted use in the BU-2 classification.

The BU-1-A classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods. Minimum lot size of 7,500 square feet is required with minimum width and depth of 75 feet.

One zoning action has been approved within a half-mile radius of the subject property within the last three years: **21Z00031**, approved by the Board on December 2, 2021, was a request to rezone from RU-1-9 and RU-2-10 to all RU-2-10 on a 9.186-acre parcel located approximately 0.4 miles south of the subject property on the north side of Parrish Road.

There are no pending zoning actions within a half-mile radius of the subject property.

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Lake Drive, from Cox Road to Range Road, which has a Maximum Acceptable Volume (MAV) of 17,700 trips per day, a Level of Service (LOS) of D, and currently operates at 18.64% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 140.40%. The corridor is anticipated to operate at 159.05% of capacity daily. Specific concurrency issues and operational improvements will be addressed 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 has access to Cocoa City Water Distribution per information provided by the City of Cocoa. The closest Brevard County sanitary sewer line is approximately 350 feet to the south at Lakeview Boulevard and W. King Street (SR 520).

### **Environmental Constraints**

- Wetlands/Hydric Soils
- Protected and Specimen Trees

The subject parcel contains mapped hydric soils, and National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands. These are indicators that wetlands may be present on the property. A wetlands delineation will be required prior to any land clearing activities.

Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

### **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 #23SS00001**

**Applicant:** Carolyn Haslam

**FLU Request:** GU & IU-1 to BU-1

**Note:** Applicant wants to develop a grocery and retail site.

**Zoning Hearing Date:** 03/13/23; **BCC Hearing Date:** 04/06/2023

**Tax ID Nos:** 2407578 & 2407572

- 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
- Protected and Specimen Trees

The subject parcel contains mapped hydric soils, and National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands. These are indicators that wetlands may be present on the property. A wetlands delineation will be required prior to any land clearing activities.

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). Lake Drive is an MQR in this location; Cox Road is not. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners 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 site plan design or permit submittal.

Protected ( $\geq 10$  inches in diameter) and Specimen ( $\geq 24$  inches in diameter) trees may exist on the parcel. A tree survey will be required at time of a site plan submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. 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 preservation and canopy coverage requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

### **Land Use Comments:**

#### **Wetlands/Hydric Soils**

The subject parcel contains mapped hydric soils (Anclote sand, frequently ponded, 0 to 1 percent slopes and Anclote sand), and NWI and SJRWMD wetlands. These are indicators that wetlands may be present on the property. A wetlands delineation will be required prior to any land clearing activities.

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#### **Protected Species**

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.