



BOARD OF COUNTY COMMISSIONERS

## Planning and Development Department

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### STAFF COMMENTS

22Z00071

Crane View, LLC

### RU-2-15 (Medium-Density Multi-Family Residential) with a BDP to RU-2-30 (High-Density Multi-Family Residential) and Amendment of BDP

Tax Account Numbers: 2412341

Parcel I.D.: 24-36-14-00-589

Location: West side of N. Courtenay Pkwy., approximately 580 feet south of Butler Avenue (District 2)

Acreage: 3.95 acres

MIRA: 02/23/2023

Planning & Zoning Board: 03/13/2023

Board of County Commissioners: 04/06/2023

### 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 current Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
<b>Zoning</b>	RU-2-15	RU-2-30
<b>Potential*</b>	48 Multi-Family units with existing BDP	90 multi-family units with proposed BDP
<b>Can be Considered under the Future Land Use Map</b>	NO RES 15 & NC	YES** RES 30

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. \*\*Approval is pending approval of companion request 22SS00016 which proposes to amend the Future Land Use designation from Residential 15 (RES 15) and Neighborhood Commercial (NC) to all Residential 30 (RES 30).

### Background and Purpose of Request

The applicant is requesting a change of zoning classification from RU-2-15 (Medium-Density Multi-Family Residential) with an existing Binding Development Plan (BDP) to RU-2-30 (High-Density Multi-Family Residential), and applicant is proposing an amendment of BDP on 3.95 acres to develop the site as a multi-family complex with an amended BDP limited to 90 multi-family residential units. The 3.95-acre subject property currently has unfinished and dilapidated multi-family structures from a previous site plan.

There are five (5) active liens on open code enforcement cases (21CE-01807, 20CE-01187, 18CE-00793, 18CE-00742, and 16CE-02285) associated with this property including two active violations for unsafe structure and failure to maintain vacant structure.

The existing Binding Development Plan (BDP) states:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
2. The Developer/Owner shall limit density to 48 units and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.
3. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida.
4. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in Brevard County, Florida.
5. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject property, and be subject to the above referenced conditions as approved by the Board of County Commissioners on May 29, 2008. In the event the subject property is annexed into a municipality and rezoned, this Agreement shall be null and void.
6. Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as it may be amended.

The site has frontage on N. Courtenay Pkwy. (SR-3) and is located in the Merritt Island Redevelopment Area (MIRA).

The original zoning of the subject property was AU (Agricultural Use) the parcel was rezoned to RU-1 (Single-Family Residential) on August 04, 1960 per zoning action **Z-382**.

The RU-1 zoning on the parcel was Administratively replaced with the new zoning classification RU-1-11 on June 1, 1972 per zoning action **Z-2980**.

The parcel was rezoned from RU-1-11 to BU-1-A (Neighborhood Commercial) on the east 200 feet and to RU-2-15 (Medium-Density Multi-Family) on the remainder of the parcel on July 9, 1981 per zoning action **Z-5691**.

The parcel was rezoned from BU-1-A on the east 200 feet to BU-1 (General Retail Commercial) with the remainder rezoned from RU-2-15 to BU-1-A with a Binding Concept Plan (BCP) for professional office only on May 26, 1987 per zoning action **Z-7795**.

The parcel was rezoned from BU-1-A with a Binding Concept Plan and BU-1 to RU-2-12 (Medium-Density Multi-Family Residential) with removal of the Binding Concept Plan; and approval of a Conditional Use Permit (CUP) for an Independent Living Facility on August 3, 2000 per zoning action **Z-10413**.

The parcel was approved for a Conditional Use Permit (CUP) for an Adult Congregate Living Facility in an RU-2-12 zoning classification and removing the existing CUP for an Independent Living Facility on March 7, 2002 per zoning action **Z-10675**.

The Conditional Use Permit (CUP) **Z-10675** for an Adult Congregate Living Facility in an RU-2-12 zoning classification was Administratively removed on February 1, 2007 per zoning action **Z-11317(23)**.

The parcel was rezoned from RU-2-12 to RU-2-15 with a Binding Development Plan (BDP) limiting density to 48 units on July 9, 2008 per zoning action **Z-11432**.

### **Land Use**

The subject property is currently designated as Residential 15 (RES 15) and Neighborhood Commercial (NC) FLU. The existing RU-2-15 zoning can be considered consistent with the existing RES 15 and NC FLU designation.

A companion application, **22SS00016**, if approved, would amend the Future Land Use designation from Residential 15 (RES 15) and Neighborhood Commercial (NC) to all Residential 30 (RES 30).

The proposed RU-2-30 zoning can be considered consistent with the proposed Residential 30 (RES 30) FLU designation.

The existing FLU RES 15 designation would allow for 59 units under FLUE Policy 2.10 if the Board deemed the scale and intensity as compatible with the abutting residential development.

When considering the existing development potential of the subject site, this request actually represents an increase of approximately 59 units.

### **Applicable Land Use Policies**

**FLUE Policy 1.3** – addresses the Residential 30 Directive land use designation affords the highest density allowance, permitting a maximum density of up to thirty (30) units per acre, except as otherwise may be provided for within this element. Parameters for this future land use designation include:

#### **Criteria:**

- A. The Residential 30 Directive land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan.

- 1. Areas located east of Interstate-95; and

**The subject site is located 6.6 miles east of Interstate-95 (I-95).**

2. Unincorporated enclaves located within or adjacent to incorporated areas which permit similar or greater density allowance; or

**The subject site is not located adjacent to an incorporated area.**

3. Areas adjacent to existing Residential 30 land use designation; and

**The subject site is not adjacent to an existing RES 30 land use designation. This request can be considered an introduction of RES 30 into the area. The closest RES 30 DIR is 3.1 miles south of the subject property on South Tropical Trail.**

4. Areas with direct access to an arterial or collector roadway, without impacting existing or designated lower density/intensity areas.

**The subject site has direct access to an arterial roadway. North Courtenay Parkway is classified as an Urban Principal Arterial roadway.**

- B. In the Merritt Island Redevelopment Area, Brevard County should encourage high density development in clustered patterns that maximize the provision of open space to avoid the impacts of "strip" or "checkerboard" land use patterns and to assist in the development of an urban atmosphere. The Residential 30 Directive land use designation may permit development in excess of 30 units per acre, provided that one of the following applies:

1. Residential density of up to 37.5 dwelling units per acre, may be considered if approved as part of a redevelopment plan; or

**The subject site is not part of an approved redevelopment plan.**

2. Developments which are tied to a binding development plan and propose a mixture of residential and commercial uses may permit the residential portion of the project with density of up to 50 dwelling units per acre.

**The subject site is within the Merritt Island Redevelopment Agency (MIRA); however, the proposal is not part of a redevelopment plan approved by Board of County Commissioners.**

**The applicant has submitted a companion application (22SS00016) to this Rezoning request to change the FLU from RES 15 and NC to RES 30.**

**The proposed BDP limits the parcel to density of 90 dwelling units per acre.**

- C. A 25% density bonus to permit up to 37.5 dwelling units per acre may be considered, except in the Coastal High Hazard Area (CHHA), where the Planned Unit Development concept is utilized, 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 has not proposed a Planned Unit Development. The subject site is not located within the CHHA.**

**The parcel is located in the Merritt Island Redevelopment Area (MIRA). Staff will update Board with results of this meeting.**

### **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.

**The subject site is within the City of Cocoa's service area for potable water. The closest centralized sewer line (Brevard) is located on the west side of N. Courtenay Pkwy. (SR-3). Connection to centralized sewer and potable water is required under Criterion C, above.**

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 3.95 acres to RU-2-30 zoning classification and amend an existing BDP for the purpose of developing a multi-family complex with up to 90 units. Development would need to meet performance standards set forth in code sections 62-2251 through 62-2272 and will be reviewed at the site plan review stage.**

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 character of the area is commercial along the west corridor of N. Courtenay Pkwy. (SR-3) with residential land uses further west in the surrounding areas. There are four (4) FLU designations within 500 feet of the subject site: CC, NC, RES 6 and RES 15. The predominant FLU designation along this west section of N. Courtenay Pkwy. is RES 15.**

**Although the abutting parcels to the north are zoned RU-2-30 (30 units per acre density) these parcels have a FLU designation of RES 15 (15 units per acre density) which is not consistent/compatible with RU-2-30 zoning. This request may be considered an introduction of RES 30 (30 units per acre density) into the area along the west N. Courtenay Pkwy. (SR-3).**

**The most recent FLU amendment (21S.09) in this area was adopted March 3, 2022 by Ordinance 22-05 to change the FLU designation from NC to CC on 0.92 acres 233 feet to the southeast of the subject property on N Courtenay Parkway. That parcel is currently undeveloped.**

2. actual development over the immediately preceding three years.

**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 new development in the preceding three (3) years, one zoning action has been approved within one-half mile.**

**20Z00042, approved by the Board on November 3, 2022, was a request to amend a BDP to add car wash use on an 8.89-acre parcel with BU-1 zoning located approximately 136 feet northeast of the subject property at the southeast corner of Skyline Boulevard and North Courtenay Parkway.**

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 area is commercial along the west side of N. Courtenay Pkwy (SR-3) abutting the east 200 feet of the parcel along the north and transitions to residential zoning abutting the south of the property and the west of the property. The residential zoning in the area is RU-2-15 medium density multi-family residential abutting the parcel to the north and RU-1-11 single-family residential abutting the parcel to the south and west which allows for 7,500 sq. ft. lots.

The existing RES 15 and NC designations on the parcel would allow for 59 units under FLUE Policy 2.10 if the Board deemed the scale and intensity as compatible with the abutting residential development.

When considering the existing development potential of the subject site, this request represents an increase of approximately 31 units.

### Surrounding Area

	Existing Use	Zoning	Future Land Use
<b>North</b>	Multi-family and bank	RU-2-30 & BU-1-A	RES 15 & NC
<b>South</b>	Single-family	RU-1-11	RES 15
<b>East</b>	Road Right-of-Way East of ROW Commercial retail plaza	East of ROW BU-1-A	NC
<b>West</b>	Single-family	RU-1-11	RES 15

To the north is two 1.12-acre parcels, each with RU-2-30 zoning and developed as multi-family condominiums.

To the south are eight 0.19-acre parcels and one 0.34-acre parcel developed as a single-family residence with RU-1-11 zoning.

To the east, across N. Courtenay Pkwy., is a 1.88-acre parcel developed as retail commercial with BU-1-A zoning.

To the west are three 0.24-acre parcels developed as a single-family residence with RU-1-11 zoning.

The current 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.

The proposed RU-2-30 classification permits high density multi-family residential development of up to 30 unit per acre. Multiple-family residential structures may be constructed on a minimum lot size of 10,000 square feet, with at least 100' of lot width and 100' of lot depth. Single-family residences are also permitted on minimum lot sizes of 7,500 square feet with at least 75' of lot width and 75' of lot depth.

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.

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is N. Courtenay Pkwy., from Crockett Blvd. to Pioneer Road, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 68.62% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.91%. The corridor is anticipated to operate at 69.53% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

The school concurrency indicates there is enough capacity for the total of projected and potential students from the proposed development. There is sufficient capacity at Mila Elementary School, Jefferson Middle School, and Merritt Island High School for the total of projected and potential students from this development.

The parcel is within the City of Cocoa utilities service area for public water. The closest centralized sewer line (Brevard County) is located on the west side of N. Courtenay Pkwy. (SR-3).

### **Environmental Constraints**

#### **Summary of Mapped Resources and Noteworthy Land Use Issues:**

- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees

NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

### **For Board Consideration**

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



**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT**  
**Zoning Review & Summary**  
**Item #22Z00071**

**Applicant:** Steve Anderson/Larry Poliner

**Zoning Request:** RU-2-15 to RU-2-30, with new BDP limiting to 90 units

**Note:** Applicant wants to demo partially completed residential development, and construct new multi-family development.

**P&Z Hearing Date:** 03/13/23; **BCC Hearing Date:** 04/06/2023

**Tax ID No:** 2412341

- 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
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees

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 (Taveres fine sand, 0-5% slopes) 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.

**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 and Specimen Trees**

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 and minimum landscaping requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

**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.