



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
(321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

23Z00025

Legacy West Melbourne LLC

AU (Agricultural Residential) to RU-2-15 (Medium-Density Multi-Family Residential)

Tax Account Number: 2704610
Parcel I.D.: 27-36-35-00-264
Location: West side of S. John Rodes Boulevard approximately 0.3 miles south of Ellis Road (District 5)
Acreage: 2.768 acres

Planning & Zoning Board: 6/12/2023
Board of County Commissioners: 7/13/2023

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 may not maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	AU	RU-2-15
Potential*	1 SF unit	2 MF units
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. **As provided under FLUE Policy 2.10.

Background and Purpose of Request

The applicant is requesting to change the zoning classification from AU (Agricultural Residential) to RU-2-15 (Medium-Density Multi-Family Residential) on 2.768 acres to develop as a multi-family residential project in conjunction with their property to the west located within the City of West Melbourne. The subject property has frontage on S. John Rodes Boulevard and is currently vacant

According to information provided by the City of West Melbourne, the applicant originally intended to develop the subject parcel with the amenities related to a 199-unit multi-family apartment complex project proposed on the 17.03-acre parcel immediately west of the site. The City parcel would have access through the County parcel. The City approved an initial site plan (2021-14) for the Legacy Apartments project in 2022 with a stipulation to record a covenant limiting use of the 2.678-acre parcel to amenities in support of the apartment project. However, the City did not approve the final site plan which allows site and building construction. Per an email from the applicant to the City dated

May 17, 2023, the applicant officially withdrew the site plan for the Legacy Apartments project from the permit and approval process, including any and all agreements. According to the City, the only entitlement the owner has is what is currently allowed with existing Future Land Use and zoning.

In order to avoid disjointed development, the applicant may consider annexation of this 2.678-acre subject parcel into the City of West Melbourne as the applicant's intent is to develop both properties as a part of a larger development on the 17.03-acre. The Board should recognize that having properties in different jurisdictions will have different development standards.

The subject property was rezoned from BU-2 to AU on May 28, 2014, as zoning action **14PZ00042**. Prior zoning actions include a request to rezone from IU to BU-2, approved October 2008 under zoning action **Z-11449**; a request to rezone from BU-2 to IU, approved August 2005 under zoning action **Z-11085**; and a request to rezone from IU to BU-2, approved July 1989 under zoning action **Z-8433**. A prior zoning action request to rezone from AU to BU-2 was denied on October 11, 1984 under zoning action **Z-6853**. The site was rezoned from AU and GU to IU September 10, 1964 under zoning action **Z-1518**. The original zoning on the property was AU and GU.

Access

The subject property has access to John Rodes Boulevard which is a county-maintained roadway. The projects access will be reviewed during the site plan process for the portion of the property within the County, or a driveway permit for the portion in the City. Access to this roadway would require a county driveway permit. Either of which will require a Traffic Impact Analysis (TIA) of the total project development of 19.7 acres. The developer should be advised that the overall number of units may require additional roadway improvements including additional ROW, turn lanes and two entrances to facilitate the project. The developer needs to be aware that the number of access points are regulated in Sec. 62-2957. For developments of 201 units or more requires 2 entrances.

Land Use

The subject property is currently designated as Community Commercial (CC) FLU, received October 2008 (Amendment 08S.14). The existing AU zoning, as well as the proposed RU-2-15 zoning, may be considered consistent with the existing CC FLU designation, as provided by Policy 2.10 of the Future Land Use Element.

This request should be evaluated in the context of FLUE Policy 2.10 of the Future Land Use Element, which encourages residential development in areas designated Neighborhood Commercial and Community commercial.

FLUE Policy 2.10 provides: *"Residential development or the integration of residential development with commercial development shall be permitted in the Neighborhood Commercial and Community Commercial land use designations, provided that the scale and intensity of the residential/mixed use development is compatible with abutting residential development and areas designated for residential use on the Future Land Use Map. Residential development is permissible in these commercial land use designations at density of up to one category higher than the closest residentially designated area on the Future Land Use Map (FLUM) which is on the same side of the street. Increases in density beyond this allowance may be considered through a public hearing. In the Coastal High*

Hazard Area (CHHA), however, residential development is limited to the density of the closest residentially designated area on the FLUM that is on the same side of the street...”

The closest residentially designated area on the Future Land Use Map (FLUM) which is on the same side of the street as the subject site is adjacent to the south and designated as RES 1:2.5 FLU. If this request is approved, the subject site would be allowed to develop at density of up to one residential unit per acre (one category higher than RES 1:2.5). The density for this property would be 1 unit per acre.

While the requested RU-2-15 zoning classification may be considered consistent with the existing CC FLU designation, the residential density allowance for the subject property would be limited to a total of two (2) residential units. The Board could consider a lesser intense multi-family zoning classification, which allows for lower-density multi-family residential development to match the density allotment. Residential developments in the general area, located within the City have a FLUM of UD-RES (18units/acre) and R-3 zoning (multi-family) classification.

Applicable Land Use Policies

Activities Permitted in the Community Commercial (CC) Future Land Use Designations 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. 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 residential use.

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.
- F. The County shall not extend public utilities and services outside of established service areas to accommodate new development in Residential 2, Residential 1 and Residential 1:2.5 land use designations, unless an overriding public benefit can be demonstrated. This criterion is not intended to preclude acceptance of dedicated facilities and services by the County through MSBU's, MSTU's and other means through which the recipients pay for the service or facility.

The subject site is within the City of West Melbourne's service area for potable water. The closest Brevard County sewer line is approximately 5 miles northeast of the subject site. Connection to centralized sewer and potable water is required under Criterion D, 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 requests to rezone 2.768 acres to RU-2-15 zoning classification for the purpose of developing a multi-family residential project. The proposed use is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area. Development would need to meet performance standards set forth in code sections 62-2251 through 62-2272.

- 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 industrial in character to the north and east with undeveloped agricultural residential land immediately south of the subject site. The site is surrounded to the north, west, and east by parcels within the City of West Melbourne, including 17.03 acres of vacant land immediately adjacent to the west. There are three (3) FLU designations within 500 feet of the subject site: IND, RES 1:2.5 and CC.

The City of West Melbourne approved an initial site plan (2021-14) in 2022 for a 199-unit multi-family apartment project (the Legacy Apartments) proposed for development on the 17.03-acre parcel located immediately west of the subject site. No final approval has been given. On May 17, 2023, the applicant officially withdrew the site plan from the permit and approval process, including any and all agreements, according to information provided by the City.

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

It appears no changes to the immediate area have occurred within the last three 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.

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 applicant is requesting to change the zoning classification from AU (Agricultural Residential) to RU-2-15 (Medium-Density Multi-Family Residential) on 2.768 acres to develop as a multi-family residential project.

This request could be considered an introduction of RU-2-15 into the area. There is no RU-2-15 within 5 miles of the site. RU-2-30 is located approximately 2.7 miles to the north on Aurora Boulevard on a 12.15-acre parcel developed as multi-family residential. As an alternative, the Board may consider a lesser intense multi-family zoning classification to recognize allowing multi-family in a CC FLU. Residential developments in the general area, located within the City have a FLUM of UD-RES (18units/acre) and R-3 zoning (multi-family) classification.

B. In determining whether an established residential neighborhood exists, the following factors must be present:

1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.

The developed character of the surrounding area is industrial with warehousing, manufacturing and professional offices in the vicinity. The site is surrounded to the north, west, and east by parcels within the City of West Melbourne. Residential subdivisions within the City of West Melbourne are located approximately 340 feet south of the subject property.

2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.

The parcel does not have any established neighborhood commercial uses or non-conforming commercial uses.

3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

There are established industrial and commercial uses along this segment of S. John Rodes Boulevard which transition to residential zoning south of the subject parcel.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Light Industrial and Warehousing	City of West Melbourne (M-1 Light Industrial and Warehousing)	City of West Melbourne (IND Industrial)
South	Vacant	AU	RES 1:2.5
East	Light Industrial and Warehousing (across S. John Rodes Boulevard)	City of West Melbourne (M-1 Light Industrial and Warehousing)	City of West Melbourne (IND Industrial)

West	Vacant	City of West Melbourne (R-3 Multiple-Family Dwelling)	City of West Melbourne (UD-RES Urban-Density Residential) (18 du/ac)
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To the north is a 9.6-acre parcel developed as light industrial and warehousing within the City of West Melbourne.

To the south is a vacant 8.2-acre undeveloped parcel with AU zoning.

To the east is a 9.1-acre parcel and a 4.2-acre parcel, both developed as light industrial and warehousing within the City of West Melbourne.

To the west is an undeveloped 17.0±-acre parcel within the City of West Melbourne proposed for development as a 199-unit multi-family apartment project (the Legacy Apartments).

The current AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals and plants nurseries.

The proposed 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 IU zoning classification permits light industrial land uses within enclosed structures. The minimum lot size is 20,000 square feet, with a minimum width of 100 feet and a minimum depth of 200 feet.

No zoning actions have been approved within a half-mile radius of the subject property within the last three years. 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 John Rodes Boulevard, from Sheridan Road to Ellis 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 42.54% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.11%. The corridor is anticipated to operate at 42.65% 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. There is no vesting of trips until the county has an approved site plan and the transportation impact fess have been paid for.

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 Roy Allen Elementary School, Central Middle School, and Melbourne Sr High School for the total of projected and potential students from this development.

The parcel is within the City of West Melbourne utilities service area for public water. The closest Brevard County sewer line is approximately 5 miles northeast on Kennesaw Place. Connection to centralized sewer and potable water is required under Criterion D of FLUE Policy 1.2.

Environmental Constraints

- Wetlands Protection/Hydric Soils
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay

The subject parcel contains mapped wetlands and hydric soils, indicators that wetlands may be present on the property. Please refer to all comments provided by the Natural Resources 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 with the introduction of RU-2-15 zoning. The Board may also consider a lesser intense multi-family zoning classification.

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary

Item #23Z00025

Applicant: MBV Engineering for Legacy West Melbourne LLC

Land Use Request: AU to RR-2-15

Note: Wants to develop a multi-family project

LPA Hearing Date: 06/12/2023; **BCC Hearing Date:** 07/13/2023

Tax ID No: 2704610

- 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 Protection/Hydric Soils
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay

The subject parcel contains mapped wetlands and hydric soils, indicators that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing or alteration activities. The wetland delineation shall be verified at time of site plan submittal. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For multi-family parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). 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 property is mapped as being within the St. Johns Riverine floodplain 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, including compensatory storage and density restrictions.** Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Approximately 1/3 of the southern portion of the parcel is mapped within the Indian River Lagoon 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.

Land Use Comments:

Wetlands Protection/Hydric Soils

The subject parcel contains mapped National Wetlands Inventory (NWI) wetlands and hydric soils (Riviera sand, 0 to 2 percent slopes), indicators that wetlands may be present on the property. A wetland delineation is required prior to any land clearing or alteration activities. The wetland delineation shall be verified at time of site plan submittal. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For multi-family parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). 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, or performing any land clearing activities.

Floodplain Protection

The property is mapped as being within the St. Johns Riverine floodplain 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, including compensatory storage and density restrictions.** Per Section 62-3723(4), elevations of the riverine 100-year, riverine 25-year, and ten-year floodplains shall be determined utilizing the best available data, which includes FIRM maps and the Flood Insurance Study for Brevard County, Florida and Unincorporated Areas, April 3, 1989, prepared by the Federal Emergency Management Agency; and the Mean Annual, 10-Year, 25-Year and 100-Year Profiles for the Upper St. Johns River Under the Existing Conditions, prepared by Dr. Donthamesetti V. Rao, P.E., St. Johns River Water Management District (March 1985). Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties." The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal, or performing any land clearing activities.

Indian River Lagoon Nitrogen Reduction Overlay

Approximately 1/3 of the southern portion of the parcel is mapped within the Indian River Lagoon 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.