



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

19PZ00108

Bonnie E. Douglas, Trustee

**RU-1-9 (Single-Family Residential), BU-1 (General Retail Commercial), and TR-3 (Mobile Home Park) to all TR-3 with Binding Development Plan Limiting the Number of Mobile Home Sites to the Current Number of 173**

Tax Account Number: 3010260 and 3006458  
Parcel I.D.: 30-38-14-00-283 and 30-38-14-00-261  
Location: West side of U.S. Highway 1, approximately 250 feet south of Garretts Road (8440 U.S. Highway 1, Micco) (District 3)  
Acreage: 31.36 acres

Planning and Zoning Board: 11/04/19  
Board of County Commissioners: 12/05/19

### Consistency with Land Use Regulations

- Current zoning could not be considered under the Future Land Use Designation, Section 62-1255.
- The proposal could be considered under the Future Land Use Designation, Section 62-1255 with a Binding Development Plan (BDP) limiting mobile home sites to 173 sites. \*\*
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
<b>Zoning</b>	RU-1-9; BU-1; TR-3	TR-3
<b>Potential*</b>	173	173
<b>Can be Considered under the Future Land Use Map **</b>	NO RES 1, NC, CC and RES 2	YES** RES 1, NC, CC and RES 2

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. \*\* A BDP limiting the request to existing sites is required for this action to establish the nonconforming status to the Future Land Use Map. The mobile home park was developed with 173 units upon 31.36 acres and has a density of 5.51 units/acre. This request does not allow any new mobile home sites.

### Background and Purpose of Request

The applicant is seeking a change of zoning classification on 0.52 acres (NE corner of site) from RU-1-9 to TR-3 zoning in order to use existing structures to compliment the mobile home park. This location was initially developed with a single-family home and pool and has been utilized as the mobile home park's leasing office and recreational amenity for over 30 years.

The applicant is also seeking a change of zoning from BU-1 to TR-3 (SE corner of site) on approximately 0.94 acres in order to eliminate the side yard setback encroachments of the existing mobile home development.

The portion of this property lying east of the FEC right-of-way was originally zoned under **Z-2509** on October 2, 1969. The western portion of the park was added later under **Z-5808** adopted on October 8, 1981. Both of these zoning actions predate the Brevard County Comprehensive Plan adoption on September 8, 1988. Zoning Resolution **Z-10756(48)** removed Conditional Use Permit **Z-6101** for a water and sewer treatment plant on December 5, 2002. A variance, **V-841**, applies only to lots 10 and 11 and grants lot 10, a 1-foot variance and lot 11, a 4.45-foot variance to the front setback.

As the zoning is nonconforming to the Future Land Use Map, a Binding Development Plan (BDP) is required to retain the TR-3 zoning. The minimum lot size allowed for this zoning classification, pursuant to Section 62-1404 (4) of Brevard County Code of Ordinances, is 10.0 acres. By submittal of this request to re-identify the limits of the mobile home park, the applicant wishes to retain this zoning as a viable zoning classification. There is no increase in mobile home sites as part of this application. The BDP limits the number of mobile homes sites to the 173 sites as depicted on the attached survey in the file.

The applicant has concurrently applied for a variance (**19PZ00122**) to the TR-3 setback from the northern property line for Parcel #283 only (perimeter setback). The variance application is scheduled to be heard by the Board of Adjustment on November 20, 2019 which is prior to Board consideration on December 5, 2019.

### **Land Use Compatibility**

This site retains the Residential 2 (RES 2), Neighborhood Commercial (NC) and Community Commercial (CC) FLU (Future Land Use) designations. The portion of the site that retains RES 2 FLUM currently supports TR-3 zoning as non-conforming to the Comprehensive Plan. See FLU Policy 15.4 for Non-conforming uses with the Comprehensive Plan.

The portion of the site that is changing from RU-1-9 to TR-3 retains the NC FLU. The portion of the site changing from BU-1 to TR-3 retains CC FLU. At this location, both the NC and CC FLU's have a maximum density of 4 units per acre per Future Land Use Element Policy 2.13 of the Comprehensive Plan. A Binding Development Plan submittal is required to limit the development potential of this site and to allow the continuation of the nonconforming pre-existing development.

### **Provisions for Non-conforming Uses Policy 15.4**

Brevard County shall maintain procedures that address existing land uses which are non-conforming with this Comprehensive Plan. At a minimum, the following criteria shall apply:

#### **Criteria:**

- A. Non-conforming land uses are those existing development activities which were conforming to the zoning and Comprehensive Plan regulations of Brevard County at the time of record but which are inconsistent with this Comprehensive Plan.

- B. Existing non-conforming land uses, damaged beyond 50 percent of their assessed value by natural or man-made causes, shall not be allowed to be reconstructed to a use which is non-conforming to this Comprehensive Plan, except as provided for in the Zoning Code.
- C. The addition, expansion or re-establishment of exiting non-conforming land uses shall be governed by Chapter 62, Article VI, Division 2, Subdivision II, "Non Conforming Uses" of the Brevard County Land Development Regulations.

## **Environmental Constraints**

No noteworthy land use issues were identified. Natural Resources Management reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

## **Preliminary Transportation Concurrency**

The closest concurrency management segment to the subject property is U.S. 1, between Indian River County Line and Micco 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 53.90% of capacity daily. The maximum development potential from the proposed rezoning does not increase the proposed trip generation because no new density or intensity is added. The corridor is anticipated to continue to operate at (53.90)% of capacity daily (LOS C). The proposal is not anticipated to create a deficiency in LOS.

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 subject property is served by county potable water. The provider is Brevard County Utilities in the Barefoot Bay development. The subject property is not served by county or municipal sewer, but has an active package treatment plant permitted with the Department of Environmental Protection.

## **Applicable Land Use Policies**

The applicant is seeking a change of zoning classification on 0.52 acres (NE corner of site) from Single-Family Residential (RU-1-9) to Mobile Home Park (TR-3) zoning in order to use existing structures to compliment the mobile home park. This location was initially developed with a single-family home and pool and has been utilized as the mobile home park's leasing office and recreational amenity for over 30 years.

The applicant is also seeking a change of zoning from General Retail Commercial (BU-1) to TR-3 (SE corner of site) on approximately 0.94 acres in order to eliminate the side yard setback encroachments of the existing mobile home development.

As the zoning is nonconforming to the Future Land Use Map, a Binding Development Plan (BDP) is required to retain the TR-3 zoning. The minimum lot size allowed for this zoning classification, pursuant to Section 62-1404 (4) of Brevard County Code of Ordinances, is 10.0 acres. By submittal of this request to re-identify the limits of the mobile home park, the applicant wishes to retain this zoning as a viable zoning classification. There is no increase in mobile home sites as part of this application. The BDP limits the number of mobile homes sites to the 173 sites as depicted on the attached survey in file.

The applicant has concurrently applied for a variance (**19PZ00122**) to the TR-3 setback from the northern property line for Parcel #283 only (perimeter setback). The variance application is scheduled to be heard by the Board of Adjustment on November 20, 2019 which is prior to Board consideration on December 5, 2019.

In the last three years, there have been no zoning actions within ½ mile of the subject property.

### **For Board Consideration**

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The applicant is also seeking a change of zoning from General Retail Commercial (BU-1) to TR-3 (SE corner of site) on approximately 0.94 acres in order to eliminate the side yard setback encroachments of the existing mobile home development.

As the zoning is nonconforming to the Future Land Use Map, a Binding Development Plan (BDP) is required to retain the TR-3 zoning. The minimum lot size allowed for this zoning classification, pursuant to Section 62-1404 (4) of Brevard County Code of Ordinances, is 10.0 acres. By submittal of this request to re-identify the limits of the mobile home park, the applicant wishes to retain this zoning as a viable zoning classification. There is no increase in mobile home sites as part of this application. The BDP limits the number of mobile homes sites to the 173 sites depicted on the attached survey in file.

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Although nonconforming to the Comprehensive Plan, the Board may wish to allow this existing mobile home park to accommodate the existing infrastructure of the park. The proposed BDP limits the park development to the existing 173 mobile home sites.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Rezoning Review & Summary**

**Item # 19PZ00108**

**Applicant:** Connie Douglas – River Grove Mobile Home Village

**Future Land Use Request:** TR-3, BU-1 & RU-1-9 to all TR-3

**Note:** Applicant desires to use home as a rental office for mobile home village

**P&Z Hearing Date:** 11/04/19; **BCC Hearing date:** 12/05/19

**Tax ID Nos:** 3010260 & 3006458

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management (NRM) Department 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.**
- If the owner/applicant has questions regarding any potential limitations, s/he is encouraged to contact NRM at 321-633-2016 prior to design of any plans.

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

- Hydric Soils
- Aquifer Recharge Soils
- Floodplain
- Indian River Lagoon Septic Overlay
- Heritage Specimen Trees
- Protected Species

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

## **Land Use Comments:**

### **Hydric Soils**

The subject parcel contains a small area of mapped hydric soils (Myakka sand-depressional) on the northwestern most portion of the western parcel (Tax ID No. 3006458), as shown on the USDA SCSSs soils map; an indicator that hydric soils and wetlands may be present on the property. 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 Section 62-3696.

### **Aquifer Recharge Soils**

The subject parcel contains mapped aquifer recharge soils (Pomello sand and St. Lucie fine sand) as shown on the USDA SCSSs soils map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance

### **Floodplain**

The subject parcel contains an area of mapped floodplain (potentially isolated) on the northern portion of the western parcel as identified by FEMA, and as shown on the FEMA Flood Map. The floodplain area is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Per Section 62-3724(1), development within isolated floodplain areas shall not increase the rate and volume of floodwater discharged from the predevelopment 100-year, 25-year, 10-year or annual mean riverine floodplain. Compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within the isolated floodplain greater than one third (1/3) acre in size. 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."

### **Indian River Lagoon Septic Overlay**

Per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay, portions of the site are mapped within the septic overlay as shown on the Indian River Lagoon Septic Overlay map. If sewer is not available, the use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required.

## **Heritage Specimen Trees**

Aerials indicate the subject property may contain Heritage Specimen trees (greater than or equal to 24 inches in diameter), or Protected trees (greater than or equal to 10 inches in diameter). 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 and Protected 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.

## **Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, gopher tortoises can be found in areas of aquifer recharge soils. In addition, a large Florida Scrub Jay polygon is mapped over most of the parcels as shown on the Scrub Jay Occupancy Map. 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.