



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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**STAFF COMMENTS
20Z00036**

**5971 Cedar Lake Drive Revocable Land Trust & US Highway No. 1 Commercial Land Trust
RU-1-11 (Single-Family Residential) with Binding Development Plan (BDP), BU-1 (General
Retail Commercial) and TR-2 (Single-family Mobile Home) to all TR-1 with removal of existing
BDP and the creation of a new BDP**

Tax Account Numbers: 2310971, 2310861 & 2316173
Parcel I.D.: 23-35-24-00-756.9, 23-35-24-00-3 and 23-36-19-02-*6
Location: Western terminus of Clearview Drive and 2nd access point on north side of
Cedar Lake Drive 1,660 feet north of Broadway Boulevard (District 1)
Acreage: 58.04 acres

Planning and Zoning Board: 1/11/2021
Board of County Commissioners: 2/04/2021

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 maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	RU-1-11 with BDP, BU-1 and TR-2	TR-1 with removal of BDP
Potential*	RU-1-11– 154 lots under BDP BU-1 – 27 lots TR-2 – 0 lots under BDP	200 single-family lots by new BDP
Can be Considered under the Future Land Use Map	YES Residential 8 Directive and Community Commercial	YES Residential 8 Directive and Community Commercial

* 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 RU-1-11 (Single-Family Residential) with Binding Development Plan (BDP), BU-1 (General Retail Commercial) and TR-2 (Single-family Mobile Home) to all TR-1 with removal of the existing BDP and the creation of a new BDP for the purpose of creating a 200-unit manufactured home subdivision.

Zoning action **Z-11269** adopted May 4, 2006 bound the RU-1-11 and TR-2 zoned portions to a 154-unit project limited by a Binding Development Plan recorded in ORB 5683, Pages 0716 through 0720, dated August 9, 2006. The BU-1 portion of this request adopted under **Z-5803** on October 8, 1981 was a rezoning from GU (General Use) to BU-1.

The existing BDP parameters in **Z-11269** identify the following limitations/criteria:

1. Developer shall provide for aquifer recharge in accordance with all current applicable Brevard County regulations, the Brevard County Land Development Code and the Brevard County Comprehensive Land Plan.
2. Developer shall limit density to a maximum total of 154 lots, which shall consist of 86 in the northern parcel and 68 in the southern parcel, all subject to any wetlands preservation regulations of any governmental entity.
3. In the event that the subject property makes a vehicular connection to Clearview Drive, then the Developer shall submit final engineering plans to be reviewed and approved by Brevard County staff. Developer shall make improvements which may include but not be limited to the following paving improvements as part of Clearview Drive connection construction: (1) flatten the slope of Clearview Drive to 0.50% for a distance of 50 feet from its intersection with the edge of pavement with U.S. Highway 1, (2) Install eastbound left and right turn lanes on Clearview Drive at the U.S. Highway 1 intersection. Furthermore, the county shall allow the Developer to provide for beautification of Clearview Drive by installation of landscaping consisting of shrubs and trees within the right of way of Clearview Drive. Landscaping shall be located on the edge of the right of way within 3 feet of the right of way line. Any landscaping planted shall be perpetually maintained by the Home Owners Association on the subject Property.
4. Vehicular connection to Vineland Street from the property is prohibited.
5. Developer shall construct and install a 6' high opaque fence 15 feet north of the south boundary of the Property.
6. Access to the existing Cedar Lake Drive shall be limited to an emergency access for the benefit of Brevard County, with a locked gate. The locked gate shall be located north of the north property line of tax parcel 23-35-24-00-756.9, by this reference (parcel 756.9). Emergency access shall be an unobstructed, 20-foot wide, all weather stabilized base driving surface capable of supporting a 32-ton emergency vehicle and subject to approval by Brevard County staff. The emergency access provided to the County shall be located within a 25-foot wide emergency vehicle ingress/egress easement to the benefit of Brevard County, Florida. The aforementioned emergency vehicle ingress/egress easement shall be dedicated to the County upon recording of a plat of the new subdivision (the "Plat") adjacent to Parcel 756.9.
7. Developer shall convey all of Parcel 756.9, to the adjacent property owners east and west of Parcel 756.9 concurrent with the granting of the emergency vehicle ingress/egress easement to the county and acceptance by the County. All of that portion of Parcel 756.9 east of the centerline of the emergency vehicle ingress/egress will be conveyed to the owner of the lot east of Parcel 756.9. All of that portion of Parcel 756.9 west of the centerline of the emergency vehicle ingress/egress will be conveyed to the owner of the lot west of Parcel 756.9.
8. Developer shall design and construct the lot grading in such a manner that the front and rear lot drainage, excluding the subdivision perimeter landscape buffer and associated slopes required by county regulations, is directed away from any adjacent residential lots.

9. In the event that the Developer is able to secure a legal alternative vehicular connection for the Property approved by the county in lieu of Clearview Drive, then the Property shall not be required to provide a vehicular connection to Clearview Drive.

The proposed replacement BDP conditions identify the following limitations/criteria:

1. Developer/owner shall provide a 6-foot high opaque buffer on the southern boundary of the Property.
2. The Developer/owner shall limit density to a total of 200 units on the Property and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.
3. Vehicular access to Vineland Street from the Property is prohibited.

Land Use

The subject property is currently designated Residential 8 Directive and Community Commercial. The existing RU-1-11, BU-1 and TR-2 zoning classifications are consistent with their respective Future Land Use designation.

Environmental Constraints

The subject parcel contains mapped hydric soils with potential for wetlands. 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 subdivisions 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 Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

Portions of the subject property may contain mapped Type 2 aquifer recharge soils that are found within aquifer recharge areas with elevations greater than or equal to 30 feet mean sea level (NGVD 1929). Per Section 62-3636, within Type 2 aquifer recharge soils, the maximum impervious surface shall be 35 percent, private lakes shall be prohibited, and land alteration shall not alter the recharge or storage characteristics of the area. A topographic survey will be required to at time of site plan review to determine elevations in aquifer recharge areas.

Preliminary Concurrency

The closest concurrency management segment to the subject property is U.S. Highway 1, between Broadway Boulevard and Fay Boulevard, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 72.53% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 4.56%. The corridor is anticipated to continue to operate at 77.09% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

School concurrency information has been deferred as the development potential of this site falls below the minimum number of new residential lots that would require a formal review. A copy of the deferral has been included into the review file.

The parcel is not currently serviced by potable water or sewer. The City of Cocoa has three potential potable water connections adjacent to this site. Brevard County sewer may be available but current capacity is near its design limits so connection may not be attainable.

Applicable Land Use Policies

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 of the Future Land Use Element.

Port St. John Study Area - Brevard County shall implement the recommendations of the Port St. John Small Area Study through the following directive: Residential densities west of US-1 to the Florida East Coast railroad tracks from Kings Highway to Camp Road, densities may be 12 dwelling units per acre with a maximum cap of 8 residential dwelling units per acre.

Public Facilities and Services Requirements

Policy 1.2

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.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area. This request may be considered to be consistent with the Residential 8 Directive and the Community Commercial FLUM designations. This parcel lies south of Port St. John and abuts the east side of the FEC railroad right-of-way. The FPL main electrical switchyard lies to the east while high-tension powerlines bisect the center region of this parcel. These two FLUM designations would allow the development of a residential subdivision under the TR-1 zoning classification.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The developed character of the surrounding area is a mix of single family detached dwellings to the north under the Single-family residential (RU-1-9) zoning classification. Public utility infrastructure (power plant and electrical switchyard) to the east together with a shopping center and an existing mobile home

subdivision to the east. To the south abutting this project's boundary is another mobile home subdivision.

Access to the south through the existing Cedar Lake residential development has not been noted within the proposed BDP. The emergency vehicle access identified within the current BDP note # 7 is not proposed to be retained in the proposed revised BDP. County code requires residential projects of 201 plus units to provide a second access. At this time, it is unclear if the southern lot which has frontage on Cedar Lake Drive will be included within the proposed development or located beyond the proposed buffer identified within Note #2 of the proposed BDP. The change in zoning from TR-2 to TR-1 will amend the required minimum side yard setbacks of the primary/accessory structure from 10-feet to 7.5-feet.

Surrounding Area

These lots abut the Port St. John development to its north which is developed to a residential density of 3.4 units per acre. To the south is the Cedar Lake mobile home community developed at a density of 2.0 units per acre. To the east is the FPL electric utility provider and the Clearview Terrace mobile home community developed at a density of 3.7 units per acre. To the west lies the FEC railroad right-of-way. High-tension FPL power lines bisect this central region of the property.

The RU-1-9 classification permits single family residential development on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet.

The RU-1-11 classification permits single family residences on minimum 7,500 square foot lots, with a minimum width and depth of 75 feet. The minimum house size is 1,100 square feet. RU-1-11 does not permit horses, barns or horticulture.

The TR-1 is a single family residential mobile home zoning classification which permits mobile homes or residences of standard construction on lots of 7,500 square feet (minimum) with lot width of 65 feet and lot depth of 100 feet.

The TR-2 is a single family residential mobile home zoning classification which permits mobile homes or residences of standard construction on one-half acre lots.

The 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 GML(U) classification is to recognize 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 adjacent lot was developed as an electric utility.

There have been four zoning actions within a half-mile radius of the subject property within the last three years.

19PZ00143 adopted May 2, 2019, was for a CUP for full liquor at sports bar and grill not a restaurant. This site is 540-feet east of this site in the Port St. John Plaza shopping center.

18PZ00014 adopted May 24, 2018, was for the Watermark PUD which proposed a development of 417 single-family home sites. This site is 2,500 feet south of the site at the southern end of Monroe Avenue and has U.S. Highway 1 frontage. **20Z00032** is the updated PUD request under review which modifies/reduces the development from 417 to 363 single-family lots and proposes a 3rd access.

17PZ00150 adopted July 13, 2018, amended the existing Binding Development Plan on property zoned PIP. This site is located 35 feet north of this zoning request located on the east side of Industrial Drive.

17PZ00019 adopted May 4, 2017, was a CUP for full liquor for the Beef O Brady's restaurant. This site is located 2,600 feet north of this zoning request located on the west side of Curtis Boulevard, 200 feet north of Fay Boulevard.

For Board Consideration

The Board may wish to consider whether the request is consistent and compatible with the surrounding neighborhoods. The Board may also wish to consider whether the proposed BDP conditions mitigate potential impacts to the surrounding area.

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

Item # 20Z00036

Applicant: Kimberly Rezanka for Market Tampa Investments LLC

Zoning Request: RU-1-11/BU-1/TR-2 w/BDP to all TR-1 w/BDP

Note: Applicant wants to remove existing BDP and create a mobile home development with BDP limiting to 200 single-family units.

P&Z Hearing Date: 01/11/21; **BCC Hearing Date:** 02/04/21

Tax ID Nos: 2310971, 2310861 & 2316173

- 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:

- Hydric Soils/Wetlands
- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped hydric soils with potential for wetlands. 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 subdivisions 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 Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

Portions of the subject property may contain mapped Type 2 aquifer recharge soils that are found within aquifer recharge areas with elevations greater than or equal to 30 feet mean sea level (NGVD 1929). Per Section 62-3636, within Type 2 aquifer recharge soils, the maximum impervious surface shall be 35 percent, private lakes shall be prohibited, and land alteration shall not alter the recharge or storage characteristics of the area. A topographic survey will be required to at time of site plan review to determine elevations in aquifer recharge areas.

Land Use Comments:

Hydric Soils/Wetlands

The subject parcel contains mapped hydric soils (Basinger sand – depressional) as shown on the USDA Soil Conservation Service Soils Survey maps. Hydric soils are an indicator that wetlands may exist 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 subdivisions 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 Sections 62-3694(e) including avoidance of impacts, and 62-3696.

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Paola fine sand and Pomello sand) as shown on the USDA Soil Conservation Service Soils Survey map. Topographic maps available to NRM indicate elevations greater than or equal to 30 feet mean sea level (NGVD 1929) are found over portions of the aquifer recharge area. Per Section 62-3636, Type 2 aquifer recharge areas, the maximum impervious surface shall be 35 percent of the Type 2 aquifer recharge area on the site. Private lakes as described in article XIII, division 5, of this chapter shall be prohibited. Land alteration shall not alter the recharge or storage characteristics of the area. This includes the removal high permeability soils or replacement with lower-permeability soils. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Protected and Specimen Trees

A majority of the subject property is overlaid in a mapped polygon of SJRWMD FLUCCS code 4340-Upland Mixed Coniferous/Hardwood trees. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are included in this FLUCCS code and are likely found on the project area. 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 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. A tree survey will be required at time of site plan submittal, and is recommended prior to any 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. Specifically, the subject property has a large mapped Florida Scrub Jay polygon over the site 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.