



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

21Z00031

Burnett Parish, LLC (Javier E. Fernandez, Esq.)

**RU-1-9 (Single-Family Residential) and RU-2-10 (Medium-Density Multiple-Family Residential)
to all RU-2-10**

Tax Account Number: 2409609
Parcel I.D.: 24-35-36-00-*-265
Location: No address assigned, Northwest corner of Parrish Road and S. Burnett Road (District 1)
Acreage: 27.06 acre

Planning and Zoning Board: 11/15/2021

Board of County Commissioners: 12/02/2021

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-1-9 & RU-2-10	RU-2-10
Potential*	39-Single-Family Units and 178 Multi-family Units	260 Multi-Family Units
Can be Considered under the Future Land Use Map	Yes RES 15/NC	Yes RES 15/NC

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.

Background and Purpose of Request

The applicant is seeking a change of zoning classification from RU-1-9 (Single-Family Residential) and RU-2-10 (Medium-density Multiple-Family Residential) to all RU-2-10 for the purpose of having the zoning consistent with the RU-2-10 zoning that is on the east portion of the parcel. This request is for a proposed 260 unit Single-family attached residential development on the parcel with the current RU-1-9 (9.186 acres) portion of the parcel being used as recreation and drainage for the proposed multi-family development. The applicant did not provide staff with a proposed development plan or a Binding Development Plan (BDP) that would limit the development potential or offer other mitigations with this application.

The west 1/3 portion of the parcel was originally zoned GU (General Use) and was rezoned to RU-1 (Single Family Residential) on June 27, 1962, per zoning action **Z-766**.

On August 07, 1973, Administrative rezoning **AZ-39** per Ordinance **1973-13**, change the zoning from RU-1 to RU-1-9.

Land Use

The subject property retains the Residential 15 (RES 15) FLU designation on 22.76 acres and Neighborhood Commercial (NC) FLU designation on 4.3 acres.

The RES 15 FLU designation permits a density of 15 units per acre.

Per Future Land Use Element Policy 2.13: 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.

Applicable Land Use Policies

The parcel is located in the RES 15 Future Land Use Designation and NC Future Land Use Designation.

The current zoning of RU-1-9 as well as the proposed RU-2-10 zoning classification is consistent with the RES 15 FLU designation and the NC FLU designation per Policy 2.13.

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

FLUE Policy 1.4 – The Residential 15 Future Land Use designation affords the second highest density allowance, permitting a maximum residential density of up to fifteen (15) units per acre. This land use category allows single and multi-family residential development.

FLUE Policy 2.13: 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.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.

The subject property is vacant land and lies within the RES 15 (Residential 15) Future Land Use designation and NC Neighborhood Commercial) Future Land Use Designation. The abutting parcels to the north lie within the RES 15 Future Land Use designation. The abutting parcel to the west has a REC (Recreational) Future Land Use designation. The RES 15 Future Land Use designation is compatible with the current RU-1-9 zoning. The proposed RU-2-10 zoning is also considered consistent with the RES 15 Future Land Use designation.

There has been no FLU change to the RES 15 designation of the area in the past 5 years. Existing development of the surrounding area is generally described as single-family homes on lots that are 0.17 acre or larger.

Analysis of Administrative Policy #4 - Character of a neighborhood or area.

The subject parcel is an undeveloped RU-1-9 and RU-2-10 zoning.

The developed character of the surrounding area is a mixture developed residential properties and of vacant multi-family property. The Housing Authority of Brevard County is abutting the parcel to the west and developed with 56 duplex and single-family units and recreational area upon 16.04 acres of land. The adjacent parcels to the north are developed with single-family homes on lots 1/4 acre in size.

Surrounding Properties

The developed character of the surrounding area is single-family residential. There is no multi-family development in the area, although there is multi-family zoning in the area. The abutting parcels to the north are zoned RU-1-9 and developed with single-family homes. The abutting parcel to the west is The Housing Authority of Brevard County and is zoned AU (Agricultural Residential) which is developed with a recreational area and 56 duplex and single-family units upon 16.04 acres of land.

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

The RU-2-10, a Medium-Density Multiple-Family residential zoning classification permits multiple-family residential development or single-family residences at a density of up to 10 units per acre on minimum lot sizes of 7,500 square feet.

The AU, an Agricultural Residential 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.

There have been no zoning actions within a half-mile of the subject property within the last three years.

Preliminary Concurrency

The closest concurrency management segment to the subject property is W. King Street (Highway 520), between I-95 to S. Burnett 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 57.91% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 3.75%. With the maximum development potential from the proposed rezoning, the corridor is anticipated to operate at 61.66% of capacity daily (LOS D). The proposal is not anticipated to create a deficiency in LOS.

At this time, Saturn Elementary School and Rockledge High School are not projected to have enough capacity for the total of projected and potential students from Affinity Capital Townhomes

development. Because there is a shortfall of available capacity in the concurrency service areas of the Affinity Capital Townhomes development, the capacity of adjacent concurrency service areas must be considered.

The adjacent elementary school concurrency service areas are Golfview Elementary School, Manatee Elementary School, Endeavour Elementary School, Cambridge Elementary School and Fairglen Elementary School. The adjacent high school concurrency service area is Cocoa Jr. Sr. High School.

Considering the adjacent elementary school and high school concurrency service areas, there currently is sufficient capacity for the total projected student membership to accommodate the Affinity Capital Townhomes development.

The parcel can be serviced by City of Cocoa water. The parcel can be serviced by Brevard County sewer, located on Parrish Road in front of the parcel. Central water and sewer will be required.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

The subject parcel contains areas of mapped National Wetlands Inventory (NWI) wetlands, SJRWMD wetlands, and hydric soils. A wetland delineation will be required prior to any land clearing activities or site plan application. 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 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.

The property contains a large area of upland forest. A tree survey will be required at time of site plan submittal, and is highly recommended prior to any site plan design/engineering. Per Section 62-4341(18), Specimen and Protected 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. Land clearing is not permitted without prior authorization by NRM.

For Board Consideration

The Board may wish to consider whether the request is consistent and compatible with the surrounding area.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Rezoning Review & Summary
Item # 21Z00031

Applicant: Fernandez for Burnett Parrish, LLC

Zoning Request: RU-1-9 & RU-2-10 to RU-2-10

Notes: Applicant wants to develop 260 townhome units.

P&Z Hearing Date: 11/15/21; **BCC Hearing Date:** 12/02/21

Tax ID No: 2409609

- 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 Species
- Specimen and Protected Trees

The subject parcel contains areas of mapped National Wetlands Inventory (NWI) wetlands, SJRWMD wetlands, and hydric soils. A wetland delineation will be required prior to any land clearing activities or site plan application. 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 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.

The property contains a large area of upland forest. A tree survey will be required at time of site plan submittal, and is highly recommended prior to any site plan design/engineering. Per Section 62-4341(18), Specimen and Protected 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. Land clearing is not permitted without prior authorization by NRM.

Land Use Comments:

Wetlands/Hydric Soils

The subject parcel contains areas of mapped NWI wetlands (Freshwater forested/shrub wetlands), SJRWMD wetlands (Mixed scrub and shrub wetlands), and hydric soils (Eau Gallie sand, Turnbull & Riomar soils, and Ancloste sand frequently ponded) as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service Soils Survey maps, respectively; indicators that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities or site plan application. 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 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.

Specimen and Protected Trees

The subject property contains a large mapped area of SJRWMD FLUCCS code 4340-Upland Mixed Coniferous/Hardwood Forest. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are likely found on the project area. A tree survey will be required at time of site plan submittal, and is highly recommended prior to any site plan design. 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 and Protected 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. 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. 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.