



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS**

**24Z00046**

**Sol Vida Land LLC**

**RU-1-9 (Single-Family Residential) to RU-1-11 (Single-Family Residential)**

Tax Account Number: 3017131  
Parcel I.D. 28-36-02-50-5-57  
Location: 2237 Iowa St., Melbourne, FL 32904 (District 5)  
Acreage: 0.27 acres

Planning & Zoning Board: 10/14/2024  
Board of County Commissioners: 11/07/2024

**Consistency with Land Use Regulations**

- Current zoning cannot 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)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	RU-1-9	RU-1-11
<b>Potential*</b>	0 Single-family	1 Single-family
<b>Can be Considered under the Future Land Use Map</b>	No RES 4	Yes RES 4

\* 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-1-9 (Single-family Residential) to RU-1-11 (Single-family residential) to allow a zoning consistent with the RES 4 FLUM designation.

The subject property was part of the abutting property to the North. It was reconfigured on April 8, 2022. The subject property was again reconfigured into its current configuration on July 12, 2024, per Official Records Book 10108, page 2482. Therefore, these reconfigurations caused the property to lose its non conforming lot of record status.

On May 22, 1958, Brevard County adopted the zoning code, and the subject parcel was established with the zoning classification of RU-1, Single-Family Residential Zone. Based on the best available date, the lot was created on July 2, 1925 as part of City Acres.

On May 5, 1966, the board approved a Special Use Permit (SUP) under zoning action Z-1910, for the use of a temporary trailer, nontransferable.

On June 1, 1972, the zoning classification RU-1 was replaced with the RU-1-9, Single-Family Residential zoning classification.

On June 28, 1976, a requested zoning change from RU-1-9 to TR-1 was denied and the board instead extended the SUP under zoning action Z-1910, for the temporary trailer, nontransferable, allowing expiration to run with current mobile home.

The subject property is located on the East side of Iowa St., a county-maintained road located within the residential neighborhood.

**Surrounding Area**

	<b>Existing Land Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Single-family residence	RU-1-9	RES 4
<b>South</b>	Single-family residence	RU-1-9	RES 4
<b>East</b>	Single-family residences	RU-1-9	RES 4
<b>West</b>	Single-family residences	RU-1-9	RES 4

North of the subject property is a 0.27 acre parcel, developed with a single-family residence with RU-1-9 zoning.

South of the subject property is a 0.46 acre a parcel, developed with a single-family residence with RU-1-9 zoning.

East of the subject property are 2 parcels: Both parcels are 0.4 acres each, developed with a single-family residence with RU-1-9 zoning.

West of the subject property are 2 parcels: The first parcel is 0.2 acres, developed with a single-family residence with RU-1-9 zoning. The second parcel is 0.4 acres, developed with a

single-family residence with RU-1-9 zoning.

The current RU-1-9 classification permits single family residences on minimum 6,600 square foot lots, with a minimum width of 66 feet and depth of 100 feet. The minimum house size is 700 square feet. It was rezoned administratively by the Board of County Commissioners under zoning file Z2980 which became effective June 1, 1972.

The proposed RU-1-11 classification permits single-family residences on a minimum of 7,500 square foot lots with a minimum width of 75 feet and depth of 75 feet. The minimum house size is 1,100 square feet.

### **Future Land Use**

The subject property is currently designated as Residential 4 (RES 4) FLUM designation. The current RU-1-9 zoning is not consistent with the existing RES 4 FLUM designation. The proposed RU-1-11 zoning is consistent with the existing RES 4 FLUM designation.

The applicant's request can be considered consistent with the existing Future Land Use. 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 intends to construct a single-family residence on this vacant property. The request is not anticipated to diminish the enjoyment of, safety or quality of life in the existing residential area.**

- 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 (Master Appraiser Institute) 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 historical land use patterns of the surrounding development can be**

**characterized as single-family residences on properties 0.2 acres to 3.09 acres in size.**

**There are multiple zoning classifications within a 0.5-mile radius of the subject. Located North of the drainage canal is predominantly Single-Family Residential (RU-1-9). There is also couple of properties with the zoning classification Rural Residential (RR-1) mixed in. Located South of the drainage canal is predominantly Single-Family Residential (RU-1-11).**

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

**There has been one development within 0.5 miles during the preceding three years. The development is a single-family residence that is currently under construction.**

3. development approved within the past three years but not yet constructed.

**While there has been no development approved within the past three years that has not been constructed. There have been four zoning actions within a half-mile of the subject property within the last three years.**

**Zoning Action within one-half mile within past three years:**

- **22Z00011 rezoned from RU-1-9 to SR (Suburban Residential) on 05/26/2022 and is undeveloped, vacant land.**
- **23Z00074 rezoned from RU-1-9 to RU-1-11 on 11/2/2023 and is undeveloped, vacant land.**
- **23Z00084 rezoned from RU-1-9 to RU-1-11 on 02/01/2024 and is developed with a single-family residence.**

- 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.

**There are multiple parcels with RU-1-11 zoning located with the 0.5-mile radius of the subject property. The prominent number of parcels with this zoning designation are located south of the subject parcel. The closest parcel being North and East of the subject parcel at the corner of Miami Ave. and Arizona St.**

**Residential 4 (RES 4) is the prominent FLU in this area.**

**RU-1-11 has been an established zoning classification in the surrounding area.**

**The request provides consistency with the FLUM and immediate surrounding zoning classifications.**

**It will also recognize existing development trends as there are two parcels that recently had a rezoning change from RU-1-9 to RU-1-11.**

**The request is not anticipated to impact the surrounding established residential neighborhood materially or adversely.**

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 property is located in an existing platted residential neighborhood. There are clearly established roads and residential lot boundaries. The road boundaries are Miami Ave. to the north and Iowa St. to the west.**

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 request is not for commercial use. It is for single-family residential zoning in an existing single-family residential neighborhood.**

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.

**The area is primarily single-family residential with commercial zoning located exclusively along the W. New Haven Ave. corridor to the north.**

**Administrative Policy 7-** Proposed use(s) shall not cause or substantially aggravate any (a)

substantial drainage problem on surrounding properties; or (b) significant, adverse and unmitigable impact on significant natural wetlands, water bodies or habitat for listed species.

### **Hydric Soils**

**A majority of the subject parcel contains mapped hydric soils (Basinger sand); an indicator that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.**

**Based on the above reference, the development potential of the subject property may be limited.**

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is US 192 from S. John Rodes Blvd. to S. Wickham Rd., which has a Maximum Acceptable Volume (MAV) of 39,800 trips per day, an Acceptable Level of Service (ALOS) of D, and currently operates at 76.36% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.02%. The corridor is anticipated to operate at 76.38% of capacity daily. The addition of one single-family dwelling unit will have a minimal impact on level of service. This is only a preliminary review and is subject to change.

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.

There is no County or City sewer or water utilities in the area. The subject property will have a well for water and septic for sewer.

### **Environmental Constraints**

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

- Hydric Soils
- Aquifer Recharge Soils
- Land Clearing and Landscape Requirements
- Protected Species

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

### **For Board Consideration**

The Board should consider whether the proposed zoning request is consistent and compatible with the surrounding area.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Zoning Review & Summary**  
**Item No. 23Z00086**

**Applicant: Bryan Cates (Owner: Sol Vida Land LLC)**  
**Zoning Request: RU-1-9 to RU-1-11**  
**Note: to be consistent with FLU (RES 4)**  
**Zoning Hearing: 10/14/2024; BCC Hearing: 11/07/2024**  
**Tax ID No.: 3017131**

- 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
- Aquifer Recharge Soils
- Land Clearing and Landscape Requirements
- Protected Species

**Land Use Comments:**

**Hydric Soils**

A majority of the subject parcel contains mapped hydric soils (Basinger sand); an indicator that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit 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. **This density may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total residential acreage as set forth in Section 62-3694(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.**



### **Aquifer Recharge Soils**

This property contains Basinger sand that may also function as aquifer recharge soils. Mapped topographic elevations indicate the soils may consist of Type 3 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.

### **Land Clearing and Landscape Requirements**

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for Protected ( $\geq 10$  inches in diameter) and Specimen ( $\geq 24$  inches in diameter) tree preservation. Land clearing is not permitted without prior authorization by NRM. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**

### **Protected Species**

Federally and/or state protected species may be present on the property. Specifically, Gopher Tortoises can be found in areas of aquifer recharge soils. 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 (FWC), and/or U.S. Fish and Wildlife Service, as applicable. The applicant is advised to call Valeria Guerrero at 561-882-5714 (O) or 561-365-5696 (C) with the FWC to obtain any necessary permits or clearance letters for Gopher Tortoises.