



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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**STAFF COMMENTS  
24Z00039**

**Julia Bertot**

**RU-1-9 (Single-Family Residential) to RU-1-7 (Single-Family Residential)**

Tax Account Number: 2300349  
Parcel I.D.: 23-35-01-01-0000-7.01  
Location: East side of Riveredge Drive, approximately 1,039 feet north of Golden Knights Blvd. (District I)  
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-1-7
<b>Potential*</b>	0 Single-family	1 Single-family
<b>Can be Considered under the Future Land Use Map</b>	YES RES 15	YES RES 15

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

**Background and Purpose of Request**

The applicant is requesting to rezone the property from RU-1-9 (Single-Family Residential) to RU-1-7 (Single-Family Residential). The current lot is substandard. The requested action will correct the inconsistency between the current zoning and future land use, as the RU-1-9 zoning requires a minimum lot width of 66 ft., and the subject property has a 50 ft. lot width.

The parcel is currently vacant, and the owner proposes to build a single-family residence on the site. The parcel is recorded as Bellewood Plat No. 2, a portion of Lot 7 E of Hwy, as described in ORB 166 PG 476.

The subject property was originally part of Government Lot 7 east of US Highway 1, as depicted in the Plat Map of the Bellewood Colony recorded in Plat Book 2, Page 117 in March of 1921.

When Government Lot 7 was divided into multiple parcels in 1928, the subject parcel was created with the existing 50 ft. lot width. The property is considered a nonconforming lot, as it was established before both zoning and the adoption of the Brevard County Comprehensive Plan.

The applicant’s request to change the zoning from RU-1-9 to RU-1-7 will allow for this last vacant river-front residential lot in the neighborhood, to be developed as a single-family residence.

The subject property is located on the east side of East side of Riveredge Drive in Titusville, adjacent to the Indian River Lagoon.

**Surrounding Area**

	<b>Existing Land Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Single-family residence	BU-1	RES 15
<b>South</b>	Single-family residence	RU-1-9	RES 15
<b>East</b>	Indian River Lagoon	Indian River Lagoon	Indian River Lagoon
<b>West</b>	Riveredge Drive & City of Titusville	General Use - City	Public/Semi-Public - City

The current RU-1-9 classification permits single family residential development on lots of 6,600 square feet (minimum) with a minimum width of 66 feet and depth of 100 feet. The minimum house size is 900 square feet.

The proposed RU-1-7 classification permits single family residences on minimum 5,000 square foot lots, with a minimum width of 50 feet and depth of 100 feet. The minimum house size is 700 square feet.

North of the subject property are two lots zoned BU-1. The easterly lot is .4-acres and is improved with a 1,944 sq. ft. single-family residence built in 1958. The westerly lot, adjacent to Riveredge Drive, is 0.2 acres and is improved with a 1,966 sq. ft. commercial building built in 1958, now vacant, which was formerly a bar and cocktail lounge.

South is a .71-acre river-front lot zoned RU-1-9. The property is improved with a 2,661 sq. ft. single-family residence built in 2003.

To the east of the subject site is the Indian River Lagoon.

West of the subject property is Riveredge Drive, a two-lane local County maintained roadway. Across the ROW is a large commercial property in Titusville.

There is an active Code Enforcement related to the subject property case # **24CE-01457**. A Notice Of Violation (NOV) was issued by NRN for land clearing and working in the surface water protection buffer without a permit on September 5, 2024. This case is pending.

### **Future Land Use**

The subject property is currently designated as Residential 15 (RES 15) FLUM designation. The current RU-1-9 zoning is consistent with the existing RES 15 FLUM designation. The proposed RU-1-7 zoning is consistent with the existing RES 15 FLUM designation.

The applicant's proposal 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 proposes to build single-family residence on the 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 0.30 acres to 0.71 acres in size.**

**There are five (5) FLU designations (RES 15, REC, PUB, NC and CC) within a 0.5-mile radius of the subject property. RES 15 is the prominent FLU along the eastern corridor of Riveredge Drive.**

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

**There has been no development within 0.5 miles in the last 3 years.**

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

**There has been no development approved within the past three years.**

- 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 subject parcel is the last vacant, undeveloped river-front property in this south Titusville residential neighborhood that is yet to be developed.**

**The proposed use is consistent with the residential neighborhood along Riveredge Drive and as such will not adversely impact the area.**

- 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 riverfront residential area. There are clearly established roads and residential lot boundaries; the Indian River Lagoon provides a natural boundary to the east.**

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 located in an existing single-family residential area.**

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. Commercial development in the area is along US Highway 1 (Washington Street) in the City of Titusville.**

#### **Analysis of 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 unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.

**Per Natural Resource Management Department: A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal and meet all Natural Resource Management Department codes.**

**The defined CHHA and Floodplain may inhibit development potential.**

#### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is US Highway 1 between Kings Highway and SR 405, which has a Maximum Acceptable Volume (MAV) of 41,790, trips per day, a Level of Service (LOS) of D, and currently operates at 55.95% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by .26%. The corridor is anticipated to operate at 56.21% of capacity daily. 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 has access to the City of Titusville water and sewer.

## Potential Code Enforcement

There is an active Code Enforcement case (24CE-01457) for unpermitted land clearing activities and potentially additional violations on the property in 2024. A Notice of Violation has been issued. The case is pending.

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

- Surface Waters of the State
- Hydric Soils
- Aquifer Recharge Soils
- Coastal High Hazard Area
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Land Clearing and Landscape Requirements
- Protected Species

## Land Use Comments:

### Surface Waters of the State

The subject property is located on the Indian River Lagoon, designated as a Class II Water in this location. A 50-foot Surface Water Protection Buffer (Buffer) is required. Primary structures shall be located outside the Buffer. Accessory structures are permissible within the Buffer with conditions (e.g., storm water management is provided, avoidance/minimization of impacts, and maximum 30% impervious). **The removal of native vegetation located within the Buffer is prohibited unless approved through an active development order.** Temporary impacts to native vegetation require in-kind restoration. **Any shoreline stabilization shall obtain Brevard County Surface Water Permit and other applicable state and federal permits prior to any clearing or grading in the Buffer.** The Florida Department of Environmental Protection (FDEP) regulates mangrove trimming and can be reached at 407-897-4101. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any activities, plan, or permit submittal.**

### Coastal High Hazard Area

The eastern portion of this property, on the IRL shoreline, is located within the Coastal High Hazard Area (CHHA) as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates Coastal High Hazard Areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute. The parcel may be susceptible to nuisance flooding.

## **For Board Consideration**

The Board may wish to consider if the request is consistent and compatible with the surrounding area and to recognize existing development trends. The Board and the owners should note the environmental condition on the subject property may limit the development potential of the property.

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

**Item No. 24Z00039**

**Applicant:** Julia Bertot (Owner: Julia Bertot)

**Zoning Request:** RU-1-9 to RU-1-7

**Note:** to build a SF Residence on a 50' lot

**Zoning Hearing:** 10/14/2024; **BCC Hearing:** 11/07/2024

**Tax ID No.:** 2300349

- 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:**

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- Protected Species
- Potential Code Enforcement

**Land Use Comments:**



## Surface Waters of the State

The subject property is located on the Indian River Lagoon, designated as a Class II Water in this location. A 50-foot Surface Water Protection Buffer (Buffer) is required. Primary structures shall be located outside the Buffer. Accessory structures are permissible within the Buffer with conditions (e.g., storm water management is provided, avoidance/minimization of impacts, and maximum 30% impervious). **The removal of native vegetation located within the Buffer is prohibited unless approved through an active development order. Any shoreline stabilization shall obtain Brevard County Surface Water Permit and other applicable state and federal permits prior to any clearing or grading in the Buffer.** The Florida Department of Environmental Protection (FDEP) regulates mangrove trimming and can be reached at 407-897-4101. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any activities, plan, or permit submittal.**

## Hydric Soils

The subject parcel contains mapped hydric soils (Satellite sand, 0 to 2 percent slopes); indicators that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing or grading 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 Satellite sand, 0 to 2 percent slopes which 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.

## **Coastal High Hazard Area**

The eastern portion of this property, on the IRL shoreline, is located within the Coastal High Hazard Area (CHHA) as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates Coastal High Hazard Areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute. The parcel may be susceptible to nuisance flooding.

## **Floodplain Protection**

The eastern portion of this property, on the IRL shoreline, is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) AE, as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. The parcel is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. 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 Nitrogen Reduction Septic Overlay**

The property is mapped within the Indian River Lagoon Nitrogen Reduction Overlay. Per Chapter 46, Article II, Division IV - 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. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

## **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.

**Potential Code Enforcement**

There is an active Code Enforcement case (24CE-01457) for unpermitted land clearing activities and potentially additional violations on the property in 2024. A Notice of Violation has been issued. The case is pending.