



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

20Z00025

John D. Haley

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

Tax Account Number: 2611673
Parcel I.D.: 26-37-32-52-*-29
Location: East side of N. Highway US-1, approximately 200 feet south of E. Elm Street (District 4)
Acreage: 0.99 acre

Planning and Zoning Board: 11/09/2020

Board of County Commissioners: 12/03/2020

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-1-7
Potential*	One Single Family Unit	Two Single Family Units
Can be Considered under the Future Land Use Map	YES Residential 6	YES Residential 6

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

Background and Purpose of Request

The applicant desires to change the zoning classification from RU-1-9 (Single-Family Residential) to RU-1-7 (Single-Family Residential) for the purposes of subdividing the subject property into two lots and constructing one single family residence on each lot of approximately 3,000 sq. ft. of living area each. There is currently one single-family residence on the parcel, which will be demolished.

The subject property has 100 feet of lot width, which under the RU-1-7 zoning classification would yield two lots with a minimum of 50 feet of width each.

March 4, 1965, zoning action **Z-1671** was denied on the west 200 feet of the parcel to change the zoning from RU-1 (Single Family Residential) to BU-1 (Neighborhood Retail Business).

June 1, 1972, zoning action **Z-2980** changed the zoning from RU-1 (Single Family Residential) to RU-1-9 (Single-Family Residential).

October 17, 1979, Variance action **V-869** approved an expansion of a non-conforming structure in RU-1-9.

The applicant rezoned the abutting parcel to the south of the subject parcel on March 18, 2015 per zoning action **14PZ-00106** from RU-1-9 to RU-1-7 with a Binding Development Plan limiting the development to a three lot subdivision. Haley Subdivision was recorded in Plat Book 61, Page 18 on July 7, 2015.

Land Use

The subject property retains the RES 6 (Residential 6) Future Land Use designation. The existing RU-1-9 zoning and the proposed RU-1-7 zoning may be considered consistent with the RES 6 Future Land Use designation.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Floodplain
- Surface Waters of the State
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees
- Protected Species

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

Preliminary Concurrency

The closest concurrency management segment to the subject property is Highway US-1, between Pine Street and Lee Street, which has a Maximum Acceptable Volume (MAV) of 59,900 trips per day, a Level of Service (LOS) of D, and currently operates at 75.93% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 0.01%. The corridor is anticipated to continue to operate at 75.94% 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 parcel is not serviced by Brevard County sewer. The closest available sewer line is approximately 2,168 north of the subject property on the west side of Highway US-1.

The parcel is serviced by City of Melbourne water.

Applicable Land Use Policies

FLUE Policy 1.6 – The Residential 6 land use designation affords a transition in density between the higher urbanized areas and lower intensity land uses. This land use designation permits a maximum density of up to six (6) units per acre, except as otherwise may be provided for within this element.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area. The subject parcel lies within the Residential 6 (RES 6) Future Land Use designation. The surrounding area to the south lies within the Residential 6 Future Land Use designation. The surrounding area to the north lies within the Residential 6 and Neighborhood Commercial (NC) Future Land Use designations. The existing RU-1-9 and the proposed RU-1-7 zonings may be considered to be consistent with the Residential 6 Future Land Use designation.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The developed character of the surrounding area along Highway US-1 is developed with single-family homes under the RU-1-7, RU-1-9 and BU-1-A zoning classifications. The subject parcel and the surrounding area have a Future Land Use (FLU) designation of RES 6 and NC, which may be considered to be consistent with the existing RU-1-9 zoning and proposed RU-1-7 zoning.

The current 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 proposed RU-1-7 classification permits single family residences on minimum 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet. The minimum house size is 700 square feet. The RU-1-7 zoning minimum lot size is below the minimum threshold to allow both well and septic.

The BU-1-A classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods. Minimum lot size of 7,500 square feet is required with minimum width and depth of 75 feet.

Surrounding Area

The parcel lies between N. Highway US-1 and the Indian River. The abutting parcel to the north is zoned RU-1-9 and BU-1-A and is developed with a 2,221 sq. ft. single-family home and residential amenities and does not have any commercial development on the BU-1-A portion of the parcel. The abutting parcel to the south is zoned RU-1-7 and developed with a 4,219 sq. ft. single-family home and residential amenities.

There has been one zoning action within a half-mile of the subject property within the last six years.

March 18, 2015, zoning action **14PZ-00106** changed the zoning from RU-1-9 to RU-1-7 with a Binding Development Plan limiting the development to a three lot subdivision. This zoning action abuts the subject parcel to the south.

For Board Consideration

The Board may wish to consider whether this request for RU-1-7 zoning is consistent and compatible with the surrounding neighborhood which has RU-1-9 and RU-1-7 zoning. The Board may also wish to consider a BDP to limit the development potential of the property.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item # 20Z00025

Applicant: John Haley

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

Note: Applicant wants to develop split lot.

P&Z Hearing Date: 11/09/20; **BCC Hearing Date:** 12/03/20

Tax ID No: 2611673

- 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:

- Aquifer Recharge Soils
- Floodplain
- Surface Waters of the State
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees
- Protected Species

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

Land Use Comments:

Aquifer Recharge Soils

The entire parcel contains mapped aquifer recharge soils (Candler fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Floodplain

A small area on the eastern portion of the property is mapped as being within the floodplain as identified by the Federal Emergency Management Agency as shown on the FEMA Flood Zones Map. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Additional impervious area increases stormwater

runoff that can adversely impact nearby properties unless addressed on-site. 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."

Surface Waters of the State

The property is located on Class III surface waters designated by the State. A 25-foot surface water protection buffer (buffer) is required. Except as allowable under Section 62-3668 (7), 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). Any alteration within the buffer shall demonstrate avoidance and minimization of surface water protection buffer impacts, including the location of the alteration within the most landward portion of the buffer, as practicable. The remainder of the surface water protection buffer shall be maintained in unaltered vegetation, except for non-native invasive plants. The applicant is encouraged to contact NRM at 321-633-2016 prior to any activities, plan, or permit submittal.

Indian River Lagoon Nitrogen Reduction Overlay

The entire parcel 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 alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. Per Section 62-3666 (14), all onsite sewage treatment and disposal systems (OSTDS) shall be set back at least 100 feet from the buffer establishment line, the safe upland line, mean high water line or ordinary high-water line.

Protected and Specimen Trees

Aerials indicate that Protected (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) may reside on subject property. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Protected and 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. 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, 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 and/or U.S. Fish and Wildlife Service, as applicable.