



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

22Z00023

Island Bluff, LLC

**BU-1 (General Retail Commercial) with existing BDP and IN(L) (Institutional Use-Light)
to SR (Suburban Residential) with Removal and Replacement of BDP**

Tax Account Number: 2426893

Parcel I.D.s: 24-36-35-26-*-10

Location: West side of N. Tropical Trail, approximately 362 feet south of the
intersection of W. Merritt Avenue (District 2)

Acreage: 2.12 acres

Planning & Zoning Board: 7/18/2022

Board of County Commissioners: 8/04/2022

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	BU-1 with BDP and IN(L)	SR with BDP
Potential*	Up to 16,325 sq. ft. commercial (1.0 FAR) in BU-1 and Low- intensity institutional uses in IN(L)	2 SF units
Can be Considered under the Future Land Use Map	YES CC and NC	YES** CC and NC

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. ** Residential development can be considered consistent with NC and CC Future Land Use designations under Policy 2.10 of the Future Land Use element of the Comprehensive Plan.

Background and Purpose of Request

The applicants are seeking a change of zoning classification from BU-1 (General Retail Commercial) and IN(L) (Institutional Use-Light) with existing BDP to SR (Suburban Residential) with the Removal and Replacement of BDP to allow the development of two single-family residences on 2.12 acres. The property is undeveloped. Access would need to meet provisions in Ch. 62-102 as the property has insufficient road frontage along N. Tropical Trail for the proposed SR zoning classification.

The subject parcel was recorded into the current configuration per Official Records Book 5869, Page 9307 on May 30, 2008. The IN(L) portion of the subject property was administratively rezoned from BU-1-A to IN(L) on March 3, 2005 under **Z-11010(19)**. The BU-1 portion of the property was rezoned from RU-3-12 to BU-1 with a BDP on June 26, 1989 under **Z-8429**. Conditions (1-3) of the existing BDP are as follows:

1. The Developer shall limit the use of the property to the following:
 - a. Professional offices and/or medical building (medical and dental offices or clinics and attendant uses, such as pharmacy or laboratory).
 - b. Any laboratory use shall be attendant to medical and dental office use and shall be limited to use only by on-site health care practitioners.
2. Developer shall provide a 25-foot vegetative buffer along the entire North boundary of the property. Buffer to be interrupted by entrance or exit roads only if same are required by Brevard County Traffic Engineering.
3. Vegetative buffer shall incorporate existing mature specimens in buffer area or mature specimens of equivalent size and type.

The applicant is requesting the removal of the current BDP and replacement with a new BDP limiting density of the subject property to one (1) unit per acre, for a total of two (2) units.

Land Use

The subject property currently retains FLU designations of Community Commercial (CC) and Neighborhood Commercial (NC). The SR request can be considered consistent with the CC and NC FLU designations as residential development may be permissible in commercial land use designations as set forth in Policy 2.10 of the Future Land Use element of the Comprehensive Plan.

Applicable Land Use Policies

FLUE Policy 2.10 – Residential Development in Neighborhood Commercial and Community Commercial Land Use Designations

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.

Residential development is permissible in these commercial land use designations at density of up to one category higher than the closest residentially designated area on the Future Land Use Map (FLUM) which is on the same side of the street. Increases in density beyond this allowance may be considered through a public hearing. In the CHHA, however, residential development is strictly limited to the density of the closest residentially designated area on the FLUM that is on the same side of the street. Such residential development, as described above, shall be allowed to utilize the following characteristics:

Criteria:

- A. Residential uses within Neighborhood Commercial and Community Commercial designations shall be encouraged to utilize neo-traditional neighborhood development techniques, such as narrower road rights-of-way, mid-block pedestrian pass-throughs, alleys, smaller lot sizes, on-street parking, reduced lot line setbacks and public transit facilities.
- B. Residential density bonuses as set forth in Policy 11.2 may be considered in addition to the bonus stated in the above policy within Neighborhood Commercial and Community Commercial designations as an incentive for redevelopment and regentrification if the proposed development will address serious incompatibility with existing land uses, is adequately buffered from other uses, is located along major transportation corridors, and meets the concurrency requirements of this Comprehensive Plan.

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 the development of a two (2) single-family homes. It is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the 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 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;

There are four (4) FLU designation (RES 15, RES 6, CC, and NC) within 500-feet of this site. There have been no FLU amendments.

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

There has not been any actual development within this area in the preceding three (3) years.

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

There has not been any actual development within this area in the preceding three (3) 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.

The developed character of the surrounding area is a mix of commercial and multi-family zoning. The subject property is currently vacant. To the north is undeveloped commercial land zoned BU-1 and IN(L) with RU-2-30(12) further north. To the south are single-family residences zoned RU-2-15 and BU-1. To the east (across N. Tropical Trail) is a multi-tenant office building zoned BU-1, and to the west is the Indian River Lagoon.

The proposed SR classification permits single family residences on minimum half acre lots, with a minimum width of 100 feet and a depth of 150 feet. The minimum house size in SR is 1,300 square feet. SR zoning may be considered consistent with NC and CC Future Land Use designations under Policy 2.10 of the Future Land Use element of the Comprehensive Plan.

The introduction of SR zoning into the area could be considered spot zoning.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Undeveloped land	IN(L) and BU-1	NC and CC
South	One SF manufactured home and one office building	RU-2-15 and BU-1	CC
East	One multi-tenant office building	BU-1	NC and CC
West	Indian River	N/A	N/A

IN(L) zoning classification is an Institutional (Light) zoning intended to promote low impact private, nonprofit, or religious institutional uses to service the needs of the public for facilities of an educational religious, health or cultural nature.

BU-1 zoning classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

RU-2-15 classification permits multiple-family residential uses or single-family residences at a density of up to 15 units per acre on 7,500 square foot lots.

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

Preliminary Concurrency

The closest concurrency management segment to the subject property is N. Tropical Trail, between SR 520 to Merritt Avenue, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 52.82% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.12%. The corridor is anticipated to operate at 52.94% 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 subject parcel is within the City of Cocoa's service area for potable water. The closest Brevard County sewer line to the parcel is approximately 90 feet to the southeast on N. Tropical Trail.

Environmental Constraints

- Coastal High Hazard Area
- Wetlands
- Surface Water Protection
- Floodplain
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

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 shoreline of the property is within the Coastal High Hazard Area, which extends beyond the 25-foot Surface Water Protection buffer.

Objective 7 of the Comprehensive Plan, Coastal Management Element is to, "Limit densities within the coastal high hazard area and direct development outside of this area." The zoning request represents an increase in density. The Board may wish to direct site development out of the Coastal High Hazard Area in order to fulfill Objective 7.

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

The applicant is encouraged to contact NRM at 321-633-2016 prior to any land clearing, site plan design or permit submittal.

For Board Consideration

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

The Board may also wish to direct site development out of the Coastal High Hazard Area in order to fulfill Objective 7 of the Coastal Management Element of the Comprehensive Plan.

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

Item #22Z00023

Applicant: Rezanka for May

Zoning Request: BU-1 & IN(L) w/ BDP to SR w/ amended BDP

Note: Applicant wants to develop 2 residences

P&Z Hearing Date: 07/18/22; **BCC Hearing Date:** 08/04/22

Tax ID No: 2426893

- 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:

- Coastal High Hazard Area
- Wetlands
- Surface Water Protection
- Floodplain
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

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 shoreline of the property is within the Coastal High Hazard Area, which extends beyond the 25-foot Surface Water Protection buffer.

Objective 7 of the Comprehensive Plan, Coastal Management Element is to, "Limit densities within the coastal high hazard area and direct development outside of this area." The zoning request represents an increase in density. The Board may wish to direct site development out of the Coastal High Hazard Area in order to fulfill Objective 7.

Land Use Comments:

Coastal High Hazard Area

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 shoreline of the property is within the Coastal High Hazard Area, which extends beyond the 25-foot Surface Water Protection buffer.

Objective 7 of the Comprehensive Plan, Coastal Management Element is to, "Limit densities within the coastal high hazard area and direct development outside of this area." The zoning request represents an increase in density. The Board may wish to direct site development out of the Coastal High Hazard Area in order to fulfill Objective 7.

Wetlands

The coastal fringe is mapped with NWI wetlands as shown on the NWI Wetlands map; an indicator that wetlands may be present on the property. A wetland report was prepared by Florida Environmental Consulting, Inc on April 28, 2022, and found no jurisdictional wetlands above the shoreline of the Indian River Lagoon. At time of building permit, the wetland report will be verified. Per Section 62-3694(c)(2), 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 would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property acreage. 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.

A formal review of any proposed wetland impacts at time of building permit or site plan review is required, regardless of any previously approved wetland impacts from any Federal, State, or local agency.

Surface Water Protection

The subject property is located on the Indian River Lagoon system, designated as Class III surface water in this location. A 25-foot surface water protection buffer (Buffer) is required. The removal of native vegetation located within the Buffer shall be avoided. The applicant is encouraged to contact NRM at 321633-2016 prior to any activities, plan, or permit submittal.

Floodplain

The western portion of the property is mapped as being within the floodplain as identified by the Federal Emergency Management Agency (FEMA) and as shown on the FEMA Flood Zones Map; and 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."

Indian River Lagoon Nitrogen Reduction Septic Overlay

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Septic Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. The use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required if sewer is not available. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts at time of building permit.

Protected and Specimen Trees

The property is mapped with SJRWMD FLUCCS code 4340 – Upland mixed Coniferous/Hardwood along the flag stem access drive, as confirmed with aeriels. A tree survey will be required at the time of any future site plan submittal. The applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities. 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.