



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

23Z00027

Church of Deliverance, Inc.

IN(L) (Institutional Use, Low Intensity) to RU-1-7 (Single-Family Residential)

Tax Account Number: 2417019

Parcel I.D.: 24-36-22-00-769

Location: 1350 N. Tropical Trail, Merritt Island, FL 32953; East of N. Tropical Trail and north of Sawyer Ave. (District 2)

Acreage: 0.76 acres

Planning & Zoning Board: 6/12/2023

Board of County Commissioners: 7/13/2023

Consistency with Land Use Regulations

- Current zoning is not consistent with 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	IN(L)	RU-1-7
Potential*	Church and pastor's residence	Single-family residence
Can be Considered under the Future Land Use Map	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 a change of zoning classification from IN(L) (Institutional Use, Low Intensity) to RU-1-7 (Single-family Residential) for the purpose of allowing the applicants to demolish the current buildings and build a single-family residence. The current zoning classification is consistent with the Future Land Use designation. The subject parcel is currently developed with a church and pastor's residence.

The subject parcel was originally recorded in Official Record Book 318, Pages 654 & 656 August 23, 1960. The parcel went through an Administrative Rezoning (**Z-10985(47)**) to a new classification, RU-1-7 with a Conditional Use Permit (**Z-3667**) for a church to IN(L) and removal of Conditional Use Permit, which took effect December 2, 2004. The current IN(L) zoning classification does not allow for a single-family residence. This request would be putting it back into its original classification.

Land Use

The subject property is currently designated as Residential 15 (RES 15) FLU. The proposed RU-1-7 zoning can be considered consistent with the existing Residential 15 FLU designation per Sec. 62-1255.

Applicable Land Use Policies

FLUE Policy 1.4 –The Residential 15 Future land use designation. The Residential 15 land use designation affords the second highest density allowance, permitting a maximum density of up to fifteen (15) units per acre. RES 15 FLU requires access to sewer and potable water.

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 proposed single-family residence is not anticipated to have hours of operation, lighting, odor, noise levels, traffic or site activity that would 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 Master Appraiser Institute (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;

The surrounding area is institutional, low-density residential and undeveloped low-density residential in character. There are three (3) land use designations within 500-feet of this site: RES 15 (Residential 15), RES 4 (Residential 4), and RES 1 (Residential 1). There have been no FLU amendments within the past three (3) years.

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

There has been one (1) residential development within this area over the preceding three (3) years:

- **21BC19612 was a single-family residence completed January 11, 2023, approximately 0.4-miles to the north of the subject property.**

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

There has not been any approved development within this area in the preceding three (3) years that has not yet been constructed.

- 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 applicant is requesting to change the zoning classification from IN(L) to RU-1-7 on 0.76-acres to develop as a single-family residence. There is an existing pattern of single-family residence land uses surrounding the subject parcel.

To the east of N. Tropical Trail is residential in character with single-family homes on lots ranging in size from approximately 0.17-acres to 5.37-acres. Across N. Tropical Trail to the west the lots range from 0.18-acres to 8.04-acres in size and are residential in character. To the north are both institutional and residential parcels ranging from 0.34-acres to 2.23-acres. To the south across Sawyer Ave. are commercial, institutional, agricultural and residential land uses. The lots range from 0.39-acres to 5.22-acres.

- 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.

This developed parcel is directly east of N. Tropical Trail and north of Sawyer Ave. Within 500-feet there are four (4) zoning classifications: RU-1-7 (Single-family Residential), BU-1 (General Retail Commercial), IN(L) (Institutional Use - Light) and AU (Agricultural Residential). The closest RU-1-7 zoning classification is the immediate parcel to the north and also the parcel 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 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 along with institutional and a commercial use.

- **Zoning Resolution 21Z00024 was approved by the Board on November 4, 2021 approximately 0.4-miles southeast of the subject property, rezoning from AU to RU-1-11, on 0.24 acres.**
- **Zoning Resolution 21Z00007 was approved by the Board on May 27, 2021 approximately 0.3-miles north of the subject property, rezoning from RU-2-30 to RU-2-15.**
- **Zoning Resolution 20Z00033 was approved by the Board on May 11, 2021 approximately 535-feet southeast of the subject property, rezoning from RU-1-7 and RU-2-30 to RU-2-12 with a BDP limiting the development of the lot to 85 units.**
- **Small Scale Comprehensive Plan Amendment application, 22SS00001 (22S.04), was approved by the Board on May 31, 2022 approximately 0.3-miles northwest of the subject property, changing the FLU from RES 1 to RES 4.**

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Undeveloped	RU-1-7	RES 15
South	Single-family residence	RU-1-7	RES 15
East	Single-family residence	RU-1-7	RES 15
West	2 Undeveloped parcels & 2 Single-family residences	RU-1-9	RES 4

The existing IN(L) zoning classification provides private, nonprofit or religious uses which are intended to service the needs of the public for facilities of an educational, religious, health or cultural nature. Place of Worship is permitted with conditions in this classification.

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

The RU-1-9 zoning classification permits single-family residences on an area of not less than 6,600 square feet having a width of not less than 66-feet and depth of not less than 100-feet. The minimum house size is 900 square feet.

Preliminary Concurrency

The closest concurrency management segment to the subject property is N. Tropical Trail, between Lucas Rd. and Crockett Blvd., which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 25.58% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.06%. The corridor is anticipated to operate at 25.64% 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 within the Brevard County utilities service area for sewer with the main line being both on Sawyer Ave. as well as N. Tropical Trail. The parcel has access to Cocoa City Water at the corner of Sawyer Ave. and N. Tropical Trail.

Environmental Constraints

- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Land Clearing and Landscape Requirements

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

For Board Consideration

The Board may wish to consider if the request is consistent and compatible with the surrounding area recognizing existing development trends.

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary**

Item #23Z00027

Applicant: Javier & Abigail Acosta

Zoning Request: IN(L) to RU-1-7

Note: Rezone for single-family residence

Zoning Hearing Date: 06/12/2023; **BCC Hearing Date:** 07/13/2023

Tax ID No: 2417019

- 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
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Land Clearing and Landscape Requirements

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

Land Use Comments:

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Canaveral-Palm Beach-Urban land complex) as shown on the USDA Soil Conservation Service Soils Survey map. 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.

Indian River Lagoon Nitrogen Reduction Overlay

The 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 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 and Specimen tree preservation, and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.