



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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**STAFF COMMENTS
22Z00074**

Timothy Shane and Debra J. Kelley

AU (Agricultural residential) to RU-1-11 (Single-family residential)

Tax Account Number: 2113314
Parcel I.D.s: 21-35-29-00-S-52
Location: West side of Old Dixie Highway, 165-feet north of Diamond Road
(District 2)
Acreage: 0.45 acres

Planning & Zoning Board: 03/13/2023
Board of County Commissioners: 04/06/2023

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	AU	RU-1-11
Potential*	0	1 SFR
Can be Considered under the Future Land Use Map	YES RES 4	YES RES 4

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

Background and Purpose of Request

The applicants are requesting a change of zoning classification from AU (Agricultural residential) to RU-1-11 (Single-family residential) in order to develop a single-family residence.

The original zoning on the property is AU. The parcel was subdivided on December 11, 2008 and does not meet the AU zoning classification size requirement thus making it a substandard lot. AU zoning classification requires 2.5 acres with a width and depth of 150-feet.

Land Use

The subject property is currently designated Residential 4 (RES 4). Both AU and RU-1-11 zoning classifications can be considered consistent with the Residential 4 FLU designation.

Applicable Land Use Policies

FLUE Policy 1.7 – The Residential 4 Future land use designation affords an additional step down in density from more highly urbanized areas. This land use designation permits a maximum density of up to four (4) units per acre, except as otherwise may be provided for within 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 applicants propose a single-family residence. Residential uses will need to comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272. It is not anticipated to have hours of operations, lighting, odor, noise levels, traffic, or site activity that would diminish the enjoyment of, safety or quality of life in the neighborhood.

- 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 Appraisal 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 pattern has been residential in the surrounding area. The property is undeveloped with a Residential 4 (RES 4) FLU. There are two (2) Brevard County FLU designations (RES 4 and RES 15) within 500-feet of this site. The proposed RU-1-11 zoning can be considered consistent with the existing RES 4 FLU designation.

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

There was an application, 22Z00013, approved by the Board of County Commissioners effective May 26, 2022 for a rezoning from AU to RU-1-11. An application was received for a development of a major subdivision, 22SD00011, approximately 1,185-feet west on Diamond Road. The development consists of 4.63-acres for 13 lots.

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 policies have 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 character of the area is predominantly residential with a range of lot sizes from 0.19-acres to over 16.19-acre lot sizes. This parcel abuts a single-family residence to the west, north and south. Directly to the east is Old Dixie Highway with single-family residences across the ROW.

The required lot size required for RU-1-11 will be consistent with having an area of not less than 7,500 sq. ft, a width of not less than 75-feet and depth of not less than 75-feet. Existing adjacent residential development across Old Dixie Highway to the east zoned either RU-1-11 or RU-1-13 range from 0.18 – 0.31-acre lot sizes.

- 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 subject parcel is west of Old Dixie Highway and north of Diamond Road. Within 500-feet there are three (3) zoning classification: Agricultural Residential (AU), Single-family Residential (RU-1-11) and Institutional Use – Light (IN(L)).

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 agricultural and institutional uses. There has been one zoning action within a half-mile radius of the subject property within the last three years. 22Z00013 was a rezoning application with a resolution date of May 26, 2022 going from AU to RU-1-11 in order to build a major subdivision.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Single-family	AU	RES 4
South	Single-family	AU	RES 4
East	Old Dixie Highway	N/A	N/A
West	Single-family	AU	RES 4

The current AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals and plants nurseries.

The proposed RU-1-11 classification permits single family residences on minimum 7,500 square foot lots, with a minimum width and depth of 75 feet. The minimum house size is 1,100 square feet. RU-1-11 does not permit horses, barns or horticulture.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Old Dixie Highway, between Dairy Road to Parker Road, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 5.64% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.03%. The corridor is anticipated to operate at 5.67% 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 site is currently undeveloped. The subject property has access to potable water through the City of Titusville located at the edge of the property abutting Old Dixie Highway. There does not appear to be any access to city or county sewer..

Environmental Constraints

- Aquifer Recharge Soils
 - Prime wellhead protection area
 - Type 1 Aquifer Recharge Area
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped aquifer recharge soils (Candler fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. **This property is located within Titusville's Area of Critical Concern. Mapped topographic elevations are approximately 31 to 33 feet NAVD, indicating this parcel is likely within a Type 1 Aquifer Recharge Area and a Prime Wellhead Protection Area.**

These areas have a maximum septic tank density of one black water tank and one gray water tank, or one combined tank, per acre. The maximum impervious surface shall be 25 percent of the Type 1 recharge area on the site. Land alteration shall not alter the recharge or storage characteristics of the area. This includes the removal of high-permeability soils or replacement with lower-permeability soils; compaction; or the cutting, filling, grading or alteration of natural topography without an active development order.

For Board Consideration

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

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

Item #22Z00074

Applicant: Timothy Shane and Debra Jane Kelley

Zoning Request: AU to RU-1-11

Note: Lot size is not consistent with AU Zoning. Wants to build SFR.

P&Z Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID No: 2113314

- 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
 - Prime wellhead protection area
 - Type 1 Aquifer Recharge Area
- Protected and Specimen Trees
- Protected Species

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replacement with lower-permeability soils; compaction; or the cutting, filling, grading or alteration of natural topography without an active development order.

Land Use Comments:

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Candler fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. **This property is located within Titusville's Area of Critical Concern. Mapped topographic elevations are approximately 31 to 33 feet NAVD, indicating this parcel is likely within a Type 1 Aquifer Recharge Area and a Prime Wellhead Protection Area.** Sections 62-3634 and 62-3635 contain development criteria for these areas, including, but not limited to:

- **A maximum septic tank density of one black water tank and one gray water tank, or one combined tank, per acre.**
- **A maximum impervious surface shall be 25 percent of the Type 1 recharge area on the site.**
- **Land alteration shall not alter the recharge or storage characteristics of the area. This includes the removal of high-permeability soils or replacement with lower-permeability soils; compaction; or the cutting, filling, grading or alteration of natural topography without an active development order.**

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees may exist on the parcel. A tree survey will be required at time of a site plan submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. 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 preservation and canopy coverage requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, there is potential for existence of Gopher Tortoises on site. 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.