



Planning and Development Department

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**STAFF COMMENTS
 24Z00060**

Luz (Nelly) Nogueroles

AU (Agricultural Residential) to RR-1 (Rural Residential)

Tax Account Number: 2509830
 Parcel I.D.: 25-36-17-00-506
 Location: West side of Martin Road approximately 0.50 miles west of Fiske Blvd. (District 2)
 Acreage: 1.0 acres, a portion of 2509830
 Planning & Zoning Board: 01/13/2025
 Board of County Commissioners: 02/06/2025

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	RR-1
Potential*	0 Single-family home	1 Single-family home
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 to rezone 1 acre of a 5 acre parcel from AU (Agricultural Residential) to RR-1 (Rural Residential). Currently, the 5 acre parcel is developed with a single-family residence, a barn, and a stable. After rezoning, the applicant intends to split the parcel. The single-family residence would be located on the 1 acre portion. The existing barn and stable would be located on the remaining 4 acres and retain the AU zoning classification. The subject property has access to Martin Road, a county-maintained roadway.

The applicant received two variance approvals under 23V00049 and 24V00036 for the

barn and the stable to ensure the location of those buildings meets AU setback requirements for both structures in preparation of separating the 1 acre.

The subject property was created in December 1973 and recorded in ORB 1408, Page 139. It retains its original configuration. The original zoning of the subject property is AU.

The subject property had two historical zoning actions. **Z-3097** and **Z-2675**.

- **Z-3097 SUP** is dated 11/2/1972 to allow the boarding of horses (with horse shows) in an AU zone on a 38.5 acre parcel.
- **Z-2675** Allowed for a temporary trailer while building a residence in 1970.

There are no current code enforcement complaints on the subject property.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Single-family residence	AU	RES 15
South	Vacant	AU	RES 15
East	City of Rockledge	R2 (5 DUA)	LDR Low Density Residential
West	Vacant	AU	RES 4

North of the subject property is a single-family residence zoned AU (Agricultural Residential) built on 5 acres with a RES 15 FLU designation.

South of the subject property is a 3.92 acre parcel of vacant land. It is zoned AU and has a FLU of RES 15.

East of the subject property is the Phillips Landing subdivision within the City of Rockledge boundary on the east side of Martin Rd. The zoning is LDR, Low density Residential with a R2 (5 DUA).

West of the subject property is 42.2 acre site that is zoned AU within a RES 4 FLU designation.

The current AU zoning classification encompasses lands devoted to agricultural pursuits and single-family residential development of spacious character 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, fowl and beekeeping.

The proposed RR-1 classification encompasses lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings on minimum one acre lots with a minimum lot width and depth of 125 feet. Under Sec. 62-2100.5(2) the RR-1 classification permits horses, barns, and horticultural pursuits as accessory uses to a single-family residence pursuant to the following limitations. Horses, not to exceed four per acre, are permitted for the personal, noncommercial use of the occupant of the property, provided there is a minimum of 10,000 square feet of land for each animal. Agricultural pursuits shall be limited to the keeping of horses and activities of a horticultural nature. No other farm animals or fowl shall be kept on the property and no produce shall be sold from the premises. The minimum house size is 1,200 square feet. The subject property improvements meet the requirements for the RR-1 zoning classification.

Land Use

The subject property has a Future Land Use designation of Residential 15 (RES 15). The current AU zoning and the proposed RR-1 zoning are consistent with the RES 15 FLU designation.

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;

Although the subject property's FLU designation is RES 15, the area is developed with parcels of three acres and up in size. Approval of this request would allow an increase in residential density in the area, thereby changing the character of the area. The applicant intends to create a one acre lot which may not be considered compatible with the existing area within the unincorporated area and may be a catalyst for future rezoning requests.

- 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 east property line is bounded by smaller (7500 sq.ft.) lots within a subdivision under the City of Rockledge jurisdiction. Vacant land is scattered within the area that ranges in size from 5 to 10 acres in size west of Martin Rd. There are two properties that are vacant out of production borrow pits. One is 1,200 feet north of the subject and one is directly south of the subject.

There is multiple FLU designation within 0.5 miles of the subject property. They include RES 4, RES 15, and PUB-CONS. The predominant FLU designation within this area is RES 15. There have been no FLU changes within the past three years or within 0.5 miles.

The predominant zoning classification within 0.5 miles is AU, (Agriculture Residential). Additional zonings classifications include RR-1 (Rural Residential) and EU-2 (Estate Use) located on the south side of Martin Rd. SR (Suburban Residential), RU-1-11 and two small areas of GML (Governmental Managed Lands) are located north of the subject where Martin Rd ends. The request expands residential zoning west of Martin Rd.

2. actual development over the immediately preceding three years;

There has been no new development within the past three years.

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

There has been no new development approved but not yet constructed within the past three years.

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.

A preliminary concurrency analysis does not indicate that the proposed request would materially or adversely impact the surrounding residential area. Existing single-family residence would not increase the corridor's operating capacity.

- 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.

Staff analysis indicates this area is not an established neighborhood with clearly established boundaries but can be classified as a residential area.

- 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 a 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 with no commercial zoning nearby.

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 unmitigable impact on significant natural wetlands, water bodies or habitat for listed species.

Natural Resources Management Department has identified the entire subject parcel as mapped hydric soils indicating that wetlands may be present. In addition, the subject property is located within a mapped FEMA Special Flood Hazard Area (SFHA) AE. Please refer to all comments provided by the Natural Resource Management Department at the end of this report. A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.

Preliminary Concurrency

The closest concurrency management segment to the subject property is S. Fiske Blvd. between I-95 and Oyster Blvd., which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 63.66% of capacity daily. The corridor is anticipated to operate at 63.70% 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 has access to Brevard County sewer which is located on the west side of Martin Road. The parcel has access to the City of Cocoa potable water.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils
- Floodplain Protection
- Land Clearing and Landscape Requirements
- Potential Code Enforcement

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT DEPARTMENT

Zoning Review & Summary Item No. 24Z00060

Applicant: Luz Nogueroles (Owner: Luz Nogueroles)

Zoning Request: AU to RR-1

Note: to split out 1 acre for SFR

Zoning Hearing: 01/13/2025; **BCC Hearing:** 02/06/2025

Tax ID No.: 2509830

- 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:

- Hydric Soils
- Floodplain Protection
- Land Clearing and Landscape Requirements
- Potential Code Enforcement

Land Use Comments:

Hydric Soils

The entire subject parcel contains mapped hydric soils (Riviera sand, 0 to 2 percent slopes); an indicator that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing 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).** Except as allowable in Section

62-3694(c)(2)a, properties shall contain sufficient uplands for the intended use and for

any buffering necessary to maintain the function of the wetland(s), and shall be compatible with adjacent uses. 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.**

Non-bona fide agricultural and forestry operations utilizing best management practices, which do not result in permanent degradation or destruction of wetlands are permitted. Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt.

Floodplain Protection

This property 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. **This floodplain is designated as Riverine, thus the parcel is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance, including density restrictions and compensatory storage.**

Per Section 62-3723(4), elevations of the riverine 100-year, riverine 25-year, and ten-year floodplains shall be determined utilizing the best available data, which includes FIRM maps and the Flood Insurance Study for Brevard County, Florida and Unincorporated Areas, April 3, 1989, prepared by the Federal Emergency Management Agency; and the Mean Annual, 10-Year, 25-Year and 100-Year Profiles for the Upper St. Johns River Under the Existing Conditions, prepared by Dr. Donthamesetti V. Rao, P.E., St. Johns River Water Management District (March 1985).

Within the 100-year riverine floodplain, residential density is limited to no more than two dwelling units per acre. Within the 25-year riverine floodplain, residential density is limited to not more than one dwelling unit per two and one half acres. Within the 10-year riverine floodplain, residential density is limited to not more than one dwelling unit per ten acres. Within the mean annual riverine floodplain, residential land uses shall be prohibited unless the project has a special reason or need to be there and it is in the best public interest (i.e., a public project).

Chapter 62, Article X, Division 6 states that site alteration shall adversely affect the existing surface water flow pattern and shall not have adverse impacts upon adjoining properties.

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 (≥ 10 inches in diameter) and Specimen (≥ 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.**

Potential Code Enforcement

Information available to NRM indicates that unpermitted land clearing and alteration activities, potentially in wetlands, may have occurred on this parcel between 2023 and 2024. The confirmation of unpermitted land clearing and alteration activities may result in code enforcement action.