



BOARD OF COUNTY COMMISSIONERS

## Planning and Development Department

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<https://www.brevardfl.gov/PlanningDev>

### STAFF COMMENTS

24Z00013

**Jamine Kent, Jermaine Kent and Carlene Sapp-Kent**

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

Tax Account Number: 2103548  
Parcel I.D.s: 21-35-17-02-\* -G.05  
Location: West side of Myrtle Ave 270 feet south of Cypress Ave (District 1)  
Acreage: 0.34 acres

Planning & Zoning Board: 06/10/2024

Board of County Commissioners: 07/11/2024

### 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
<b>Zoning</b>	AU	RU-1-11
<b>Potential*</b>	0**	1 Single-Family
<b>Can be Considered under the Future Land Use Map</b>	YES RES 4	YES RES 4

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. \*\* This parcel fails to meet AU zoning requirements in order to receive development rights.

### 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) to develop a single-family residence.

The subject property was split out from lot G on October 28, 1987, and was recorded in ORB 2858 Pg 2108, thus creating a substandard lot. The subject property's dimensions for minimum lot width, lot depth and lot area each fail to meet current AU zoning standards. There are six (6) other parcels identified within the current deed as less and excepts/outparcels. If the lots were recorded before May 22, 1958, the minimum lot size would have been 50 feet in width; 75 feet in depth; and 5,000 square foot lot areas. From May 22, 1958, to March 6, 1975, the AU zoning classification had minimum lot criteria of 125 feet width, 125 feet depth and a minimum lot area of 1.0 acres. Since the lot was split after March 1975, it can not be considered a non-conforming lot of record. The current lot has a width of 89 ft. and a depth of 145 ft.

The applicants, therefore, are requesting the RU-1-11 zoning classification which can be considered consistent with the RES 4 Future Land Use designation and current lot dimensions.

### **Surrounding Area**

	<b>Existing Land Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Single-family residence	AU	RES 4
<b>South</b>	Single-family residence	AU	RES 4
<b>East</b>	NE – Vacant SE – Single-family residence	RU-1-7	RES 4
<b>West</b>	Vacant	AU	RES 4

The property to the north of the subject property is a 0.27 acre lot improved with a single-family home built in 1987; zoned AU. The property to the south is 0.30 acre parcel developed with a single-family home built in 1990; zoned AU. To the southeast of the subject property, across Myrtle Avenue, is a single-family home built on a 0.5 acre lot and constructed in 1944; zoned RU-1-7. The property west of the subject property is a vacant lot zoned AU and is 0.29 acres in size. All of the properties described are within the RES 4 FLUM.

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, fowl and beekeeping.

RU-1-7 classification permits single family residences on minimum 5,000 square foot lots with minimum width of 50 feet and depth of 100 feet. The minimum house size is 700 square feet.

RU-1-11 classification permits single family residences on a minimum 7,500 square foot lot, 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.

### **Land Use**

The subject property is currently designated on the FLUM as RES 4. Both the current AU zoning and the proposed RU-1-11 zoning classifications can be considered consistent with RES 4. This land use designation encompasses the majority of the area within proximity of the subject property.

### **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. The applicants request can be considered consistent with the existing Future Land Use.

**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;

**This request is not anticipated to significantly diminish the enjoyment or safety or quality of life if developed with a single-family home. Development would need to meet Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272 for hours of operations, lighting, odor, noise levels, traffic, or site activity.**

- 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;

**There are three (3) FLUM designations within a half-mile radius of the subject property. They include RES 4, Community Commercial (CC) and Neighborhood Commercial (NC). The subject property is surrounded Res 4 and is the predominate FLUM designation. The existing commercial is along Highway 1.**

**Within the past three years there have been two (2) FLUM changes within the defined radius. They are 23SS00007 and 23SS00021. Both requests were for a CC FLUM.**

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

**Within the half-mile radius of the subject property there has been one zoning action approved by the Board of County Commissioners which was developed.**

**20Z00023 changed the zoning of BU-1 to BU-1-A and included a BDP for the RU-1-9 portion with a maximum density of 4 units per acre. Developed under Site Plan # 21SP00005 for a retail store.**

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

1. **21Z00029 changed a 0.55 acre parcel zoned AU to RU-1-13. Proposed development under 24BC02409 for a single-family home.**
2. **23Z00006 is a rezoning action from BU-1 to BU-2 with a BDP. Pending proposed development under 23SP00034.**
3. **23Z00041 is a rezoning of 2.17 acres from a combined zoning of BU-1 and AU to a single BU-2 zone. Pending proposed development under 23SP00034.**
4. **23Z00072 rezoned a combined BU-1 and AU zoning to a single BU-2 zone. No site plan proposal has been submitted.**

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 of the Comprehensive Plan 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 proposed change would have minimal impact on the overall character of the area. The request, if approved, would generate trips for one household.**

- 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 lot is within SF Grays Subdivision, a subdivision platted in PB 1 PG 2 with Lot G divided into multiple parcels by metes and bounds descriptions. Much of the area fails to meet AU zoning standards and remains undeveloped. The request can be considered an introduction of RU-1-11, however it would recognize existing development trends.**

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.

**There is no neighborhood commercial use in the general vicinity.**

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 residential as there are no commercial, industrial or other non-residential uses in the immediate one block radius around this site.**

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is US Highway 1, between SR 46 and Lionel Rd which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 27.29% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.02%. The corridor is anticipated to operate at 27.31% 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 property has access to potable water through Brevard County. The nearest sewer connection is approximately 1,445 feet southwest at US Highway 1 and Main Street.

### **Environmental Constraints**

#### **Summary of Mapped Resources and Noteworthy Land Use Issues:**

- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

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 whether the proposed request is consistent and compatible with the surrounding area.

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

**Item No. 24Z00013**

**Applicant:** Jermaine Kent (Owners: Jamine Kent, Carlene Kent, and Jermaine Kent)

**Zoning Request:** Rezone from AU to RU-1-7

**Note:** to permit the construction of a single-family home

**Zoning Hearing:** 06/10/2024; **BCC Hearing:** 07/11/2024

**Tax ID No.:** 2103548

- 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.**

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**Land Use Comments:**

**Aquifer Recharge Soils**

The entire property contains Orsino fine sand, classified as an aquifer recharge soil. Mapped topographic elevations indicate the soils may consist of Type 2 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.**

**Protected and Specimen Trees**

Protected and Specimen Trees may exist on the parcel. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), encourages the protection of Specimen

Trees. 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**

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 (FWC), and/or U.S. Fish and Wildlife Service, as applicable. The applicant is advised to call Valeria Guerrero at 561-882-5714 (O) or 561-365-5696 (C) with the FWC to obtain any necessary permits or clearance letters for Gopher Tortoises.