



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS
24Z00033

Pier Ciacchi & Christina L. Ciacchi Trust

AU (Agricultural Residential) and GU (General Use) to all AU (Agricultural Residential)

Tax Account Number: 2314742
Parcel I.D.: 23-35-35-01-17-1
Location: South side of Peroutka Lane, approximately 738 feet west of Grissom Pkwy. (District 1)
Acreage: 5.04 acres
Planning & Zoning Board: 09/16/2024
Board of County Commissioners: 10/03/2024

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
The request can be considered under the Future Land Use Designation, Section 62-1255.
The request would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

Table with 3 columns: Zoning, CURRENT, PROPOSED. Rows include Zoning (AU & GU vs AU), Potential* (1 Single family vs 1 Single family), and Can be Considered under the Future Land Use Map (YES RES 1:2.5 vs YES RES 1: 2.5).

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

Background and Purpose of Request

The applicants are requesting to rezone a 5.04 acre parcel from AU (Agricultural Residential) and GU (General Use) to all AU (Agricultural Residential) to allow a guesthouse built with a kitchen facility, with the requirements in Section 62-1932, accessory to the single family house. The parcel was previously three parcels along with the north 10 feet of a fourth parcel located in the Canaveral Groves Survey Book 2, page 57. The parcels were combined into the current configuration of one parcel on June 21, 2024, per Official Records Book 10093, Pages 1627 - 1629. The proposed AU zoning requires an area of not less than 2.5 acres, having a lot width

of not less than 150 feet and a lot depth of not less than 150 feet. The parcel has access to Peroutka Lane a county maintained Right-of-Way.

Section 62-1932 allows for guesthouses subject it to the following minimum requirements:

(a) Guesthouses or servants' quarters are subject to the following minimum requirements:

(1) The structure shall contain no kitchen facilities except where consistent with paragraph (c) below.

Staff's analyst: The applicant has combined the parcels together as a 5.04 acre parcel and will meet the zoning regulation and comprehensive plan density designation for a guesthouse to have a kitchen facility.

(2) The structure shall be a detached accessory structure located to the rear of the principal structure and shall not be attached to any other accessory structure.

Staff's analyst: The applicant has not included a proposed plot plan location for the guesthouse with this application and will be required to meet these requirements.

(3) The structure shall not exceed the maximum size permitted for accessory structures in the applicable zoning classification. Where there is no maximum, the structure shall not exceed 50 percent of the size of the principal structure.

Staff's analyst: The applicant has not included a proposed plan for the guesthouse with this application and will be required to meet this requirement.

(4) The structure shall be used for the accommodation of family members, temporary guests (maximum six months), or servants only.

Staff's analyst: The applicant will be required to meet this requirement for a guesthouse.

(5) The structure shall not be used for rental purposes.

Staff's analyst: The applicant will be required to meet this requirement for a guesthouse.

(6) The structure shall be set back a minimum of ten feet from the side and rear lot lines.

Staff's analyst: The proposed guesthouse will be required to meet the minimum accessory setbacks for the AU zoning classification.

(b) This conditional use shall not be granted on a parcel of land containing less than one-half acre. A conditional use permit shall not be required on parcels equal to or exceeding one acre in size.

Staff's analyst: The parcel is 5.04 acres and does not require a CUP for a guesthouse.

(c) A guesthouse or servants' quarters may contain kitchen facilities on parcels of at least one acre in size where the resulting density of the lot including the guesthouse, or servants' quarters is consistent with the zoning regulation and comprehensive plan density designation. All other conditions enumerated above shall apply.

Staff's analyst: The parcel contains 5.04 acres. Rezoning the parcel to all AU will meet the zoning regulation and comprehensive plan density designation to have a guesthouse with a kitchen facility.

Section 62-1102. Definitions *Guesthouse* means living quarters within a detached accessory building located on the same premises as the main building, to be used for housing members of the family occupying the main building or their temporary guests. Such quarters shall be subject to the provisions of section 62-1932, shall have no separate utility meters, and shall not be rented or otherwise used as a separate dwelling.

The guesthouse will not have separate utility meters. Utilities will be required to be run from existing single family house on the parcel.

The GU zoned portion is the original zoning for the parcel.

The AU zoned portion was rezoned from GU to AU on December 7, 2000, per zoning action **Z-10485**.

The applicants' request to change the zoning from AU & GU to all AU will provide the lot size and density requirement for the parcel to have a guesthouse with a kitchen facility.

The subject parcel is developed with a single-family house.

The subject parcel is located on the south side of Peroutka Lane, a County maintained roadway.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Single-family residence Across Peroutka Lane	GU	RES 1:2.5
South	Vacant land	GU	RES 1:2.5
East	Vacant land	GU	RES 1:2.5
West	Single-family residence	SR with Binding Development Plan	RES 1:2.5

The current GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet.

The proposed AU 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.

Future Land Use

The subject property is currently designated as Residential 1:2.5 (RES 1:2.5) FLUM designation. The current GU zoning and the proposed AU zoning are consistent with the existing RES 1:2.5 FLUM designation.

FLUE Policy 1.10 The Residential 1:2.5 Future land use designation. The Residential 1:2.5 land use designation, which establishes the lowest density of all the residential future land use designations, permits a maximum density of up to one (1) unit per 2.5 acres, except as otherwise may be provided for within this element. Development in the Residential 1:2.5 land use designation should seek to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses.

The applicant's request can be considered consistent with the proposed 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 parcel has an existing single-family residence. The request is not anticipated to diminish the enjoyment of safety or quality of life in existing residential 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 (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 historical land use patterns of the surrounding development can be characterized as single-family residences on properties 0.87 acre to 3 acres in size.

There are three (3) FLU designations (RES 1:2.5, RES 4 and PUB-CONS) within a 0.5-mile radius of the subject property. RES 1:2.5 is the prominent FLU in this area.

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

There has been one new development within 0.5 miles. A single family residence 350 feet southeast of the subject parcel

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

There has been two development approved within the past three years.

Rezoning application 22Z00005 was rezoned from GU to RR-1 with a Binding Development Plan (BDP) on September 14, 2022, with conditions the owner/developer shall limit the density to a maximum of three lots with one house on each lot.

Rezoning application 23Z00081 was rezoned from BU-1 and BU-2 to all BU-2 with a new Binding Development Plan (BDP) on January 01, 2024, with conditions the site shall be developed per any allowable BU-1 use or as a trades retail, wholesale and storage facility and related ancillary services and facilities, as allowed in BU-2 zoning. And any outdoor storage shall be to the rear of any building.

- 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.

Staff analysis has determined the area can be categorized as single-family residential and agricultural on one acre or larger lots.

Adjacent zoning classifications within a 0.5 mile radius of the subject. They include GU general use, AU agricultural residential zoned, RR-1, single-family residential zones, TR-1.

To the north of the subject the property across Peroutka Lane is zoned GU, SEU and SR with RES 1:2.5 and RES 1 FLUM. To the east is zoned GU and RR-1 with RES 1:2.5 FLUM. South is zoned GU with RES 1:2.5 FLUM. To the west is zoned SR with RES 1:2.5 FLUM.

The closest parcel with AU zoning is located approximately 973 feet northwest of the subject parcel. This parcel was rezoned from GU and SR to AU on November 06, 2003, per zoning action Z-10856 and is developed with a single-family home. The north across Peroutka Lane is zoned GU, SEU and SR and are developed with single-family residential. Abutting to the east is vacant parcels zoned GU and RR-1. The abutting parcel to the south is vacate land and has the original GU zoning. The abutting parcel to the west is SR and developed with a single family residence.

AU has been an established zoning classification in the surrounding area.

The request provides consistency with the parcel's size and Future Land Use density requirements to have a guesthouse with a kitchen facility. It will also recognize existing development trends in the area.

The request is not anticipated to impact the surrounding established residential neighborhood materially or adversely.

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 has determined the property is located in an existing residential area. West of the parcel is predominately undeveloped residential zone property.

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 single-family residential neighborhood.

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 undeveloped single-family residential with no commercial zoning nearby.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Grissom Parkway located between Canaveral Groves Blvd. and Camp Road, which has a Maximum Acceptable Volume (MAV) of 17,700 trips per day, a Level of Service (LOS) of D, and currently operates at 50.06% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.05%. The corridor is anticipated to operate at 50.11% 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 City of Cocoa public potable water service and septic service.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands and Hydric Soils
- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species
- 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. 24Z00033

Applicant: Piercarlo Ciacchi and Christina Ciacchi (Owners: Piercarlo Ciacchi and Christina Ciacchi Trust)

Zoning Request: GU and AU to all AU

Note: Combine lots for agricultural zoning

Zoning Hearing: 09/16/2024; **BCC Hearing:** 10/03/2024

Tax ID No.(s): 2314742, 2314743, 2314744, and 2322851 (now combined as 2314742)

- 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:

- Wetlands and Hydric Soils
- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species
- Potential Code Enforcement

Land Use Comments:

Wetlands and Hydric Soils

A portion of the subject parcel contains mapped National Wetlands Inventory (NWI) wetlands, and another portion contains mapped hydric soils (Samsula muck, frequently ponded, 0 to 1 percent slopes); indicators 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.**

Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands **provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands.** 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. Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any

activity of a Bona Fide Agricultural Use, with state-approved Best Management Practices, on land classified as agricultural land **pursuant to Section 193.461, Florida Statute** is exempt. The Brevard County Property Appraiser's Office establishes Bona Fide Agricultural land classification.

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. **For residential parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 62-3694(c)(6).** 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.**

Aquifer Recharge Soils

A portion of this property contains Pomello sand, classified as an aquifer recharge soil. 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.

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen Trees (≥ 24 inches in diameter) likely exist on the parcel. 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, the entire property is mapped within a Scrub Jay occupancy area. Also, 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.

Potential Code Enforcement

Information available to NRM indicates that unpermitted land clearing activities may have occurred on this parcel between 2023 and 2024. These activities may have impacted existing

wetlands. The confirmation of unpermitted land clearing activities may result in code enforcement action.