



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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**STAFF COMMENTS
 24Z00058**

Henry and Tiffany Lequear

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

Tax Account Number's: 3008694
 Parcel I.D: 30G-36-12-HJ-*2
 Location: 2700 ft. West of Fleming Grant Rd., at the West end of Wilden Rd. (District 3)
 Acreage: 5.78 acres
 Planning & Zoning Board: 01/13/2025
 Board of County Commissioners: 02/06/2025

Consistency with Land Use Regulations

- Current zoning cannot be considered under the current Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the proposed Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	RR-1	AGR
Potential*	0 Single-family homes	Deer Farm
Can be Considered under the Future Land Use Map	No RES 1:2.5	YES RES 1:2.5

* 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 RR-1 (Rural Residential) to AGR (Agricultural) to allow a zoning consistent with the RES 1:2.5 Future Land Use Map (FLUM) designation for the development of a deer farm on 5.78 acres. The deer farm is intended for personal use and not as a commercial business. Currently, the parcel is undeveloped. The subject property is located approximately 2700 ft. West of Fleming Grant Rd. on the West end of Wilden Rd., a county-maintained road located in the rural area. The property is further located at the end of an approved access easement off Wilden Rd.

On May 22, 1958, Brevard County adopted the zoning code, and the subject parcel was established with the zoning classification of GU, General Use. Based on the best available date, the lot was created on February 10, 1944 as part of A.A Berry's Plat of Certain Lands, all in the George Fleming Grant.

On August 11, 1983, zoning action Z-6428 denied the rezoning request from GU to RRMC-1.

On May 10, 1984, under zoning action Z-6708, the property was rezoned from GU to RR-1.

On April 2, 2002, the Board of County Commissioners approved a request to waive the allowable two accesses for an easement. They granted easement access from the subject property through 4 additional properties.

On September 29, 2006, under administrative action A-2346, the property had an administrative approval granted for easement access for one single-family residence.

At this time, there are no active code enforcement cases associated with the subject parcel.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Vacant Land	GML(P)	PUB-CONS
South	Vacant Land	GU	RES 1:2.5
East	Fish Farm	RR-1	RES 1:2.5
West	Vacant Land	GML(P)	RES PUB-CONS

North of the subject property is a 637 acre parcel of vacant land owned by St. Johns River Water Management with Government Managed Lands (GML(P)) zoning and Public Conservation (PUB-CONS) FLU.

South of the subject property is a 5.0 acre parcel, vacant land with GU zoning and Residential 1:2.5 (RES 1:2.5) FLU.

East of the subject property is a 2.97 acre parcel of land developed as a fish farm with RR-1 zoning and RES 1:2.5 FLU.

West of the subject property is a 10 acre parcel of vacant land owned by St. Johns River Water Management with GML(P) zoning and PUB-CONS FLU.

The RR-1 classification permits single-family residential land uses on minimum one acre lots, with a minimum lot width and depth of 125 feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The minimum house size is 1,200 square feet. The keeping of horses and agricultural pursuits are accessory to a principal residence within the zoning classification.

The proposed AGR classification permits single-family or mobile home residences and agricultural pursuits on 5 acre lots, with a minimum width of 200 feet and depth of 300 feet. The minimum house size in AGR is 750 square feet. Agricultural pursuits including the packing and processing of commodities raised on the premises. The sale of products produced on the property and any other agricultural produce may be sold from roadside stands. Other pursuits include raising and grazing of animals, dude ranches and pet kennels, etc. A permitted use with conditions is fish camps.

The proposed AGR zoning allows for the use called 'agritourism'. F.S.570.86(1) defines "agritourism activity" as "any agricultural related activity consistent with a bona fide farm, livestock operation, or ranch or in a working forest which allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, civic, ceremonial, training and exhibition, or harvest-your-own activities and attractions." Local government is prohibited from adopting ordinances, regulations, rules, or policies that prohibit, restrict, regulate, or otherwise limit an agritourism activity on land that has been classified as agricultural land.

Within a 500 foot radius, the abutting three properties to the West of the subject property have agricultural exemptions per the Brevard County Property Appraiser. Those properties are used for a fish farm. For those properties to receive the agricultural exemption, they were determined to be bona fide agricultural. As such, the local zoning requirements are superseded by the State of Florida.

Future Land Use

The subject property is currently designated as Residential 1:2.5 (RES 1:2.5) FLUM designation. The current RR-1 zoning is not consistent with the existing RES 1:2.5 FLUM designation. The proposed AGR zoning is consistent with the existing RES 1:2.5 FLUM designation.

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 would need to meet the Brevard County Code Performance Standards defined by Sec. 62-2251 through Sec. 62-2257

AGR permits the packing and processing of commodities raised on the premises. The sale of products produced on the property and any other agricultural produce may be sold from roadside stands.

The residential uses are located approximately 1,000 ft. East of the subject property. Impacts such as noise, light and other potential nuisance factors associated with AGR activities should be considered.

- 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 and the developed character of the surrounding area can be characterized as a rural area of character with vacant land, single-family residences on larger lots greater than 1.5 acres and agricultural pursuits. In the area is 647 acres of public conservation land.

Also in the area is a commercial fish farm that was incorporated in 2011. Residential development occurred as early as 1935.

There are two FLU designations within a 0.5 mile which are Residential 1:2.5 (RES 1:2.5) and Public Conservation (PUB-CONS). The predominant FLU designation is PUB-CONS.

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

There have been two developments within 0.5 miles during the preceding three years. Located southeast of the subject property, the developments were both single-family homes built in 2021 and 2023.

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

There has been no development approved and not constructed or zoning actions within the last three years.

- 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.

There are multiple zoning classifications within a 0.5 mile radius of the subject property. Zoning classifications RR-1, GML (P), Agricultural Residential (AU), AGR and General Use (GU). The predominant zoning is GML(P).

There is one parcel zoned AGR within the 0.5 mile radius. The parcel is located to the East of the subject property approximately 0.10 miles and is developed as a fish farm.

- 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 the subject property is not located in an established residential neighborhood. However, it can be considered a residential area with clearly established boundaries such as roads, open spaces, rivers, lakes, lagoons, or similar features.

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 intended for personal use.

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 applicant is not requesting a rezoning for commercial, industrial, or other non-residential uses. The property abutting to the North and West is public conservation land. Abutting to the East is agricultural pursuits used as a fish farm, then the area transitions to residential uses.

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.

Hydric Soils

The entire subject parcel contains mapped hydric soils (EauGallie sand); 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.

A portion of this property is mapped within the Indian River Lagoon Nitrogen Reduction Overlay.

Based on the above reference, the development potential of the subject property may be limited. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Fleming Grant Rd. from Kiwi Dr. to Micco Rd., which has a Maximum Acceptable Volume (MAV) of 14,200 trips per day, an Acceptable Level of Service (ALOS) of D, and currently operates at 11.76% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.11%. The corridor is anticipated to operate at 11.87% of capacity daily. The addition of one pole barn and deer farm will have a minimal impact on level of service. This is only a preliminary

review and is subject to change. This concurrency is based on if the applicant were to build a single-family residence in the future. Currently, it is proposed for a deer farm with an accessory pole barn to store equipment.

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.

There is no County or City sewer or water utilities in the area. The property would need to provide its own service for well water and septic.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Potential Code Enforcement

Refer to the complete NRM report on the following page.

For Board Consideration

The Board should consider whether the proposed zoning request is consistent and compatible with the surrounding area.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item No. 24Z00058

Applicant: Henry Lequear (Owner: Henry & Tiffany Lequear)

Zoning Request: RR-1 to AGR

Note: for pole barn and deer farm

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

Tax ID No.: 3008694

- 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
- Indian River Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Potential Code Enforcement

Land Use Comments:

Hydric Soils

A majority of the subject parcel contains mapped hydric soils (EauGallie sand); 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.**

Floodplain Protection

This property is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) A, as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. The parcel is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance, including compensatory storage. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Indian River Lagoon Nitrogen Reduction Septic Overlay

A portion of this property 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.

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen Trees (≥ 24 inches in diameter) may 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.**

Potential Code Enforcement

Information available to NRM indicates that unpermitted land clearing and alteration activities may have occurred on this parcel between 2020 and 2023. The confirmation of unpermitted land clearing and/or alteration activities may result in code enforcement

action.