



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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**STAFF COMMENTS
 24Z00009**

Mahasu Associates LLC

AU (Agricultural residential) to RU-1-9 (Single-family residential)

Tax Account Number: 2419409
 Parcel I.D.s: 24-36-26-00-286
 Location: South side of Bevis Rd Approximately 480 feet South of Lucas Rd (District 2)
 Acreage: 0.31 acres, a portion of 7.7 acres
 Planning & Zoning Board: 11/18/2024
 Board of County Commissioners: 12/12/2024

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 |
|--|-----------------|-----------------|
| Zoning | AU | RU-1-9 |
| Potential* | 0 Single-family | 0 Single-family |
| 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 applicants are requesting a change of zoning classification from AU (Agricultural Residential) to RU-1-9 (Single-family Residential) on 0.31 acres of a portion of a parcel totaling 7.71 acres. Considering the 0.31 acres alone, the property does not meet the lot size or width requirement of the AU zoning classification. A variance to the lot width, under application number **24V00022**, was approved by the Board of Adjustment on

October 16, 2024. It allows a lot width of 50 feet in lieu of the code requirement of 66 feet for the proposed RU-1-9 zoning classification.

The use of the subject property is to provide access to the southern portion of the parcel from Bevis Road, a county-maintained roadway. The remaining 7.40 acres is RU-1-9. This request would allow development with a unified zoning classification across the entire parcel as well as provide access from Bevis Rd.

The 0.31 acre portion retains the AU zoning established in 1958. In 1966, the 0.31 acre portion was part of a 12 acre parcel which was denied a rezoning for a special use permit for Planned Unit Development under Z-1954.

In March 9, 1967, the subject property (0.31 was a portion) was part of a 10 acre request. The request was to change from AU and RU-1 to RU-3 multiple family residential and was denied under application **Z-2052**.

Zoning Actions applicable to the 7.44 acre portion include;

Z-550 dated October 5, 1961 which changed the zoning from AU to RU-1.

Z-2052 occurred March 9, 1967 which was a request to change the zoning from AU to RU-3 which was denied.

Z-2980 occurred June 1, 1972 to administratively rezone from RU-1 to RU-1-9.

There are no current code enforcement cases applicable to the subject property.

Surrounding Area

| | Existing Land Use | Zoning | Future Land Use |
|--------------|------------------------------------|------------|-----------------|
| North | Single-family residence across ROW | AU, RU1-11 | RES 15 |
| South | Undeveloped | RU-1-9 | RES 6 |
| East | Single-family residence | RU-1-7 | RES 15 |
| West | Undeveloped | AU | RES 15 |

To the North, directly across Bevis Rd. are two (2) single-family residences, each on 0.24 acre lots with AU and RU-1-11 zoning, respectively.

To the East is developed as a single-family on 0.69 acres with RU-1-7 zoning.

To the South of the subject property is Barony Estates subdivision on lots less than a quarter acre in size zoned RU-1-9, separated by a 30' drainage easement.

To the West is a single vacant parcel of 0.69 acres with AU zoning.

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 widths of 50 feet and depth of 100 feet. The minimum house size is 700 square feet.

RU-1-9 classification permits single family residential development on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet.

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.

Land Use

The subject property is currently designated Residential 15 (RES 15) Future Land Use Map (FLUM). The current AU zoning classification can be considered consistent with the existing RES 15 FLUM designation.

The proposed RU-1-9 zoning classifications can be considered consistent with the RES 15 FLUM designation.

Applicable Land Use Policies

FLUE Policy 1.7 – The RES 15 future land use designation affords a higher density from the surrounding FLU designation. This land use designation permits a maximum density of up to fifteen (15) 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;

The 0.31 acre portion is not anticipated to generate any additional traffic, only provide access to the southern portion of the subject property. Any

development of the subject property would need to meet Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272.

- 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;

Land use to the north, east and south, is single-family development with varied lot sizes from 0.07 acres to 0.25 acres.

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

Within a half-mile radius, there has been no actual development over the immediately preceding three years.

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

There have been three approved zoning changes:

- 1. 20Z00033 approved 05/11/2021 (Tax account 2417034) which changed the zoning of RU-1-7 and RU-2-30 to RU-2-12 with a BDP limit of 85 units**
- 2. 21Z00024 approved 11/04/21 (Tax account 2419400) which changed the zoning from AU to RU-1-11**
- 3. 22Z00058 approved 02/02/2023 (Tax account 2419383) that had a change of zoning from AU to RU-1-9.**

- 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 indicates the subject property is not located in an established residential neighborhood, but can be considered a residential area. The subject property abuts single-family residential uses to the east and west. Barony Estates subdivision is an established residential neighborhood to the south.

The RU-1-9 request can be considered compatible with the existing development trends.

- 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

- 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.

This request is not for commercial 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 subject property is not requesting a rezoning for commercial, industrial or other non-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 unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.

Based on staff analysis, the presence of wetlands and hydric soils on the property may inhibit development of the property to not more than one (1) dwelling unit per five (5) acres or 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. A wetland delineation will be required prior to any land clearing activities, or site plan design.

Preliminary Concurrency

The request is not anticipated to generate any additional traffic as it is only providing access to the property to the south.

A preliminary school concurrency review is not applicable to this request.

The subject property has access to potable water through the City of Cocoa and sewer service through Brevard County. The sewer connection is located on Bevis Road at the proposed entrance of the development.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- **Wetlands and Hydric Soils**
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees - Unpermitted Land Clearing
- Protected Species

The subject property (including the flag stem access) contains mapped wetlands and hydric soils; indicators that wetlands may be present on the property, potentially much of 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. For subdivisions 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.**

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. 24Z00009

Applicant: Sam Sebaali (Owner: Mahasu Associates LLC)

Zoning Request: RU-1-9 and AU to all RU-1-9 (0.31 ac AU to RU-1-9)

Note: to develop a SFR subdivision

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

Tax ID No.: A portion of 2419409

- 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**
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees - Unpermitted Land Clearing
- Protected Species

The subject parcel (including the flag stem access) contains mapped wetlands and hydric soils; indicators that wetlands may be present on the property, potentially much of the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.**

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Information available to NRM indicates that unpermitted land clearing and filling activities may have occurred in wetlands on the southern portion of the property (outside of the area of this request) between 2021 and 2022. The confirmation of unpermitted land clearing activities may result in code enforcement action. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**

Land Use Comments:

Wetlands and Hydric Soils

The subject parcel (including the flag stem access) contains mapped National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands and hydric soils (Anclote sand, frequently flooded); indicators that wetlands may be present on the property, potentially much of 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. For subdivisions 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.**

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Indian River Lagoon Nitrogen Reduction Septic Overlay

The eastern 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 and Specimen Trees likely exist on the parcel. Brevard County Landscaping, Land Clearing and Tree Protection ordinance Section 62-4337, entitled Permit Application Requirements and Review Process, states that a permit shall be required prior to any land clearing activities unless exempt. 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. The confirmation of unpermitted land clearing activities may result in code enforcement action. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**

Information available to NRM indicates that unpermitted land clearing and filling activities may have occurred in wetlands on the southern portion of the property (outside of the area of this request) between 2021 and 2022. The confirmation of unpermitted land clearing activities may result in code enforcement action.

Protected Species

Federally and/or state protected species may be present on the property. 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.