



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

25Z00037

Jacob Founé

SR (Suburban Residential) with a BDP (Binding Development Plan) to SR (Suburban Residential) with removal of the existing BDP (Binding Development Plan) and addition of a new BDP (Binding Development Plan).

Tax Account: 2000804
Parcel I.D: 20G-34-03-AI-8-6.24
Location: North side of Golden Shores Blvd., approx., 1,167 ft. east of International Ave. (District 1)
Acreage: 0.54 acres

Planning & Zoning Board: 11/17/2025

Board of County Commissioners: 12/11/2025

Consistency with Land Use Regulations

- Current zoning can 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	SR w/ BDP	SR w/ Removal of BDP and add New BDP
Potential*	0 Single-family home	1 Single-family home
Can be Considered under the Future Land Use Map	NO RES 1	YES RES 2

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

Background and Purpose of Request

The applicant is requesting a rezoning from SR with a BDP to SR with removal of an existing BDP (Binding Development Plan) and replacement with a new BDP on 0.54-acre parcel to build a single-family home and provide consistency with the proposed land use amendment (companion application (**25SS00008**)). The subject parcel has a

single-family residence under construction (**24BC21408**), which currently has a stop work order pending application approval(s).

The subject property retains the original FLU designation established in 1988 by the Brevard County Comprehensive Plan.

The BDP was approved under zoning action **19PZ00098** and recorded in ORB 8662, Page 2523. Specifically, this action approved a rezoning from GU (General Use) to the SR zoning classification on 1.34 acres. At the time, the subject property was combined with other land which allowed compliance with the RES 1 FLU designation. However, RES 1 was, and is not, consistent with the SR zoning classification. The BDP stipulated the developer/owner shall limit development to one single-family residence and may be further restricted by any changes to the Comprehensive Plan or Land Development Regulations. The BDP further stipulated that the developer/owner shall limit density to one unit per acre and may be further restricted by any changes to the Comprehensive Plan or Land Development Regulations.

One (1) single-family residence (SFR) permit, **20BC20801**, was issued for construction by Scott Minnick Construction Inc. on the 1.34 acres owned by Thomas & Barbara Tofte, on January 6, 2021. Subsequently, the property was sold to Joseph & Chelsea Minnick and split into two (2) lots of 0.54 acres and 0.89 acres on April 27, 2020, as recorded in ORB 8729, PG 2604 – 2605.

During staff review of the SFR permit, **20BC20801**, on October 15, 2020, it was noted by Zoning staff that the documents submitted did not appear to match the approved lot configuration of **19PZ00098**. After the submittal of the warranty deed and revised plot plan, Zoning staff was able to review and approve the SFR permit on November 9, 2020.

The 0.89-acre property was sold on October 22, 2021, by Joseph & Chelsea Minnick as recorded in ORB 9302, PG 346 – 347. The 0.54-acre subject property was sold to the applicant, Jacob Foune, by Joseph & Chelsea Minnick on June 4, 2024, as recorded in ORB 10079, PG 2366 – 2367.

These actions violated the conditions of the BDP and Section 62-2102, Brevard County Code of Ordinances, “Alteration of lot,” which states that “no person shall sever any lot in such a manner that a violation of any of the provisions of this chapter would be created on any new or altered lot, including their uses or structures.”

Subsequent to this unlawful split, a permit for a single-family residence was issued (24BC21408). This permit should not have been issued because the lot is a substandard lot as a result of that split and also violated the terms of the original BDP. Upon discovering the error, a Stop Work Order was issued by the Brevard County Building Official.

The proposed new BDP will include the following conditions: (1) the applicant agrees that this rezoning request and companion future land use amendment application was a

result of an unlawful lot split by the predecessor in interest, and will stipulate to that fact in any future proceedings regarding that action; and, (2) this rezoning and companion future land use amendment application are not precedential but instead are being requested to resolve the substandard lot that have arisen as a result of the unlawful lot split and, under these particular circumstances, that it be recognized that these actions are being granted based on the unique conditions of the subject property.

The subject parcel is located on the north side of Golden Shores Blvd., a County maintained road, approximately 1,167 ft. east of International Ave.

There are no current code enforcement complaints on the property.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Single-family residence	RR-1	RES 1
South	Single-family mobile home across Golden Shores Blvd	RRMH-1	RES 1
East	Single-family residence	SR w/ BDP	RES 1
West	Single-family residence	RR-1	RES 1

North of the subject property is a 1.07-acre parcel zoned RR-1. It has been improved with a single-family residence.

South of the subject property, across Golden Shores Blvd., is a 1.43- acre parcel zoned RRMH-1. It has been improved with a single-family mobile home.

East of the subject property is a 0.89-acre parcel zoned SR with a BDP. It has been improved with a single-family residence. This eastern property was previously connected to the subject property but was split out illegally in violation of Section 62-2102, Brevard County Code, and created two (2) substandard lots, the subject property and the eastern property.

West of the subject property is a 1.72-acre parcel zoned RR-1. It has been improved with a single-family residence.

The Residential 1 land use designation permits low density residential development with a maximum density of up to one (1) unit per acre, except as otherwise may be provided for within this element.

The current SR classification encompasses lands devoted to single-family residential development of relatively spacious character, together with such accessory uses as

may be necessary or are normally compatible with residential surroundings on minimum half acre lots, with a minimum width of 100 feet and a depth of 150 feet. The minimum house size in SR is 1,300 square feet.

The 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 a minimum one-acre lot, 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. Keeping of horses and agricultural uses are accessory to a principal residence within the RR-1 zoning district.

The RRMH-1 classification encompasses lands devoted to single-family mobile home development of spacious character, together with accessory uses as may be necessary or are normally compatible with residential surroundings, and at the same time permit agricultural uses which are conducted in such a way as to minimize possible incompatibility to residential development. RRMH-1 permits single-family mobile homes and detached single-family residential land uses on minimum one acre lots, with a minimum width and depth of 125 feet. This classification permits horses, barns and horticulture as accessory uses. The minimum house size is 600 square feet.

This application is not intended for a change in zoning classification. The applicant is requesting to retain the existing SR zoning, but to remove the existing BDP.

Future Land Use

The subject property's SR zoning classification with a BDP can be considered consistent with the RES 1 Future Land Use designation provided on the FLUM series contained within Chapter XI – Future Land Use Element of Brevard County's Comprehensive Plan. The proposed SR zoning classification with the removal of the BDP can be considered consistent with the proposed RES 2 FLU 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:

FLUE 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 BDP removal and FLU designation amendment would allow the development of one single-family home similar to the existing developed lots in the surrounding area. The request is not anticipated to diminish the enjoyment of safety or quality of life in existing residential area. Development must meet concurrency and performance standards.

- 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 appraisal can determine if material reduction has or will occur due to the proposed use.

- 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 in the surrounding area can be categorized as vacant land, agricultural pursuits, or single-family residences situated on parcels ranging from 0.22 to 18.14 acres.

Residential 1 (RES 1) is the only FLU designation within the search 0.5-mile search radius.

There are multiple zoning classifications within a 0.5-mile radius of the subject parcel. The prominent zoning classification in the area is General Use (GU) followed by RRMH-1. Additional zonings include: Rural Residential (RR-1), Single-Family Residential (RU-1-9), Suburban Residential (SR), Single-Family Mobile Home (TR-1), and Agricultural Residential (AU) zoning classifications.

There is one other SR zoned property, immediately abutting on the east side of the subject property.

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

Zoning actions within one half mile within the past three years:

•24Z00053: Approximately 600 ft. west of the subject property, approved on 03/13/2025, a rezoning from GU to AU and currently has a pending building permit for an addition to the existing single-family residence.

•23Z00064: Within 0.5 miles south of the Subject property, on April Ln., approved on 11/2/2023, a rezoning from GU to RR-1 and has been improved with a single-family residence.

•22Z00043: Within 0.5 miles northwest of the subject property, on Peoples St., approved on 11/03/2022, a rezoning from RRMH-1 to AU. No pending development at this time.

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

There has not been any development approved but not yet constructed within this area in the preceding three (3) years.

- A. 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.

FLUE Administrative Policy 4 - 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.

This request is not anticipated to have a measurable impact on the area in terms of trip generation, or parking. No commercial or industrial activity is proposed.

- 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 that while it is not an established residential neighborhood, there are clearly established roads and residential lot boundaries.

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 proposed use is not a 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 area is primarily a sparse residential area with vacant lands and no commercial zoning nearby.

Analysis of Administration Policy 7

Proposed use(s) shall not cause or substantially aggravate any (a) substantial drainage problems 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 that the subject property is located within a mapped FEMA Special Flood Hazard Area (SFHA) A. Also, the subject property may have protected species federally and/or state protected species may be present on the property. The property is mapped within a large area of Florida Scrub Jay habitat / occupancy.

Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Floodplain Protection
- Land Clearing and Landscape Requirements
- Protected Species

Preliminary Concurrency

The closest concurrency management segment to the subject property is US Highway 1, between Burkholm Road and Volusia County, which has a Maximum Acceptable Volume (MAV) of 21,800 trips per day, a Level of Service (LOS) of C, and currently operates at 21.8% of capacity daily. The maximum development potential from the proposed rezoning does not increase the proposed trip generation. The corridor is anticipated to continue to operate at 21.8% of capacity daily (LOS C). The proposal is not anticipated to create a deficiency in LOS Applicable Land Use Policies.

The subject property is not served by potable water or sewer and the provision of such would need to be provided by well and septic or a private sewer system.

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.

For Board Consideration

The Board should consider if the request is consistent and compatible with the surrounding area. In addition, the Board should consider the request based on the facts and circumstances surrounding the actions of a predecessor in interest, which resulted in the subject property being turned into a substandard lot.

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

Item No. 25Z00037

Applicant: Jacob Foune (Owner: Jacob Foune)

Zoning Request: Rezone from SR with BDP to SR with revised BDP

Note: to legitimize property to continue building home

Zoning Hearing: 11/17/2025; **BCC Hearing:** 12/11/2025

Tax ID No.: 2000804

- 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:

- Floodplain Protection
- Land Clearing and Landscape Requirements
- Protected Species

Land Use Comments:

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."

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 and Specimen 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.**

Protected Species

Federally and/or state protected species may be present on the property. Specifically, the property lies within a large area of mapped Florida Scrub Jay occupancy. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the U.S. Fish and Wildlife Service (904-731-3121 or email FW4FLESRegs@fws.gov), as applicable.