

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

Small Scale Plan Amendment 23S.23 (23SS00023)
Township 20G, Range 34, Section 22

Property Information

Owner / Applicant: **Travis & Rebecca Pless**

Adopted Future Land Use Map Designation: Agricultural (AGRIC)

Requested Future Land Use Map Designation: Residential (RES 1)

Acreage: 1.21 acres

Tax Account #: 2002077

Site Location: *Frontage on the Southside of Pine Needle Street, approximately 840 ft.
west of Meadow Green Rd.,*

Commission District: 1

Current Zoning: General Use (GU)

Requested Zoning: RRMH-1

Background & Purpose

The applicant is requesting to amend the Future Land Use (FLU) designation from Agricultural (AGRIC) to Residential 1 (RES 1) on 1.21 acres. The purpose of the request is for issuance of a building permit to build a single family residence. The subject parcel is currently undeveloped and has frontage on Pine Needle Street, a county-maintained roadway. Records indicate the subject parcel was purchased by the applicant on May 05, 2021. At this time, there are no active code enforcement associated with the subject parcel.

In 1988, Brevard County Comprehensive Plan went into effect applying the AGRIC Future Land Use to the subject property and the surrounding area. Included in the minimum criteria governing activities in this land use designation calling for residential densities not to exceed one dwelling unit per five (5) acres. The subject property has retained the FLU designation of AGRIC since the adoption of the Future Land Use map (FLUM) in 1988.

Underlying this area is a 1914 plat initially recorded 10-acre tract/lot sizes.

The property's current configuration was created as of March 19, 1982, recorded in Official Record Book 2359/ Page 55, as Indian River Park W ½ of NE ¼ of Tract 2 Block 2, approximately 1.21 acres.

The subject parcel cannot be considered a non-conforming lot of record because it was recorded into the current configuration per Official Records Book 2359, Page 55 on March 19, 1982 after the minimum lot size regulation changed. GU required 1 acre prior to May 20, 1975, afterwards GU required 5 acres. In 1988, the Comprehensive Plan was adopted establishing an Agricultural FLUM designation also requiring a minimum 5 acres. There are no other applicable land use actions on file for the subject parcel.

October 2006, the Board of County Commissioners directed Planning and Zoning staff to prepare a **Small Area Study (SAS) for the Mims community** in northern Brevard County in order to assess the area's growth capabilities and develop tactics for managing growth. The concern was continued growth would likely exceed the County's ability to supply potable water, due to aquifer limitations. The same aquifer supplies water to private well-users in Mims.

Analysis indicated that by reducing FLUM densities in parts of Mims would reduce potential buildout number by 30%. The Mims Small Area Study was approved by the Board on April 10, 2007. As a result of the study, the SAS adopted/retained a Future Land Use of AGRIC (Agricultural Future Land Use designation), which establishes one unit per 5 acres west of Meadow Green Road. Properties with approved RRMH, AU and AGR zoning classifications prior to the study were retained and adopted. The remaining lots adopted/retained the GU zoning classification including the subject property.

The subject parcel's GU zoning classification (requires lot size of 5 acres) is consistent with the AGRIC Future Land Use designation provided on the FLUM series contained within Chapter XI – Future Land Use Element of Brevard County's Comprehensive Plan.

The requested RES 1 FLU designation permits low density residential development with a maximum density of up to one (1) unit per 1 acre, except as otherwise may be provided for within the FLU element. The subject parcel's existing GU zoning cannot be considered consistent with the requested RES 1 FLU designation.

A companion application, **23Z00080**, if approved, would amend the zoning classification from GU (General Use) to RRMH-1 (Rural Residential Mobile Home). The requested zoning classification requires minimum one (1) acre lots and can be considered consistent with the requested RES 1 FLU designation.

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Single-family residence	GU	AGRIC
South	Vacant	GU	AGRIC
East	Single-family residence	RRMH-1	AGRIC
West	Vacant	GU	AGRIC

Future Land Use (FLU) designations, the county's Comprehensive Plan, indicates the intended use and development density for a particular area, while zoning classification specifically defines allowable uses and contains the design and development guidelines for those intended uses. The county's Comprehensive Plan shall be the guidance for consideration when considering the appropriate zoning district to rezone a property to, moving towards consistency with the FLUM.

The surrounding Land Use in this area is predominately Agricultural (AGRIC). The Agricultural Land Use map designation is intended to protect agricultural lands, and provide for the continuing viability of the agricultural industry in the County's economy. Activities include but are not limited to, row, vegetable and fruit crop production; dairy, poultry and livestock production; aquaculture, silviculture, horticulture, and apiariculture. Large lot residential development which does not impede the use of lands for agricultural purposes shall be permitted in this land use designation. Residential densities shall not exceed one dwelling unit per five (5) acres. The County shall not extend public utilities and services outside of the service areas to Agricultural areas for new development.

The Future Land Use Element allows for various zoning districts within a given Future Land Use designation. General Use (GU) zoning classification, which requires a minimum of 5 acres, is one of the classifications that is consistent with AGRIC land use. However, most of the parcels in the surrounding area have been split into smaller 1+ acre lots creating inconsistent FLU and zoning designations.

Comprehensive Plan Policies/Comprehensive Plan Analysis

Comprehensive Plan Policies are shown in plain text; Staff Findings of Fact are shown in *italics*.

Notice: The Comprehensive Plan establishes the broadest framework for reviewing development applications and provides the initial level of review in a three layer screening process. The second level of review entails assessment of the development application's consistency with Brevard County's zoning regulations. The third layer of review assesses whether the development application conforms to site planning/land development standards of the Brevard County Land Development Code. While each of these layers individually affords its own evaluative value, all three layers must be cumulatively considered when assessing the appropriateness of a specific development proposal.

Residential 1 (maximum of 1 dwelling unit per acre)

Policy 1.9

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 Residential 1 land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan:

Criteria:

- A. Areas adjacent to existing Residential 1 land use designation; or

The subject property is not located adjacent to an existing RES 1 FLUM designation. AGRI FLUM designation is surrounding the subject property on all sides.

- B. Areas which serve as a transition between existing land uses or land use designations with density greater than one (1) unit per acre and areas with lesser; or

The subject parcel does not serve as a transition between greater or lesser densities.

- C. Unincorporated areas which are adjacent to incorporated areas and may be considered a logical transition for Residential 1.

The subject parcel is not adjacent to an incorporated area.

Administrative Policy 3

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered. Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- 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 has been a pattern of residential development prior to the adoption of the FLUM in 1988. This area was originally platted in 1914 as 10-acre tracts. Many of the parcels have been further divided to mostly 1.25-acre lots prior to the 1988 Comprehensive Plan.

The subject property has retained the original Future Land Use (FLU) designation of AGRIC. AGRIC is the predominate Future Land Use designation in the area. The closest RES 1 is approximately 833 ft west of the subject site on the northside of Pine Needle Street. The FLUM was amended under action Z11461 from AGRIC to RES 1, approved in February 2009.

There have been three (3) FLUM actions approved within one-half mile (on abutting parcels under same ownership) of the subject site within the past three years:

- **AGRIC to RES1:2.5 under action 22SS00014, approved 05/04/2023 located approximately 970 ft. west on the southside of Pine Needle St.**
- **AGRIC to RES 1 under action 22SS00014, approved 05/04/2023 located approximately 1,290 ft. west on the southside of Pine Needle St**
- **AGRIC to RES 1:2.5 under action 20PZ00080, approved 12/03/2020 located approximately 2,325 miles north of the subject property.**

The Board may wish to consider the Small Area Study (SAS) was to control growth that would likely exceed the County's ability to supply potable water, due to aquifer limitations. The same aquifer supplies water to private well-users in Mims.

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

There has been one (1) single-family residence constructed within this area in the preceding three (3) years.

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

There have not been any development approvals that are pending construction within the past 3 years.

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.

The character of the surrounding area is undeveloped and mixture of developed single-family residential homes on large lots approximately one (1) acre in size or greater.

The proposed use single-family residential use is not anticipated to adversely impact the rural residential character within the surrounding area. A preliminary concurrency analysis does not indicate that the proposed request would materially or adversely impact the surrounding area.

However, the recent development trends indicate continuous growth beyond one (1) dwelling unit per acre as currently allowed.

- 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 subject property is not located within an established residential neighborhood. There are no clear established boundaries, such as open spaces, rivers, lakes, lagoons, or similar features. Lots within the surrounding area are developed as single-family residential homes.

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 is not a request for a neighborhood 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.

There have been no commercial, industrial or other non-residential uses applied for and approved during the previous five years.

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 Natural Resources analysis, the proposed use is not anticipated to 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.

Concurrency

The closest concurrency management segment to the subject property is US Hwy 1, from Burkholm Rd to the Volusia County Line, which has a Maximum Acceptable Volume (MAV) of 40,300 trips per day, a Level of Service (LOS) of C, and currently operates at 11.04% 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 11.06% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

The parcel is not serviced by public sewer or within the Brevard County service area for potable water. The closest available Brevard County potable water line or sewer connection to the subject property is approximately two and half (2.5) miles southeast across I-95 HWY at the north end of Sanctuary Drive.

No school concurrency information has been provided as the development potential is considered below the minimum number of new residential lots that would require a formal review.

Environmental Resources

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands
- 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.

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

Historic Resources

There are no recorded historic or archaeological sites on the project site according to the Master Site File from the Florida Division of Historic Resources.

For Board Consideration

The Board may wish to consider if the request is consistent and compatible with the surrounding area recognizing existing development trends.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Land Use Review & Summary
Item No. 23SS00023

Applicant: Travis & Rebecca Pless (Owners: Travis & Rebecca Pless)

Zoning Request: AGRIC to RES 1

Note: to build SFR

LPA Hearing: 01/08/2024; **BCC Hearing:** 02/01/2024

Tax ID No: 2002077

- 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
- 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.

Land Use Comments:

Wetlands

A small portion of the southwest corner of the subject parcel contains mapped National Wetlands Inventory (NWI) wetlands; an indicator 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.**

Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one dwelling unit per five 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. **This density may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total residential acreage as set forth in Section 65-3694(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.**

Protected and Specimen Trees

Protected and Specimen Trees likely 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.

Protected Species

Federally and/or state protected species may be present on properties with wetlands. Specifically, there is potential for existence of Gopher Tortoises on site. Should any protected species be present, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service prior to any plan, permit submittal, or development activity, including land clearing, as applicable.