



**Planning and Development Department**

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BOARD OF COUNTY COMMISSIONERS

**STAFF COMMENTS**

**20Z00026**

**Jason and Christine Spina**

**AU (Agricultural Residential) & GU (General Use) to All AU**

Tax Account Number: 2314129  
 Parcel I.D.: 23-35-33-01-19-11  
 Location: East side of Pine Street, approximately 630 feet north of Areca Palm Street (District 1)  
 Acreage: 4.76 acre

Planning and Zoning Board: 11/09/2020  
 Board of County Commissioners: 12/03/2020

**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)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	AU & GU	AU
<b>Potential*</b>	One Single Family Unit	One Single Family Unit
<b>Can be Considered under the Future Land Use Map</b>	YES Residential 1:2.5	YES Residential 1:2.5

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

**Background and Purpose of Request**

The applicant requests a change of zoning classification from AU (Agricultural Residential) and GU (General Use) to all AU for the purpose of having the entire parcel consistent with the AU zoned south portion of the parcel and to build an accessory building larger than GU zoning permits. The parcel is two combined lots, Lot 10 and 11, Block 19, 4.76 total acres, located in the Canaveral Groves area. The south Lot 11 was rezoned from GU to AU on February 01, 2001 per zoning action **Z-10505**. The applicant purchased Lot 10 on February 26, 2018 and combined it with lot 11. In GU zoning, Agricultural pursuits (barns and horses) are permitted with 5 acres or more of land. The parcel currently is developed with a 2,948 sq. ft. single-family residence along with residential and agricultural amenities on the AU zoned portion of the parcel.

The GU zoning is original to Lot 10 of the parcel adopted May 22, 1958; the south Lot 11 was rezoned from GU to AU on February 01, 2001 per zoning action **Z-10505**. The parcel is two combined lots, Lot 10 and Lot 11, Block 19, recorded in Survey Book 2, Page 55 in August, 1960.

When these lots were recorded in the Survey Book, GU zoning required a minimum lot width and depth of 150 feet and a minimum lot size of one acre. Both Lot 10 and Lot 11, Block 19, together meet the minimum lot size.

If the applicants want to re-divide the parcel into the original two lots in the future, they will be required to have an Administrative Waiver or a variance to the 2.5 acre minimum lot size for AU zoning.

## **Land Use**

The subject property retains the RES 1:2.5 (Residential 1:2.5) Future Land Use designation. The existing GU zoning and the AU zoning are consistent with the RES 1:2.5 Future Land Use designation.

## **Environmental Constraints**

### **Summary of Mapped Resources and Noteworthy Land Use Issues:**

- NWI Wetlands
- SJRWMD Wetlands
- Hydric Soils
- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped areas of National Wetlands Inventory (NWI) wetlands, SJRWMD wetlands, and hydric soils. Information available to NRM indicates that unpermitted land clearing and impacts to wetlands may have occurred between 2018 and 2019 when the northern portion of the site was cleared. A wetland determination/delineation will be required prior to any site plan design, land clearing activities, or building permit submittal. The discovery of unpermitted land clearing and/or wetland impacts may result in enforcement action. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

## **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Citrus Boulevard, between Pine Street and Lee Street, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 28.85% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 0.06%. The corridor is anticipated to continue to operate at 28.91% 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 not serviced by Brevard County sewer. The closest available sewer line is approximately 2.8 miles southerly of the subject property on the west side of Adams Road.

The parcel is serviced by City of Cocoa water.

### **Applicable Land Use Policies**

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 through 8 of the Future Land Use Element, outlined in the Administrative Policies.

**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.

**Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.** The subject parcel is currently developed with a single-family residence on the south Lot 10 portion of the parcel and lies within the Residential 1:2.5 Future Land Use designation. The surrounding area has GU and AU zoning and lies within the Residential 1:2.5 Future Land Use designation. The existing GU and the proposed AU zoning may be considered to be consistent with the Residential 1:2.5 Future Land Use designations.

**Analysis of Administrative Policy #4 - Character of a neighborhood or area.** The developed character of the surrounding area along Pine Street is developed with single-family homes and agricultural amenities and undeveloped land on lots of one acre or more variously zoned GU and AU. The subject parcel and the surrounding area along Pine Street have a Future Land Use (FLU) designation of RES 1:2.5, which may be considered to be consistent with the existing GU zoning and proposed AU zoning. The lot size in the surrounding area as recorded in Survey Book 2, Page 55 range from 1.01 acres to 2.38 acres.

The 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. Any agricultural use, pursuit or activity permitted in the agricultural zoning classifications (AU or AGR) may be considered as a conditional use for the GU zoning classification, provided that the applicant specifies the exact use in the request or application for the conditional use and meets all criteria for the use, if any, as set forth for the AU zoning classification. A conditional use permit is not required on GU parcels equal to or exceeding five acres.

The 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 permits all agricultural pursuits, including the packing, processing, and sales of commodities raised on the premises. The AU classification also permits the raising/grazing of animals, fowl, beekeeping and plant nurseries.

## **Surrounding Area**

The parcel abuts GU zoning along its northern, eastern and southern boundaries. The abutting parcel to the north is developed with a 3,946 sq. ft. single-family home and residential amenities. The abutting parcel to the east is developed with a 3,071 sq. ft. single-family home. The abutting parcel to the south is developed with a 3,595 sq. ft. single-family home and residential amenities

There have been two zoning actions within a half-mile of the subject property within the last four years.

November 03, 2016, zoning action **16PZ00079** changed the zoning from GU to AU on a 2.16 acre parcel approximately 2,125 feet southwesterly of the subject parcel.

March 07, 2019, zoning action **18PZ00145** changed the zoning from GU to AU on a 2.38 acre parcel approximately 2,016 feet northwesterly of the subject parcel.

## **For Board Consideration**

The Board may wish to consider whether this request for AU zoning is consistent and compatible with the surrounding neighborhood which has AU and GU zoning. In addition, the Board may wish to consider potential impacts of Agritourism on the surrounding properties.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Zoning Review & Summary**  
**Item # 20Z00026**

**Applicant:** Spina

**Zoning Request:** GU to AU

**Note:** Applicant wants to build garage/shed.

**P&Z Hearing Date:** 11/09/20; **BCC Hearing Date:** 12/03/20

**Tax ID No:** 2314129

- 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:**

- NWI Wetlands
- SJRWMD Wetlands
- Hydric Soils
- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped areas of National Wetlands Inventory (NWI) wetlands, SJRWMD wetlands, and hydric soils. Information available to NRM indicates that unpermitted land clearing and impacts to wetlands may have occurred between 2018 and 2019 when the northern portion of the site was cleared. A wetland determination/delineation will be required prior to any site plan design, land clearing activities, or building permit submittal. The discovery of unpermitted land clearing and/or wetland impacts may result in enforcement action. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

**Land Use Comments:**

**Wetlands**

The subject parcel contains mapped NWI (Freshwater emergent wetlands), SJRWMD (Freshwater marshes), and hydric soils (Anclote sand – frequently flooded, and Basinger sand) as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service

Soils Survey maps, respectively. All are indicators that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities.

Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt. The Brevard County Property Appraiser Office establishes Bona Fide Agricultural land classification, and land classification is not based on the zoning alone. If Bona Fide Agriculture classification is not established, then land clearing and accessory structures, including barns, are not permitted in wetlands.

If applicable, per Section 62-3694(c)(2), 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 would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. The preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts as described in Section 65-3694(c)(1)a above. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property as defined in Section 65-694(c)(6).

Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

### **Aquifer Recharge Soils**

Basinger sand also functions as aquifer recharge soils. 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**

Aerials indicate that Protected (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) may reside on subject property. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Protected and Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM. Unpermitted land clearing activities may be subject to a code enforcement violation.

### **Protected Species**

Information available to NRM indicates that 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 and/or U.S. Fish and Wildlife Service, as applicable.