



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS  
24Z00059**

**Wanda & Dennis Crocker (Timothy Vulpius)  
AU (Agricultural Residential) to RR-1 (Rural Residential)**

Tax Account Number's: 2004800  
Parcel I.D: 20G-35-20-AI-7-4.01  
Location: Southwest corner of Highway US-1 and Alington Avenue  
(District 1)  
Acreage: 1.51 acres  
  
Planning & Zoning Board: 01/13/2025  
Board of County Commissioners: 02/06/2025

**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)

|  | <b>CURRENT</b>       | <b>PROPOSED</b>      |
|--|----------------------|----------------------|
| <b>Zoning</b>  | AU                   | RR-1                 |
| <b>Potential*</b>                                      | 0 Single-family home | 1 Single-family home |
| <b>Can be Considered under the Future Land Use Map</b> | YES<br>RES 1         | YES<br>RES 1         |

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

**Background and Purpose of Request**

The applicant is requesting to change the zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential) on a 1.51 acre parcel to have the zoning classification consistent with the parcel's lot size. The subject parcel is vacant, and the applicant plans to build a single-family home. The current AU lot standard for minimum lot area is 2.5 acres. The proposed RR-1 minimum lot area standard is 1.0 acres. As a remnant of Tract 4 bisected by US Highway 1, the lot area is nonconforming to current zoning standards for minimum lot area.

The AU zoning is the original zoning for the parcel. The subject property was created in October 1973 as recorded in ORB 1392, Pg. 627. On July 14, 1981, Hunter Road, as recorded in plat of Indian River Plantation Estates, Plat Book 13, Page 98, was vacated and a portion of the Hunter Road Right-of-Way was combined with the parcel to form the current configuration of the parcel.

The applicants' request to change the zoning from AU to RR-1 will provide consistency with the size requirement of the parcel.

- **DNZ-3849** denied rezoning request on the subject parcel from AU to BU-1, on March 6, 1975.

The subject parcel has access on Arlington Ave., a two (2) lane county-maintained roadway, and Highway US-1 an FDOT maintained roadway.

**Surrounding Area**

|              | <b>Existing Use</b>                                     | <b>Zoning</b> | <b>Future Land Use</b> |
|--------------|---|---------------|------------------------|
| <b>North</b> | Vacant across Arlington Ave.                            | AU            | RES 1                  |
| <b>South</b> | Vacant across Fairfax Dr.                               | BU-1          | RES 1                  |
| <b>East</b>  | Single-family residence & vacant across US Highway US-1 | RR-1/AU       | RES 1                  |
| <b>West</b>  | Single-family residence                                 | AU            | RES 1                  |

North of the subject property, across Arlington Ave., is a 1.31 acre parcel zoned AU. It is vacant and undeveloped.

South of the subject property, across Fairfax Dr., is a 3.14 acre parcel zoned BU-1. It is vacant and undeveloped.

East of the subject property, across Highway US-1, is a 3.8 acre parcel zoned AU, and a 2.51-acre parcel zoned RR-1. The AU parcel is vacant and undeveloped. The RR-1 parcel has been improved with a single-family residence.

Immediately west of the subject property are two single family lots. They are zoned AU and have a FLU of RES 1.

The current AU 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.

The proposed RR-1 classification permits single-family residential land uses 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. The keeping of horses and agricultural uses are considered accessory to a principal residence pursuant to subsection 62-2100.5 (2) of Brevard County Code of Ordinances.

### **Future Land Use**

The subject property has a Residential 1 (RES 1) FLUM designation. The current AU zoning and proposed RR-1 zoning are considered consistent with the existing RES 1 FLUM designation.

The applicant's request can be considered consistent with the proposed Future Land Use. 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 zoning change 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 of the surrounding development can be characterized as single-family residences on properties 1 acre or greater in size.**

**There are five (5) FLU designations (RES 1, RES 2, RES 1:2.5, NC, and CC within a 0.5-mile radius of the subject property. The RES 1 FLU designation completely encircles this parcel.**

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

**There have been three single-family developments within 0.5 miles in the past three years. The first zoning action was under 22Z00064 for a rezoning from AU to RR-1. That parcel is 3.91 acres in area and was developed with a single-family residence in 2016. The zoning resolution was adopted on March 2, 2023. That property is located 1,290 feet east of the subject zoning action on the north side of Orlando Avenue.**

**The second parcel is zoned under Zoning Resolution 23Z00010 for a rezoning from AU to RR-1. That parcel is 2.22 acres in area and was developed with a single-family residence in 2024. The zoning resolution was adopted on May 4, 2023. That property is located 2,050 feet northeast of the subject zoning action on the north side of Burkholm Road.**

**The third parcel developed with a single-family residence retains the original 1958 zoning of AU. That parcel is 2.51 acres in area and was developed with a single-family residence in 2022. That property is located directly east of the subject property on the east right-of-way line of US Highway 1.**

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

**There has been no development approved within the past three 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.

**Staff analysis has determined the area can be categorized as single-family residential on lots of one acre or larger.**

**There are multiple zoning classifications within a 0.5 mile radius of the subject property. They include RR-1, AU, RU-1-7, SR single-family zoning classifications; BU-1, BU-2 commercial zoning classifications, and the IN(L) Institutional low intensity zoning classification. The predominant zoning classification within this area remains AU; however, the area is transitioning to the RR-1 zoning classification. RR-1 zoning can be found to the north, south, and east of this site.**

**The request provides consistency with the proposed zoning classification lot size and FLUM. It will also recognize existing development trends.**

**The request is anticipated to impact the surrounding established residential neighborhood with a 0.02 MAV increase due to the development of a single-family residence.**

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.

**The property is located in an existing residential area. There are clearly established roads and residential lot boundaries. The parcel abuts the subdivision Indian River Plantation Estates, Plat Book 13, Page 98 along the west of the parcel.**

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 single-family residential with 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 unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.

**Based on the summary of mapped resources, this site may include hydric and Aquifer Recharge Soils, Floodplain Protection, Protected Trees and Species and Specimen Trees. These issues may limit the development of the property. A wetland delineation may be required prior to any land clearing activities, site plan design, or building permit submittal. 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. Mapped topographic elevations indicate the soils may consist of Type 3 Aquifer Recharge soils that have impervious area restrictions. The parcel is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance, including compensatory storage. 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. 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.**

## **Environmental Constraints**

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

- Hydric Soils
- Aquifer Recharge Soils
- Floodplain Protection
- Protected and Specimen Trees
- Protected Species

## **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Highway US-1 located between Lionel Road and Burkholm Road, which has a Maximum Acceptable Volume (MAV) of 40,300 trips per day, a Level of Service (LOS) of C, and currently operates at 23.83% 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 23.85% 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 within any public potable water or sewer lines. The proposed single-family home will be serviced by well for potable water and on septic.

**For Board Consideration**

The Board should consider if the request is consistent and compatible with the surrounding area.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Zoning Review & Summary**  
**Item No. 24Z00059**

**Applicant:** Timothy Vulpus (Owners: Wanda and Dennis Crocker)

**Zoning Request:** AU to RR-1

**Note:** to legitimize lot to build SFR

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

**Tax ID No.:** 2004800

- 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
- Aquifer Recharge Soils
- Floodplain Protection
- Protected and Specimen Trees
- Protected Species

**Land Use Comments:**

**Hydric Soils**

A portion of the subject parcel contains mapped hydric soils (Myakka sand, depressional); an indicator that wetlands may be present on the property. **A wetland delineation may 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** 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 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.**



### **Aquifer Recharge Soils**

This property contains Tavares fine sand, 0 to 5 percent slopes and Candler fine sand, classified as aquifer recharge soils. Mapped topographic elevations indicate the soils may consist of Type 3 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

### **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."

### **Protected and Specimen Trees**

Protected ( $\geq 10$  inches in diameter) and Specimen Trees ( $\geq 24$  inches in diameter) likely 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.**

### **Protected Species**

Federally and/or state protected species may be present on the property. Specifically, Gopher Tortoises can be found in areas of aquifer recharge soils. 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. The applicant is advised to call Valeria Guerrero at 561-882-5714 (O) or 561-365-5696 (C) with the FWC to obtain any necessary permits or clearance letters for Gopher Tortoises.