



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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

STAFF COMMENTS

26Z00027

Henry & Janet Abt (Cody Spaur)

RU-1-7 (Single-family Residential) to RU-1-11 (Single-family Residential)

Tax Account Number: 2322328
Parcel I.D.: 23-35-15-JY-A-3
Location: 5275 Andover Street, SW corner of Badger Avenue and Andover
Street Intersection (District 1)
Acreage: 1.17 acres

PSJ Special District Board: 8/12/2026
Planning & Zoning Board: 8/17/2026
Board of County Commissioners: 9/10/2026

Consistency with Land Use Regulations

- Current zoning is not consistent 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	RU-1-7	RU-1-11
Potential*	0 Single-family residence	1 Single-family residence
Can be Considered under the Future Land Use Map	NO RES 4	YES RES 4

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

Background and Purpose of Request

The applicant is requesting to rezone the subject property from RU-1-7 (Single-Family Residential) to RU-1-11 (Single-family Residential). The purpose of the request is to establish zoning that is consistent with the property's existing RES-4 Future Land Use designation and to allow the construction of a single-family residence on approximately 1.17 acres. A boundary survey dated April 14, 2025, depicting the proposed single-family dwelling, has been submitted

in support of the request. The survey is conceptual in nature and is not binding upon future development of the property.

The applicant was notified of the inconsistency during a building permit review for a new single-family residence under Building Permit **25BC13476**.

The subject property was originally platted as part of Tract A, as recorded in Plat Book 23, Page 62 within the Port St. John Unit Seven on September 10, 1970. The subject property in its current configuration was created February 26, 1999, as described in Official Record Book 3975, Page 3730. The subject property is not considered a nonconforming lot of record.

Natural Resource Management Department comments note 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."

RU-1-7 classification encompasses lands devoted to single-family residential development, together with such accessory uses as may be necessary or are normally compatible with residential surroundings. RU-1-7 is the smallest single-family zoning classification requiring a minimum 5,000 square-foot lot, having a minimum 50 feet of width, and a minimum depth of 100 feet along with a minimum floor area of 700 square feet.

RU-1-11 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 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.

Zoning History:

On May 22, 1958, the Brevard County zoning code was established, with the subject property having GU (General Use) zoning classification.

On October 6, 1960, an approved rezoning under **Z-414** was approved by the Board of County Commissioners (BOCC), from GU to RU-1.

On June 1, 1972, an administrative reclassification was approved by the BOCC from RU-1 to RU-1-7 under zoning action **Z-2980**.

The property retains the original Future Land Use (FLU) designation of RES 4 (Residential, 4 units per acre) as established in the Brevard County Comprehensive Plan on September 8, 1988.

On August 3, 1998, an administrative action was approved for two flag lots under **AA-1321**, one of which was for the subject property.

There is an active Code Enforcement case (**25CE-00616**) for unpermitted land clearing and land alteration activities on the property, under the jurisdiction of Brevard County Natural Resources Department. The case is pending.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North & West	Single-family residence	RU-1-7	RES 4
South	50-foot-wide drainage ROW	N/A	N/A
East	Single-family residence	RU-1-7	RES 4

North and West of the subject property is one (1) parcel, 2.13 acres, developed with a single-family residence, RU-1-7 zoning classification and RES 4 FLU.

South of the subject property is a 50-foot-wide drainage right-of-way.

East of the subject property is one (1) parcel, 1.13 acres, developed with a single-family residence, RU-1-7 zoning classification and RES 4 FLU.

Future Land Use

The subject property's RU-1-7 zoning classification is not consistent with the RES 4 Future Land Use designation provided on the FLUM series contained within Chapter XI – Future Land Use Element of Brevard County's Comprehensive Plan. The applicant's request for RU-1-11 zoning classification is considered consistent under the current RES 4 FLUM 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:

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;

Approval of this request would permit a single-family residence with a minimum 1,100 square foot of living area. The proposed use would need to meet

Performance Standards defined by Sections 62-2251 through 62-2272 for hours of operations, lighting, odor, noise levels, traffic, or site activity.

- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.

Only a certified MAI (Master Appraiser Institute) appraisal can determine if a 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;

The historical land use pattern of the surrounding development is characterized as single-family residential lots that vary in size from approximately 0.20 acres to 0.52 acres. Single-family residential development is the predominant pattern of development in the area.

The surrounding area was platted in 1970, with lot sizes ranging from 0.23 acres to 2.13 acres.

There are two (2) FLU designations: RES 4 and CC within a 0.5-mile radius of the subject property. RES 4 is the predominant zoning classification.

There are multiple zoning classifications within a 0.5-mile radius of the subject property: GU, SR, RR-1, GML, RU-1-7, RU-1-9, RU-1-13, RRMH-1, RA-2-6, BU-1-A, and BU-1 zoning classifications. RU-1-7 is the prominent zoning classification within the area. The closest RU-1-11 zoning is approximately 0.7 miles southeast of the subject property.

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

No new development has occurred within 0.5 miles of the subject property within the last three years.

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

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

- 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.

Traffic from the potential development of a single-family residence is anticipated to operate within the Maximum Acceptable Volume (MAV). The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.04%. The corridor is anticipated to operate at 54.55% of daily capacity. Specific concurrency issues will be addressed at the time of building permit review. The proposed request is not anticipated to create any traffic activity that is not already present as the request is for development of a single-family residence and is not commercial or industrial in nature.

- 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 subject property is located within a residential neighborhood. There are clearly established boundaries such as roads and open spaces.

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 request does not include commercial uses.

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 predominantly developed with single-family residences. The closest commercial zoning classification is located approximately 0.3 miles northeast of the subject property, undeveloped, with access on Ranch Road and Grissom Parkway.

Analysis of 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 unmitigable impact on significant natural wetlands, water bodies or habitat for listed species.

A majority of the subject parcel contains mapped hydric soil. An Environmental Report by Andrew Conklin Environmental Services, LLC, dated July 13, 2024, determined no wetlands are present on the site. 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.

Please refer to the full NRM comments at the end of this report.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Grissom Parkway between Curtis Boulevard and Kings Highway, which has a Maximum Acceptable Volume (MAV) of 22,400 trips per day, a Level of Service (LOS) of E, and currently operates at 54.51% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.04%. The corridor is anticipated to operate at 54.55% 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 subject property is mapped in the Brevard County Utilities jurisdiction for sewer service and City of Cocoa Utilities jurisdiction for water service.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils
- Floodplain Protection
- Land Clearing and Landscape Requirements
- Code Enforcement

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

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item No. 26Z00027

Applicant: Cody Spaur (Owner: Henry Edward Abt, II)

Zoning Request: RU-1-7 to RU-1-11

Note: to build SFR

PSJ Advisory: 08/12/2026; **Zoning Hearing:** 08/17/2026; **BCC Hearing:** 09/10/2026

Tax ID No.: 2322328

- 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
- Floodplain Protection
- Land Clearing and Landscape Requirements
- Potential Code Enforcement

Land Use Comments:

Hydric Soils

A majority of the subject parcel contains mapped hydric soils (Anclote sand); an indicator that wetlands may be present on the property. However, an Environmental Report by Andrew Conklin Environmental Services, LLC., dated July 13, 2024, determined no wetlands are present on the site. This will be verified at the time of permitting.

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." **The applicant is encouraged to continue communication with NRM prior to any plan or permit submittal or performing any land clearing activities.**

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.**

Potential Code Enforcement

There is an active Code Enforcement case (25CE-00616) for unpermitted land clearing activities, including clearing in wetlands, on the property in 2025. The case is pending.