



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS
24Z00032

Edwin and Stephanie Silva

AU (Agricultural Residential) to RR-1 (Rural Residential)

Tax Account Number: 2105526
Parcel I.D.: 21-35-29-00-28
Location: North side of Dairy Road, approximately 730 feet west of Old Dixie Highway (District 1)
Acreage: 1.5 acres
Planning & Zoning Board: 09/16/2024
Board of County Commissioners: 10/03/2024

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
The request can be considered under the Future Land Use Designation, Section 62-1255.
The request would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

Table with 3 columns: Zoning, CURRENT, PROPOSED. Rows include Zoning (AU vs RR-1), Potential* (0 vs 1 single family), and Can be Considered under the Future Land Use Map (RES 15 vs RES 15).

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

Background and Purpose of Request

The applicants are requesting to rezone a 1.5 acre parcel from AU (Agricultural Residential) to RR-1 (Rural Residential) to have the zoning classification consistent with the parcels' lot size. The parcel was subdivided from a 4 acre parent parcel into the current configuration on August 16, 2023. The subdivision of the parent parcel made two lots that are inadequate to the AU lot size requirements. The subject parcel does not meet the 2.5 acre minimum lot size for AU zoning and the remaining parcel to the west and north does not meet the AU minimum 150 feet lot width requirement when they were split. The proposed RR-1 zoning requires an area

of not less than one acre, having a lot width of not less than 125 feet and a lot depth of not less than 125 feet. The subject parcel meets these minimum size requirements.

Further, per Section 62-2102: 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.

The AU zoning is the original zoning for the parcel.

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

The subject parcel is developed with a single-family house that was built in 1960 along with residential amenities.

The subject parcel is located on the north side of Dairy Road, a County maintained roadway.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Agricultural	AU	RES 15
South	Agricultural Grazing Land across Dairy Road	AU	RES 15
East	Single-family residence	RR-1	RES 15
West	Agricultural	AU	RES 15

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. Keeping of horses and agricultural uses are accessory to a principal residence within the RR-1 zoning district.

Future Land Use

The subject property is currently designated as Residential 15 (RES 15) FLUM designation. The current AU zoning and the proposed RR-1 zoning are consistent with the existing RES 15 FLUM designation.

FLUE Policy 1.4 –The Residential 15 Future Land Use designation affords the second highest density allowance, permitting a maximum residential density of up to fifteen (15) units per acre. This land use category allows single and multi-family residential development.

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:

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 parcel has an existing single-family residence. The request is not anticipated to diminish the enjoyment of safety or quality of life in existing residential area.

- 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 (Master Appraiser Institute) appraisal can determine if 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 patterns of the surrounding development can be characterized as single-family residences on properties one acre to 6.6 acres in size.

There are four (4) FLU designations (RES 15, RES 4, NC, and CC) within a 0.5-mile radius of the subject property. RES 15 is the prominent FLU in this area.

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

There has been no development within 0.5 miles.

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

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

- 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.

Staff analysis has determined the area can be categorized as single-family residential and agricultural which features one acre or larger lots.

The request is not anticipated to impact the surrounding established residential area materially or adversely.

There are multiple zoning classifications within a 0.5 mile radius of the subject. They include AU agricultural residential zoned, RR-1, SR, RU-1-11, RU-1-13 single-family residential zones, RU-2-4 multi-family zoned, IN(L) Institutional zoned, BU-1 Commercial zoned, GML Governmental Managed Land. To the north and west of the subject the property is zoned AU with RES 15 FLUM. To the east is zoned RR-1 with RES 15 FLUM. South across Dairy Road is zoned AU with RES 15 FLUM.

The closest parcel with RR-1 zoning is located abutting the subject parcel to the east. This abutting RR-1 parcel to the east was rezoned from AU to RR-1 on January 23, 1989, per zoning action Z-8310 and is developed with a single-family home. The north and west abutting parcel has the original AU zoning and is

developed with residential amenities. The parcel to the south across Dairy Road has the original AU zoning and is developed with Agricultural amenities with Grazing Land.

RR-1 has been an established zoning classification in the surrounding area.

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

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.

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 is not for commercial use. It is located in an existing single-family residential neighborhood.

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.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Dairy Road located between N. Singleton Avenue and Old Dixie Highway, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 42.63% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.00%. The corridor is anticipated to operate at 42.63% 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 located within the City of Titusville service boundary for available public potable water service and available sewer line service.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Land Clearing and Landscape Requirements
- 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.

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. 24Z00032

Applicant: Edwin and Stephanie Silva (Owners: Edwin and Stephanie Silva)

Zoning Request: AU to RR-1

Note: to legitimize parcel; doesn't meet size requirement of current zoning classification

Zoning Hearing: 09/16/2024; **BCC Hearing:** 10/03/2024

Tax ID No.: 2105526

- 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.**

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Land Use Comments:

Aquifer Recharge Soils

This property contains Tavares fine sand, 0 to 5 percent slopes, classified as an aquifer recharge soil. 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.

Land Clearing and Landscape Requirements

Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), a purpose and intent of the ordinance is to encourage the protection of Heritage Specimen Trees. 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, 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.