



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS
24Z00031

Seiichi Noda and Kimberly A. Noda Trustees of the Joint Revocable Trust of Seiichi Noda and Kimberly A. Noda

AU (Agricultural residential) to EU (Estate use residential)

Tax Account Number: 2511132
Parcel I.D.s: 25-36-23-00-514
Location: 200 feet east of US Highway 1, Between US Highway 1 and Rockledge Drive 310 feet south of Coquina Road (District 2)
Acreage: 0.36 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 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)

Table with 3 columns: Zoning, Potential\*, Can be Considered under the Future Land Use Map. Rows show CURRENT (AU, 0, YES\*\*/NC) and PROPOSED (EU, 1 Single-Family, YES\*\*/NC).

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

\*\*Yes, classification may be considered, if permitted by Policy 2.10.

Background and Purpose of Request

The applicants are requesting a change of zoning classification from AU (Agricultural Residential) to EU (Estate Use Residential) on a portion of their property to allow a garage accessory to an existing single-family residence. This property currently has two zoning classifications AU and EU. This request removes the split zoning and substandard AU zoned portion.

The area of request is the western portion of an existing lot zoned AU. The property owner also owns the abutting property to the west (parcel # 586) which has frontage on US Highway 1. The applicants

are requesting the expansion of the EU zoning area westward to replace the AU portion which fails to meet zoning minimum requirements of 2.5 acres in area and minimum 150-foot lot width criterion. The existing EU portion was zoned under Zoning Resolution **Z-1778** adopted by the Board on August 5, 1965. The AU portion is original May 22, 1958, Brevard County zoning.

**Sec. 62-2116. - Parcels of land divided by public right-of-way.**

For the purpose of determining building permit requirements, setback requirements and minimum lot sizes, those lots, plots, tracts or parcels of real property titled under common ownership, located within the unincorporated area of the county, that are separated or divided by a public or private right-of-way, street, road, alley or easement shall be defined as follows:

- (1) Where the land area on each side of the public or private roadway or road meets the minimum requirement for lot size in the designated zoning classification, then the landowner shall be deemed the owner of two separate lots, plots, tracts or parcels for the purposes of this chapter.
- (2) Where the land area on either side of the public or private right-of-way or road fails to meet the minimum requirements for lot size in the designated zoning classification, then the landowner shall be deemed the owner of one lot, plot, tract or parcel for the purposes of this chapter, and the principal structure or dwelling unit shall be located on the side or part having the greater land area.

**Surrounding Area**

	<b>Existing Land Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Commercial retail	BU-1 and AU	CC and NC
<b>South</b>	Vacant	AU	NC and RES 4
<b>East</b>	Single-family residence	EU	RES 4
<b>West</b>	Vacant	BU-1	CC

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 also permits the raising/grazing of animals, fowl and beekeeping.

EU zoning classification is an estate single family residential zoning classification. The minimum lot size is 15,000 square feet with a minimum lot width and depth of 100 feet. The minimum living area is 2,000 square feet.

BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

## **Land Use**

The subject property is currently designated on the FLUM as NC. Both the current AU zoning and the proposed EU zoning classifications can be considered consistent with the NC Future Land Use designation.

## **Applicable Land Use Policies**

### **Policy 2.10 - Residential Development in Neighborhood Commercial and Community Commercial Land Use Designations**

Residential development or the integration of residential development with commercial development shall be permitted in the Neighborhood Commercial and Community Commercial land use designations, provided that the scale and intensity of the residential/mixed use development is compatible with abutting residential development and areas designated for residential use on the Future Land Use Map. Residential development is permissible in these commercial land use designations at density of up to one category higher than the closest residentially designated area on the Future Land Use Map (FLUM) which is on the same side of the street. Increases in density beyond this allowance may be considered through a public hearing. In the CHHA, however, residential development is strictly limited to the density of the closest residentially designated area on the FLUM that is on the same side of the street. Such residential development, as described above, shall be allowed to utilize the following characteristics:

Criteria:

- A. Residential uses within Neighborhood Commercial and Community Commercial designations shall be encouraged to utilize neo-traditional neighborhood development techniques, such as narrower road rights-of-way, mid-block pedestrian pass-throughs, alleys, smaller lot sizes, on-street parking, reduced lot line setbacks and public transit facilities.
  
- B. Residential density bonuses as set forth in Policy 11.2 may be considered in addition to the bonus stated in the above policy within Neighborhood Commercial and Community Commercial designations as an incentive for redevelopment and regentrification if the proposed development will address serious incompatibility with existing land uses, is adequately buffered from other uses, is located along major transportation corridors, and meets the concurrency requirements of this Comprehensive Plan.

**The applicants' request can be considered consistent with the existing Future Land Use Map. The applicants are requesting the same residential zoning to the east and can be considered a logical extension of the transition from BU-1 zoning along the S. Highway 1 corridor.**

### **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;

**This request is not anticipated to significantly diminish the enjoyment or safety or quality of life for those living in the existing residential neighborhood. Development of the proposed detached garage accessory to the existing residence will need to meet Brevard County's 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 per cent or more) in the value of existing abutting lands or approved development.

**Only a certified MAI (Master Appraisal 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;

**There are six (6) FLUM designations within a half-mile radius of the subject property. They include Residential 4 (RES 4), Community Commercial (CC), Neighborhood Commercial (NC), Industrial (IND), Public Facility (PUB), and Public Conservation (PUD-Cons). The subject property abuts CC, NC and Res 4 FLUM designation. This request lies interior to commercial frontage along the US Highway 1 corridor and westerly of the residential lots fronting the Indian River.**

**Within the past three years there have been no FLUM changes within the half-mile radius.**

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

**Within the half-mile radius of the subject property there has been one zoning action approved by the Board of County Commissioners which was developed.**

**22Z00004 changed the zoning of BU-1 and AU to BU-2 with BDP requiring 6-conditions. BDP, recorded on 07/14/22, in ORB 9560, Pages 520 - 5527, contains the following conditions: 1.) the use of the property shall be limited to self-storage only; 2.) outdoor storage shall be prohibited; 3.) any buildings on the property shall be limited to single-story; 4.) no lighting elements shall face residential properties; 5.) a 20-foot landscape buffer shall be required in accordance with code requirements; 6.) a finished 8-foot masonry wall shall be required along the edge of the improvements in accordance with code requirements. Developed under Site Plan # 22SP00038 for a mini-warehouse/self-storage facility.**

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

**Within the half-mile radius of the subject property there has been one zoning action approved by the Board of County Commissioners which was approved but not yet constructed.**

**22Z00015 changed the zoning of BU-1 and AU to RU-2-4 & RU-2-6 with BDP limited to two new duplexes, the installation of a high nutrient reduction septic system for any new residential units and a duplex height limit restricted to one story. BDP, recorded on 03/23/23, in ORB 9745, Pages 2519-2523. No building permit has been submitted as of July 01, 2024.**

- 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 of the Comprehensive Plan 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.

**The proposed change would have minimal impact on the overall character of the area and is not anticipated to materially and adversely impact an established residential to the east.**

- 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 indicates that the property serves as a transition between the commercial uses along S. Highway 1 and the residential along Rockledge Dr.**

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 allow for commercial uses. The existing commercial uses are along the eastern side of the S. Highway 1 corridor.**

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.

**Staff analysis indicates that the request can be considered transitional and is not primarily residential.**

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is US Highway 1, between Viera Blvd and Barnes Blvd which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 64.25% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.03%. The corridor is anticipated to operate at 65.28% 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 within service boundary for potable water through the City of Cocoa. The nearest Brevard County sewer connection is approximately 2 miles south at US Highway 1 and Robles Lane.

### **Environmental Constraints**

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

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

### **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.**

### **For Board Consideration**

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

**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Zoning Review & Summary**

**Item No. 24Z00031**

**Applicant:** Mitch Goldman (Owners: Seichi Noda & Kimberly A. Noda Trustee of the joint Revocable Trust)

**Zoning Request:** AU to EU

**Note:** for purposes of installing a detached garage

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

**Tax ID No.:** western portion of 2511132

- 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:**

- Aquifer Recharge Soils
- Protected and Specimen Trees
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**Protected and Specimen Trees**

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## Land Use Comments:

### **Aquifer Recharge Soils**

This property contains Candler fine sand, 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.

### **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.