



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

24Z00053

Christopher & Lisa Manion

GU (General Use) to AU (Agricultural Residential)

Tax Account Number: 2000768
Parcel I.D.: 20G-34-03-AI-8-5.02
Location: 5133 Coffee Cup Ln, Mims, FL 32754. (District 1)
Acreage: 3.55 acres

Planning & Zoning Board: 02/17/2025

Board of County Commissioners: 03/13/2025

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)

	CURRENT	PROPOSED
Zoning	GU	AU
Potential*	0 Single-family residence	1 Single-family residence
Can be Considered under the Future Land Use Map	YES RES 1	YES 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 rezone the property from GU (General Use) to AU (Agricultural Residential) to have a zoning that is consistent with current lot size. The subject property currently does not meet the minimum 5 acre lot size requirement for the GU zoning classification as the parcel is 3.55 acres. The subject property retains the original FLU designation established in 1988 by the Brevard County Comprehensive Plan and zoning classification established in 1958.

The subject property is located on the North side of Golden Shores Blvd., a County maintained roadway located between Interstate 95 to the West and Highway 1 to the East. The subject property is developed with a single-family residence.

The subject property is located within the 2007 Mims Small Area Study, adopted on April 10, 2007. The adopted recommendation of the study is to limit density within the Mims Small Area Study boundaries. This recommendation had no effect on the subject property.

The subject property was originally configured as three individual parcels of land:

- Parcel 1 being platted as part of Indian River Park Subdivision section 3, tract 5, block 8 and is also known as lots 8 thru 15 and 18 thru 23 block 8 of the unrecorded Golden Shores Estates and is 3.1 acres in size.
- Parcel 2 was originally platted as part of Indian River Park Subdivision section 3, tract 5, block 8 and is also known as lot 17, block 8 of the unrecorded Golden Shores Estates and is 0.22 acres in size.
- Parcel 3 was originally platted as part of Indian River Park Subdivision section 3, tract 5, block 8 and is also known as lot 16, block 8 of unrecorded Golden Shores Estates and is 0.23 acres in size.

Indian River Park Subdivision per PB 2, PG 33B, was originally platted on May 28, 1914.

On December 5, 2024, the property was put into the current configuration of all three properties combined into one parcel of 3.55 acres.

There are no current code enforcement complaints on the subject property.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Single-family residence	RR-1, AU	RES 1
South	Single-family residence across Golden Shores Blvd.	GU	RES 1
East	Vacant land	GU	RES 1
West	Single-family residence	RR-1	RES 1

North of the subject property is 2 parcels, one parcel is 1.83 acres, developed with a single-family residence, with zoning classification RR-1 and RES 1 FLU designation. The second parcel is 2.89 acres flag lot, developed as a single-family residence with zoning classification AU and RES 1 FLU designation.

South of the subject property is 2 parcels, one parcel is 0.44 acres, developed as a single-family residence with zoning classification GU and RES 1 FLU designation. The second parcel is 0.22 acres, undeveloped land, with zoning classification GU and RES 1 FLU designation.

East of the subject property is 1 parcel, 3.1 acres, undeveloped with zoning classification GU and RES 1 FLU designation.

West of the subject property is 2 parcels, one parcel is 1.65 acres, developed as a single-family residence with zoning classification RR-1 and RES 1 FLU designation. The second parcel is 2.04 acres, undeveloped with zoning classification RR-1 and RES 1 FLU designation.

The current GU classification is a holding category, that encompasses rural single-family residential development or unimproved lands for which there is no definite current proposal for development or land in areas lacking specific development trends on five acre lots, with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet.

The proposed AU zoning classification encompasses lands devoted to agricultural pursuits and single-family residential development of spacious character 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. This proposed zoning classification keeps in line with the county's future land use policies which require low intensity uses and low-density development in the rural area to prevent urban sprawl.

The RR-1 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 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 1 (RES 1) by the Future Land Use Map (FLUM) . The existing GU zoning is consistent to the FLUM . The proposed AU zoning is consistent with the FLUM .

FLUE Policy 1.9 –The Residential 1 Future land use designation. The Residential 1 land use designation permits low density residential development with a maximum density of up to one (1) dwelling unit per acre, except as otherwise may be provided for within the Future Land Use Element.

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 applicant intends to maintain the existing single-family residence. The combination of the 3 lots decreases the potential density in the area. This request is not expected to adversely affect the enjoyment, safety, or the quality of life. The area is sparsely developed with residential properties.

- 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 in the surrounding area can be categorized as vacant land, agricultural pursuits, or single-family residences situated on parcels ranging from 0.22 to 18.14 acres.

Residential 1 (RES 1) is the only FLU designation within the search 0.5 mile search radius.

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

There have been three single-family residences developed within 0.5 miles of the subject property over the preceding three years.

Zoning actions within one half mile within the past three years:

•21Z00051: Approximately 725 feet East of the subject property, on 05/05/2022, approved rezoning from GU to RR-1 and is developed with a single-family residence.

•23Z00064: Within 0.5 miles south of the Subject property on April Ln., approved on 11/2/2023, a rezoning from GU to RR-1 and is currently being developed with a single-family residence based on open building permit 23BC09384.

•22Z00043: Within north of the subject property on Peoples St., approved on 11/03/2022, a rezoning from RRMH-1 to AU and is currently being developed with a single-family residence based on open building permit 21BC21070.

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

There has been no development approved within the past three years that has not been constructed within a 0.5 mile of the subject property.

- 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 on lots of 0.22 acre or larger.

There are multiple zoning classifications within a 0.5 mile radius of the subject parcel. The predominant zoning classification in the area is General Use (GU) followed by RRMH-1. Additional zonings include: Rural Residential (RR-1), Single-Family Residential (RU-1-9), Suburban Residential (SR), Single-Family Mobile Home (TR-1), and Agricultural Residential (AU) zoning classifications.

There are multiple parcels with AU zoning classification located within the 0.5-mile radius of the subject property. The closest parcel with AU zoning classification is the abutting property to the north.

The request provides consistency with the proposed zoning classification lot size and FLUM.

This request is not anticipated to have a measurable impact on the area in terms of trip generation, or parking. No commercial or industrial activity is proposed.

- 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 has determined while it is not an established residential neighborhood, 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 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 a sparse residential area with vacant land and no commercial zoning nearby.

Preliminary Concurrency

The closest concurrency management segment to the subject property is U.S.1 located between Burkholm Rd. and Volusia County, which has a Maximum Acceptable Volume (MAV) of 40,300 trips per day, a Level of Service (LOS) of C, and currently operates at 9.27% of capacity daily. The maximum development potential from the proposed rezoning has no change to the percentage of MAV. The corridor is anticipated to operate at 9.27% 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 already developed with a single-family home that has septic for sewer and well for water.

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.

Natural Resources Management Department has identified that a portion of the subject parcel as mapped hydric soils indicating that wetlands may be present. In addition, the subject property is located within a mapped FEMA Special Flood Hazard Area (SFHA) A. Also, the subject property may have protected species federally and/or state protected

species may be present on the property. The property is mapped within a large area of Florida Scrub Jay habitat / occupancy. Additionally, there is potential for existence of Gopher Tortoises on site. Please refer to all comments provided by the Natural Resource Management Department at the end of this report. A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

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. 24Z00053**

Applicant: Lisa Manion (Owners: Christopher and Lisa Manion)

Zoning Request: GU to AU

Note: Combining lots and requesting AU zoning. Lots don't meet size/dimension requirements for GU.

Zoning Hearing: 02/17/2025; **BCC Hearing:** 03/13/2025

Tax ID Nos.: 2000768

- 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

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

Hydric Soils

A portion of the subject parcel contains mapped hydric soils (Basinger sand); an indicator that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.**

Section 62 3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands **provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands.** 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. Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida

Statutes), any activity of a Bona Fide Agricultural Use, with state-approved Best Management Practices, on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt. The Brevard County Property Appraiser's Office establishes Bona Fide Agricultural land classification.

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 Basinger sand that may also function 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 (≥ 10 inches in diameter) and Specimen Trees (≥ 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

Information available to NRM indicates that federally and/or state protected species may be present on the property. The property is mapped within a large area of Florida Scrub Jay habitat / occupancy. Additionally, there is potential for existence of Gopher Tortoises on site. 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.