

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

Small Scale Plan Amendment 26S.03 (26SS00004)
Township 20, Range 34, Section 15

Property Information

Owner / Applicant: **Jennifer & Joshua Law**

Adopted Future Land Use Map Designation: Agricultural (AGRIC)

Requested Future Land Use Map Designation: Residential 1:2.5 (RES 1:2.5)

Acreage: 3.39 acres

Tax Account # 2005257

Site Location: 4792 Pine Needle St, Mims, FL 32754

Commission District: 1

Current Zoning: GU (General Use)

Requested Zoning: AU (26Z00013)

Background & Purpose

The applicant requests a Small-Scale Comprehensive Plan Amendment (SSCPA) to change the Future Land Use Map (FLUM) from Agricultural (AGRIC) to Residential 1:2.5 (RES 1:2.5) on the 3.39-acre vacant subject lot to allow for rezoning and development of the property for personal agricultural pursuits. The requested AU zoning classification may be considered consistent with the proposed RES 1:2.5 FLU designation.

The subject property's current and original GU zoning classification does provide agricultural pursuits as a conditional use; however, the subject property does not meet the required minimum of a 5-acre lot size under such zoning. The applicant has submitted a companion rezoning application, **26Z00013**, requesting a change of zoning from GU (General Use) to AU (Agricultural Residential).

On April 27, 2020, the property was put into its current configuration as recorded in **ORB 8727, Pages 1071- 1072**, of the Public Records of Brevard County, Florida.

Nearly the entire subject parcel contains mapped wetlands and hydric soil. A wetland delineation will be required prior to any land clearing activities, site plan design, or

building permit submittal. Development within wetlands is subject to the requirements of Sections 62-3694 and 62-3696, including impact avoidance and no net loss mitigation requirements. Residential development within wetlands is generally limited to one dwelling unit per five acres, with wetland impacts limited to a maximum of 1.8% of the total residential acreage, unless otherwise exempted under bona fide agricultural use provisions established by state law and verified through agricultural classification by the Brevard County Property Appraiser. Additionally, most of the parcel lies within Federal Emergency Management Agency Special Flood Hazard Area (SFHA) Zone A and is therefore subject to applicable floodplain development standards, including compensatory storage requirements and density restrictions.

There is currently a Code Enforcement case, **23CE-00187**, which was reported on February 27, 2023, to the Brevard County Natural Resources Management Department for unpermitted land clearing and alteration activities on a portion of the property. These confirmed activities, including the clearing of protected specimen trees, have impacted the jurisdictional wetlands. The case is still pending.

The subject property is located on an unpaved county-maintained right-of-way, Pine Needle Street.

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Vacant	GU	AGRIC
South	Manufactured Single-family residence/ ROW	RRMH-1	RES 1
East	Manufactured Single-family residence	GU & RRMH-1	AGRIC
West	Vacant	RRMH-1	AGRIC

The property to the north of the subject property is a vacant 1.02-acre lot; zoned GU and AGRIC FLU.

South across Pine Needle Rd. is a 1-acre parcel developed with a manufactured home in 1999; zoned RRMH-1 with RES 1 FLU.

Lying east of the subject property are two properties: The first property is a 1.25-acre vacant lot with GU zoning. The second parcel is 1.17 acres improved with a manufactured home in 2009 with RRMH-1 zoning. Both lots contain AGRIC FLU.

West of the subject property is a 9.42-acre vacant parcel; zoned RRMH-1 and AGRIC FLU.

The Residential 1 (RES 1) land use designation permits lower density residential development with a maximum density of up to one (1) unit per acre, except as otherwise may be provided for within the FLU Comprehensive Plan.

Agricultural (AGRIC) land use designation permits the lowest density residential development with a maximum density of up to one (1) unit per five acres, except as otherwise may be provided for within the FLU Comprehensive Plan.

Future Land Use

The subject property's GU zoning classification is consistent with the AGRIC Future Land Use designation provided on the FLUM series contained within Chapter XI – Future Land Use Element of Brevard County's Comprehensive Plan. The proposed AU zoning classification is not consistent with the current FLUM designation, but would be consistent under the proposed RES 1:2.5 FLUM designation.

Comprehensive Plan Policies/Comprehensive Plan Analysis

FLUE Policy 1.10

The Residential 1:2.5 land use designation, which establishes the lowest density of all the residential future land use designations, permits a maximum density of up to one (1) unit per 2.5 acres, except as otherwise may be provided for within this element. Development in the Residential 1:2.5 land use designation should seek to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses. The Residential 1:2.5 land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan:

Criteria:

A. Areas adjacent to existing Residential 1:2.5 land use designation; or

The subject property is not adjacent to Residential 1:2.5 land use designation.

B. Areas which serve as a transition between existing land uses or land use designations with density greater than 1:2.5 units per acre and areas with lesser density or lower intensity uses; or

The subject property does serve as a transition between areas of greater density and lesser density.

C. Unincorporated areas which are adjacent to incorporated areas and may be considered a logical transition for Residential 1:2.5.

Not applicable.

FLUE Administrative Policy 3

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered. 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;

Current and future development would 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 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;

There are three (3) FLUM designations within a half-mile radius of the subject property. They include Residential 1:2.5 (RES 1:2.5), Residential 1 (RES 1), and Agricultural (AGRIC). The subject property is surrounded by AGRIC, except for property to the south, which is RES 1 and RES 1:2.5. AGRIC is the predominant FLU designation in the area.

The character of the surrounding area is a sparsely developed single-family residential area, with the lots ranging in size from 1 acre to 10 acres. There is an AU zoned property located across the street on the south side of Pine Needle. Other zoning classifications within the half-mile radius are RR-1, GU, RRMH-2.5, and RRMH-5. The area predominantly consists of the GU zoning classification.

There are two commercial farm sites located approximately 0.65 miles northwest of the subject property..

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

Within a half-mile radius, a parcel located east of the subject property on the south side of Pine Needle was rezoned from GU to RRMH-1 through zoning action 23Z00080 on February 1, 2024. Companion application requesting to amend the FLUM from AGRIC to RES 1 through action 23SS00023. The parcel has been developed with a single-family residence. The property across the street was rezoned from RRMH-1 to AU on May 4, 2023, through zoning action 23Z00016. Companion application requesting to amend the FLUM from AGRIC to RES 1 through action 22SS00014. That property was redeveloped with a single-family residence.

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.

Only a certified MAI appraisal can determine if material reduction has or will occur due to the proposed use.

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.

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.

The property is located within a predominantly low-density residential development area with established boundaries such as roads to the south and east.

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 neighborhood commercial use. It is located within an existing single-family residential area and shall not preclude the existence of residential neighborhoods.

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 surrounding area does not present commercial, industrial, or other non-residential uses, nor have such uses been applied for and approved during the previous five years. The area can be considered primarily residential.

FLUE 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.

Nearly the entire subject parcel contains mapped National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands and hydric soils which are indicators 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. Development within wetlands is subject to the requirements of Sections 62-3694 and 62-3696, including impact avoidance and no net loss mitigation requirements. Residential development within wetlands is generally limited to one dwelling unit per five acres, with wetland impacts limited to a maximum of 1.8% of the total residential acreage, unless otherwise exempted under bona fide agricultural use provisions established by state law and verified through agricultural classification by the Brevard County Property Appraiser. Additionally, a portion of the parcel lies within Federal Emergency Management Agency Special Flood Hazard Area (SFHA) Zone A and is therefore subject to applicable floodplain development standards, including compensatory storage requirements and density restrictions.

Please refer to the complete report provided by the Natural Resource Management Department.

Preliminary Concurrency

Site specific traffic count values are unavailable at this time. The closest concurrency management segment to the subject property is US Highway 1 from Lionel Rd. to Burkholm Rd., approximately 2.44 miles southeast of the subject property. The segment has a Maximum Acceptable Volume (MAV) of 30,700 trips per day, a Level of Service (LOS) of C, and currently operates at 35.30% 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 35.33% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be addressed at the time of site plan review. This is only a preliminary review and is subject to change. The concurrency analysis was based on a single-family residence.

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 does not lie within a service area for centralized potable water or sanitary sewer.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands and Hydric Soils
- Floodplain Protection
- Protected and Specimen Trees
- Code Enforcement

Please refer to the complete report provided by the Natural Resource Management Department on the following page.

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
Land Use Review & Summary
Item No. 26SS00004

Applicant: Joshua and Jennifer Law (Owners: Joshua and Jennifer Law)

Land Use Request: AGRIC to RES 1:2.5

Note: For agricultural pursuits (animals and garden)

LPA Hearing: 06/15/2026; **BCC Hearing:** 07/09/2026

Tax ID No.: 2005257 (3.39 ac)

- 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:

- Wetlands and Hydric Soils
- Floodplain Protection
- Protected and Specimen Trees
- Code Enforcement

Land Use Comments:

Wetlands and Hydric Soils

Nearly all of the subject parcel contains mapped National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands and hydric soils (Samsula muck, frequently ponded, 0 to 1 percent slopes); indicators 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 no net loss mitigation in Brevard County 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 no net loss mitigation in Brevard County in accordance with Section 62-3696. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.**

Floodplain Protection

This property is located within an area mapped by the Federal Emergency Management Agency (FEMA) as a Special Flood Hazard Area (SFHA), Zone A (likely within the St. Johns River floodplain), as shown on the FEMA Flood Insurance Rate Map. The parcel is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance, including compensatory storage **and density restrictions.**

Per Section 62-3723(4), elevations of the riverine 100-year, riverine 25-year, and ten-year floodplains shall be determined utilizing the best available data, which includes FIRM maps and the Flood Insurance Study for Brevard County, Florida and Unincorporated Areas, April 3, 1989, prepared by the Federal Emergency Management Agency; and the Mean Annual, 10-Year, 25-Year and 100-Year Profiles for the Upper St. Johns River Under the Existing Conditions, prepared by Dr. Donthamesetti V. Rao, P.E., St. Johns River Water Management District (March 1985). Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern."

Within the 100-year riverine floodplain, residential density is limited to no more than two dwelling units per acre. Within the 25-year riverine floodplain, residential density is limited to not more than one dwelling unit per two and one-half acres. Within the 10-year riverine floodplain, residential density is limited to not more than one dwelling unit per ten acres. Within the mean annual riverine floodplain, residential land uses shall be prohibited unless the project has a special reason or need to be there and it is in the best public interest (i.e., a public project).

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.**

Protected and Specimen Trees

Protected and Specimen Trees 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.**

Code Enforcement

There is an active Code Enforcement case (23CE-00187) for unpermitted land clearing activities in wetlands on the property in 2023. The case is pending.