



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940

(321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS
24Z00003**

William and Jeanette Gonedridge

RR-1 (Rural Residential) with BDP to AU(L) (Agricultural Residential Low Intensity) and removal of BDP

Tax Account Number: 2000372
Parcel I.D.: 20-35-31-00-519
Location: 3660 Lionel Rd, Mims, FL 32754 (District 1)
Acreage: 3.33 acres

Planning & Zoning Board: 04/15/2024
Board of County Commissioners: 05/02/2024

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)

	CURRENT	PROPOSED
Zoning	RR-1 with BDP	AU(L) and removal of BDP
Potential*	2 single-family	1 single-family
Can be Considered under the Future Land Use Map	YES RES 2	YES RES 2

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

Background and Purpose of Request

The applicants are requesting to rezone the property from RR-1 (Rural Residential) to AU(L) (Agriculture Low Intensity) and the removal of existing BDP limiting development to two (2) lots. The applicants propose to construct a barn for personal use without an existing principal structure.

In 2022, the home on the property was demolished and the subject parcel was rezoned from AU to RR-1 (via 22Z00018) for the purpose of having two lots. The applicants are now requesting the removal of the existing Binding Development Plan (BDP) and a change to AU(L) on the 3.33 acre site.

The subject parcel was recorded into the Official Record Book 882, page 584, in July 1966.

The 3.33 acre subject parcel meets the requirements for the RES 2 FLU designation as residential densities in residential land use designations cannot exceed two dwelling units per 1 acre.

The subject property is undeveloped and has frontage on Lionel Rd, a county-maintained roadway. At this time, there are no active code enforcement cases associated with the subject parcel.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Single Family Residential	RR-1	RES 2
South	Road Right-of-Way/ Public School	GML(I)	RES 2
East	Single Family Residential	SR & RU-1-9	RES 2
West	Vacant	AU	RES 2

The subject property’s current zoning of RR-1 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.

The requested zoning of AU(L) zoning classification permits single-family residences and agricultural pursuits on 2 ½ acre lots for personal use, with a minimum lot width and depth of 150 feet. The minimum house size in AU(L) is 750 square feet. The AU(L) classification also permits the raising/grazing of animals, fowl and beekeeping for personal use and prohibits commercial agricultural activities.

The 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 permits all agricultural pursuits, including the raising/grazing of animals, plant nurseries, and the packing and processing of commodities raised on site. Conditional uses in AU include hog farms, zoological parks, and land alteration. The keeping of horses and agricultural uses are accessory to a principal residence within RR-1 zoning.

Florida Statute 570.86 defines “agritourism activity” as “any agricultural related activity consistent with a bona fide farm, livestock operation, or ranch or in a working forest which allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, civic, ceremonial, training and exhibition, or harvest-your-own activities and attractions.” Local government is prohibited from adopting ordinances,

regulations, rules, or policies that prohibit, restrict, regulate, or otherwise limit an agritourism activity on land that has been classified as agricultural land. At this time, there is no agricultural exemption on the subject property.

The SR zoning classification permits single-family residential land uses on a minimum one-half acre lot, with a minimum width of 100 feet and minimum depth of 150 feet. The minimum house size is 1,300 square feet. The SR zoning classification permits one single-family residential detached dwelling.

The RU-1-9 zoning classification permits single-family residential land uses on a minimum area of 6,600 square feet, with a minimum width of 66 feet and a minimum depth of 100 feet. The minimum house size is 900 square feet. The RU-1-9 zoning classification permits one single-family residential detached dwelling.

The GML(I) zoning classification for government managed lands designated as institutional, permits schools, hospitals, and fire stations. The minimum lot size required is 7,500 square feet, with a width and depth of 75 feet. The minimum building area required is 300 square feet.

Land Use

The subject property is currently designated as Residential 2 (RES 2) FLU. The proposed AU(L) zoning can be considered consistent with the existing RES 2 FLU designation.

FLUE Policy 1.8 –The Residential 2 Future land use designation. The Residential 2 land use designation permits lower density residential development with a maximum density of up to two (2) dwelling units per acre, except as otherwise may be provided for within the Future Land Use Element.

The applicants' request can be considered consistent with the existing Future Land Use.

Applicable Land Use Policies

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 proposal is not anticipated to diminish the enjoyment of, safety, or quality of life in existing neighborhoods within the area.

In the RR-1 zoning classification, the raising of farm animals and fowl for personal, non-commercial use is allowed as a conditional use. On lots larger than 2 ½ acres, cattle, fowl, goats, bees, rabbits, and one hog are permitted.

In the AU(L) zoning classification, agricultural pursuits of a personal, non-commercial nature are permitted. Structures for the housing of livestock and animals is permitted a maximum of 100 feet from an existing residence under a different ownership.

- 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 Appraisers 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) FLU designations (RES 1, RES 1:2.5, RES 2, RES 4, CC, and NC) within one-half mile of this site. The predominant FLU designation is RES 2. There is one (1) pending FLU change within one-half mile, recorded as 22SS00013 to CC.

Property sizes in the immediate area range from 0.5 acres to 19 acres. The immediate surrounding area is developed as single-family residential homes, with a school to the south and general retail to the south and west.

There has been one (1) zoning change approved within one-half mile over the preceding three (3) years:

22Z00050 was a zoning change from AU and RU-1-9 to SR, for the purpose of a single-family home, with a resolution date of December 1, 2022.

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

There have been two (2) single-family residences constructed in this area within the preceding three (3) years, one of which directly abuts the subject parcel to the east. There has been one retail store and one warehouse constructed within this area within the preceding three (3) years.

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

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

The predominate zoning classification in the area is RR-1. The proposed use, a barn for personal use, is not anticipated to adversely impact the area.

- 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 area does not have clearly defined boundaries to establish a residential neighborhood. The area is predominantly developed as residential with RR-1 zoning.

- 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 subject parcel is not requesting to be rezoned for 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 subject parcel is not requesting to be rezoned for commercial, industrial, or other non-residential uses.

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.

The subject parcel contains mapped wetlands; 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. The wetland delineation shall be verified at time of building permit.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US-1, from Lionel Rd. to Burkholm Rd., which has a Maximum Acceptable Volume (MAV) of 40,300 trips per day, a Level of Service (LOS) of C, and currently operates at 25.91% of capacity daily. The maximum development potential from the proposed rezoning decreases the percentage of MAV utilization by 0.02%. The corridor is anticipated to operate at 25.89% of capacity daily. The proposal is not anticipated to create any 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 located in the Mims Water service area for potable water. The subject property is not serviced by Brevard County sewer. The closest sewer line is approximately 0.7 miles to the west.

Environmental Constraints

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

The subject parcel contains mapped wetlands; 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.** The wetland delineation shall be verified at time of site plan 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. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.**

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 65-3694(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 Candler fine sand and Pomello sand, classified as aquifer recharge soils. Mapped topographic elevations indicate the soils may consist of Type 2 or 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 (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees may exist on the parcel. A tree survey may be required at time of building permit submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. 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.**

Information available to NRM indicates that unpermitted land clearing and alteration activities have occurred on the property, and potentially in wetlands, between 2022 and 2023. The discovery of unpermitted activities may result in code enforcement action.

For Board Consideration

The Board should consider if the request is consistent and compatible with the surrounding area.

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

Item No. 24Z00003

Applicant: William and Jeanette Gonedridge (Owners: William and Jeanette Gonedridge)

Zoning Request: RR-1 to AU(L) and removal of existing BDP

Note: To have barn on parcel without principal structure and remove BDP (limiting development to total of two lots)

Zoning Hearing: 3/18/2024; **BCC Hearing:** 4/04/2024

Tax ID No.: 2000372

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

The subject parcel contains mapped wetlands; 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.** The wetland delineation shall be verified at time of site plan 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. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.**

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 65-3694(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 Candler fine sand and Pomello sand, classified as aquifer recharge soils. Mapped topographic elevations indicate the soils may consist of Type 2 or 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 (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees may exist on the parcel. A tree survey may be required at time of building permit submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. 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.**

Information available to NRM indicates that unpermitted land clearing and alteration activities have occurred on the property, and potentially in wetlands, between 2022 and 2023. The discovery of unpermitted activities may result in code enforcement action.

Land Use Comments:

Wetlands

The subject parcel contains mapped National Wetlands Inventory (NWI); 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 65-3694(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.

Information available to NRM indicates that unpermitted land clearing and alteration activities have occurred on the property, and potentially in wetlands, between 2022 and 2023. The discovery of unpermitted activities may result in code enforcement action.

Aquifer Recharge Soils

This property contains Candler fine sand and Pomello sand, classified as aquifer recharge soils. Mapped topographic elevations indicate the soils may consist of Type 2 or 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 (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees may exist on the parcel. A tree survey may be required at time of building permit submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. 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.

Information available to NRM indicates that unpermitted land clearing and alteration activities have occurred on the property, and potentially in wetlands, between 2022 and 2023. The discovery of unpermitted activities may result in code enforcement action.

Protected Species

Information available to NRM indicates that 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. **Gopher tortoises may have been impacted as a result of the land alteration activities. The applicant is advised to call Valeria Guerrero at 561-882-5714 or 561-365-5696 with the FWC to obtain any necessary permits or clearance letters for Gopher Tortoises.**