



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS
24Z00034

Layton and Michelle Hodges

AU (Agricultural Residential) to AGR (Agricultural)

Tax Account Number: 2100755
Parcel I.D.: 21-34-16-00-3
Location: North side of Highway 46, approximately 1,883 feet east of Sweetwater Court on the southside of Highway 46 (District 1)
Acreage: 9 acres
Planning & Zoning Board: 09/16/2024
Board of County Commissioners: 10/03/2024

Consistency with Land Use Regulations

- Current zoning cannot 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 to AGR), Potential* (1 Single family), and Can be Considered under the Future Land Use Map (NO AGRIC to YES AGRIC).

* 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 AU (Agricultural Residential) to AGR (Agricultural) to be consistent with the AGRIC Future Land Use (FLU) designation. The AU zoning has been the original zoning classification since the adoption of the zoning code in 1958. The parcel has been inconsistent with the FLU designation since 1988 which is the adoption of the FLU. The parcel was subdivided in 2014 and remained in the current zoning designation.

The current AU zoning classification permits single-family residences and agricultural pursuits on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The proposed AGR classification permits single-family or mobile home residences with agricultural pursuits on 5 acre lots, with a minimum width of 200 feet and depth of 300 feet. The current lot configuration does meet the requirements for AGR zoning. The rezoning would allow for the parcel to be consistent with the FLU.

The subject parcel is located on the north side of Highway 46, a State maintained roadway. The current configuration occurred on May 05, 2014, per Official Records Book 7119, page 914.

The subject property has no active code violations. Per NRM comments, between 2019 and 2022 there may have been unpermitted land alteration activities, potentially within wetlands.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Conservation	AU	PUB-CONS
South	Single-family residence across Highway 46	AU	AGRIC
East	Single-family residence	AU	AGRIC
West	Grazing land with single-family residence	AU	AGRIC

To the North is 1 parcel: 80 acres, undeveloped conservation land owned by St Johns River Water Management District, per Brevard County Property Appraiser.

To the South is 1 parcel: 4.92 acres, is developed with a single-family residence with AU zoning.

To the East is 1 parcel: 10 acres, is developed with a single-family residence with AU zoning.

To the West is 1 parcel: 50.75 acres flag lot with 50 acres main parcel extending north and a 0.75 acres stem portion of the parcel extending south to Highway 46. The lot is developed as grazing land with a single-family residence.

The current 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 floor area in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

The proposed AGR classification permits single-family or mobile home residences and agricultural pursuits on 5 acre lots, with a minimum width of 200 feet and depth of 300 feet. The minimum floor area in AGR is 750 square feet. This zoning classification also implements the county's future land use policies which require low intensity uses and low-density development in the rural area to prevent urban sprawl.

Future Land Use

The subject property is currently designated as Agricultural (AGRIC) Future Land Use Map (FLUM) designation. The current AU zoning is not consistent with the existing AGRIC FLUM designation. The proposed AGR zoning is consistent with the existing AGRIC FLUM designation.

FLUE Policy 4.1 –The Agricultural land use designation. The Agricultural land use designation permits residential development with a maximum density of up to one (1) dwelling unit per five acres, 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:

This request is not expected to adversely affect the enjoyment, safety or the quality of life in the current sparse residential area that includes undeveloped land.

- 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 undeveloped land, conservation land, agricultural pursuits, or single-family homes situated on properties ranging from 4.9 to 80 acres.

There are three zoning classifications within a 0.5 mile radius of the subject parcel. They include agricultural residential (AU), rural residential (RR-1), and agricultural (AGR). The abutting property to the north of the subject property is zoned AU with PUB-CONS FLUM. To the east and west of the subject property is zoned AU with AGRIC FLUM. Directly south across Highway 46 is zoned AU with AGRIC FLUM. Directly south of the abutting south property

The closest parcel with AGR zoning were located west of the subject parcel and south across Highway 46 approx. a quarter mile and is developed with a single-family residence.

There are two parcels over a half mile from the subject property with AGR zoning. One parcel is directly West on the North side of Highway 46 that is developed as a non-profit kennel. The second parcel is directly West of the subject property across the South side of Highway 46 and is undeveloped.

There are two FLU designations AGRIC and Pub-Cons within a 0.5 mile radius of the subject property. AGRIC is the prominent FLU designation in this area.

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

- There were no zoning actions in the past three years however there were three parcels rezoned with the newest rezoning done in 2011 under zoning action Z-1157 and was developed with a single-family mobile home.
- To note, a parcel that was rezoned to AGR in 2002 is developed as a non-profit pet kennel.

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 subject property is located in an area which can be characterized as undeveloped land, conservation land, agricultural pursuits and single-family residences on properties 4.9 acres to 80 acres in size. The proposed development increases the percentage of MAV utilization by 0.18%. The corridor is anticipated to operate at 77.80% of capacity daily. The proposed development is not anticipated to create a deficiency in LOS. Specific concurrency issues will be addressed at the time of the site plan review. This is only a preliminary review and is subject to change.

The request is not anticipated to impact the surrounding established sparse residential development alongside undeveloped land materially or adversely.

AGR has been an established zoning classification in the surrounding 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 property is situated in a currently sparse residential area mixed with undeveloped land. 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 intended for non-commercial purposes and is situated within an existing sparse residential area with undeveloped land.

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 undeveloped land in a sparse residential area and no commercial zoning nearby.

Preliminary Concurrency

The closest concurrency management segment to the subject property is State Road 46 located between Volusia County and Fawn Lake Blvd., which has a Maximum Acceptable Volume (MAV) of 8,400 trips per day, a Level of Service (LOS) of C, and currently operates at 77.62% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.18%. The corridor is anticipated to operate at 77.80% 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 not within any public potable water or sewer lines. The proposed single-family homes will be on well for potable water and on septic.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands and Hydric Soils
- Protected and Specimen Trees
- Protected Species
- Potential Code Enforcement

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. 24Z00034

Applicant: Layton and Michelle Hodges (Owners: Layton and Michelle Hodges)

Zoning Request: AU to AGR

Note: for consistency with FLU (AGRIC)

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

Tax ID Nos.: 2100755

- 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
- Protected and Specimen Trees
- Protected Species
- Potential Code Enforcement

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:

Wetlands and Hydric Soils

The subject parcel contains mapped National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands and hydric soils (Wabasso sand, 0 to 2 percent slopes; Anclote sand, frequently ponded, 0 to 1 percent slopes; and Malabar, Holopaw, and Pineda soils); 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 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. **For residential parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis 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.**

Protected and Specimen Trees

Protected and Specimen Trees likely exist on the parcel. Per 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.**

Information available to NRM indicates that unpermitted land alteration activities within wetlands may have occurred on this parcel between 2019 and 2022.

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

Federally and/or state protected species may be present on properties with wetlands. Additionally, gopher tortoises have been observed in this area, in the sandier soils. If applicable, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service prior to any plan, permit submittal, or development activity, including land clearing.

Potential Code Enforcement

Information available to NRM indicates that unpermitted land alteration activities, potentially within wetlands, may have occurred on this parcel between 2019 and 2022. The confirmation of unpermitted land clearing activities may result in code enforcement action.