



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

22Z00055

Michael C. McLain and Kelsey Barnes

RR-1 (Rural Residential) to AU (Agricultural Residential)

Tax Account Number: 2802103
Parcel I.D.: 28-36-12-00-42
Location: East side of Maple Street approximately 450 feet north of Milwaukee Ave.
(District 5)
Acreage: 3.03 acres

Planning & Zoning Board: 01/09/2023
Board of County Commissioners: 02/02/2023

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	AU
Potential*	3 SF units	1 SF unit
Can be Considered under the Future Land Use Map	YES RES 4	YES RES 4

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

Background and Purpose of Request

The applicant is requesting a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential) on a 3.03-acre parcel for the purpose of having farm animals; chickens & roosters for breeding and eggs, goats and alpacas for wool and developed with a single-family home. There was a code enforcement case (**22CE-01119**) on the parcel for having a rooster which was brought into compliance and closed on October 19, 2022.

The parcel was rezoned from AU to RR-1 per zoning action **Z-7314** on November 18, 1985 for the purpose of subdividing the parcel creating one Flag Lot parcel and a one-acre parcel.

On April 10, 1986, the parcel was administratively granted approval for one flag lot per Administrative Action **AA-196**. The parcel has since been recombined to the previous configuration before the flag lot was subdivided. Upon Board approved the proposed rezoning to AU, the Administrative Action **AA-196** for the flag lot will be rescinded.

Land Use

The subject property is currently designated as Residential 4 (RES 4) FLU (Future Land Use). The existing RR-1 zoning can be considered consistent with the existing RES 4 FLU designation.

The proposed AU zoning can be considered consistent with the existing RES 4 FLU designation.

Applicable Land Use Policies

FLUE Policy 1.7 – The Residential 4 Future land use designation affords an additional step down in density from more highly urbanized areas. This land use designation permits a maximum density of up to four (4) units per acre, except as otherwise may be provided for within the Future Land Use Element.

The applicants request of AU zoning may be considered consistent with the existing RES 4 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 proposes of having farm animals; chickens & roosters, goats and alpacas. Development would need to meet performance standards set forth in code sections 62-2251 through 62-2272 for hours of operation, lighting, odor, noise levels, traffic, or site activity. As the parcel is abutting three parcels with AU zoning with agricultural uses on these parcels, the proposal is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhood within the area.

- 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 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 surrounding area has a FLU designation of RES 4.

2. actual development over the immediately preceding three years.

There has not been any actual development within this area in the preceding three (3) years.

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

While there has not been any actual development within this area in the preceding three (3) years, there has been one zoning actions has been approved within one-half mile.

21Z00010, approved by the Board on May 27, 2021, was a request to rezone from AU (Agricultural Residential) to RU-1-13 (Single-Family Residential) on 0.67 acres located approximately 1,512 feet northeasterly of the subject property on the east side of Hoover Lane.

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. No change in the Comprehensive Plan is proposed.

Analysis of Administrative Policy #4 - Character of a neighborhood or area.

The developed character of the surrounding area within the block is Agricultural with one lot zoned RU-1-7 with lots of one (1) acre in size or larger with single-family residential uses. Parcels east, south and west of this block are parcels zoned RU-1-7 and are developed with single-family residential uses.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Single-Family residence with a Plant Nursery	AU	RES 4
South	Single-Family residences	AU/RU-1-7	RES 4
East	Single-Family residence with Boarding of Horses	AU	RES 4
West	Right-of-Way with Single-Family residences west of ROW	RU-1-7	RES 4

To the north, is a 4.01-acre parcel with AU zoning developed with a single-family residence and a commercial agricultural use for a plant nursery. To the east is a 5.19-acre parcel with AU zoning developed with a single-family residence and boarding of horses. To the south is a 1.09-acre parcel with AU zoning and developed with a single-family residence and structures for agricultural use. Also, to the south is a 1-acre parcel with RU-1-7 zoning with a single-family residence.

The current RR-1 zoning classification 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. Keeping of horses and agricultural uses are accessory to a principal residence within RR-1 zoning.

The proposed 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 zoning classification also permits all agricultural pursuits, including the raising/grazing of animals, plants nurseries, and the packing and processing of commodities raised on site.

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.

RU-1-7 classification permits single family residences on minimum 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet. The minimum house size is 700 square feet.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Minton Road, from Highway 192 to Milwaukee Ave, which has a Maximum Acceptable Volume (MAV) of 39,800 trips per day, a Level of Service (LOS) of C, and currently operates at 78.10% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.00%. The corridor is anticipated to operate at 78.10% 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 service the Brevard County utilities service area for public water or sewer. The closest Brevard County sewer line is approximately 6.4 miles north of the parcel at the east end of Kennesaw Place. The closest Brevard County water line is approximately 8.4 miles northwest of the parcel at the south end of Akarad Drive.

Environmental Constraints

- Hydric Soils
- Protected and Specimen Trees

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. The Board may also wish to consider the potential impacts of agritourism activities in the area.

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #22Z00055

Applicant: McClain & Barnes

Zoning Request: RR-1 to AU

Note: Homestead and animal husbandry

Zoning Hearing Date: 01/09/23; **BCC Hearing Date:** 02/02/2023

Tax ID Nos: 2802103

- 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
- Protected and Specimen Trees

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

The entirety of the subject property contains hydric soils (Malabar, Holopaw, and Pineda soils), an indicator that wetlands may be present on the property. National Wetlands Inventory maps show a freshwater pond on the south side of the site. A wetland determination 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. Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use 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.

Protected and Specimen Trees

Protected and Specimen Trees may 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.