



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**

**21Z00039**

**Justin M. Falscroft**

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

Tax Account Number: 2404081  
Parcel I.D.: 24-35-11-50-\* -6  
Location: 3000 Friday Lane Cocoa, FL 32926 (District 1)  
Acreage: 3.96 acres

Planning and Zoning Board: 1/10/2022  
Board of County Commissioners: 2/03/2022

**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)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	RR-1	AU
<b>Potential*</b>	3-units	1-unit
<b>Can be Considered under the Future Land Use Map</b>	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 requests to change the zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential) in order to allow the agricultural uses and the development standards under the AU classification, such as larger accessory buildings, additional fence height, etc. The lot is currently developed with a residence and a pole barn.

The original zoning was changed from GU (General Use) to RR-1 under Zoning action **Z-2118** on August 3, 1967.

## **Land Use**

The subject property is currently designated as Residential 1 FLU. Both the RR-1 and AU zoning classification are consistent with the Residential 1 FLU designations.

### **Applicable Land Use Policies**

**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 Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 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.**

The subject property lies within the Residential 1 FLU designation which allows development of 1 acre lots or larger. To the west is property under the jurisdiction of the City of Cocoa. That abutting parcel has a Conservation FLU designation which limits use of the property to conservation and open space.

**Analysis of Administrative Policy #4 - Character of a neighborhood or area.** The developed character of the surrounding area to the south of Highway 528 is suburban residential. Suburban residential can be classified as 1 acre to 2.5 acre lots. Most lots are developed as single family on lots greater than one-acre. There are 6 AU zoned lots within 1,000 feet of this site. Two AU lots lying south of this site have agricultural exemptions on part of their property. The subject property is located in a residential neighborhood, which is a platted subdivision.

To the north is Highway 528. To its north is a developed single-family residential subdivision located within the city limits of Cocoa. To the east and south are developed single-family lots on one-acre or larger lots zoned RR-1. To the west is an undeveloped parcel lying within the city limits of Cocoa.

The property abuts the county zoning classification of RR-1 to the east and south. AU zoning can be found 650 feet to the south.

RR-1 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 principle residence within the RR-1 zoning district.

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 also permits the raising/grazing of animals, fowl and beekeeping.

GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet.

## **Surrounding Area**

There has been two zoning actions within a half-mile radius of the subject property within the last three years. The most recent action, **20PZ00022**, was for a change of zoning from GU to AU(L) (Agricultural Residential, Low-Intensity) adopted on May 7, 2020. This location lies 1,440 feet in a northerly direction from this parcel and is located on the north side of Oneida Street. The second action, **19PZ00078**, was for a rezoning from RR-1 to AU adopted on September 5, 2019. This location lies 2,060 feet in a southeasterly direction from this site and is located on the south side of James Road.

## **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Highway 524, between Cox Road to Industry Road, which has a Maximum Acceptable Volume (MAV) of 19,470 trips per day, a Level of Service (LOS) of D, and currently operates at 64.34% of capacity daily. The maximum development potential from the proposed rezoning does not increase the percentage of MAV utilization. The corridor is anticipated to operate at 64.34% 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 connected to City of Cocoa water and on-site septic.

## **Environmental Constraints**

- Hydric Soils/Wetlands
- Aquifer Recharge Soils
- Land Clearing and Landscape Requirements
- Protected Species

The subject parcel contains mapped hydric soils. A wetland delineation will be required prior to any land clearing activities or building permit application submittal. Per Section 62-3694(c)(2), 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. 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 property. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with 62-3696.

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.**

Historical aerials indicate that unpermitted land clearing and filling activities may have occurred between 2020 and 2021. The discovery of unpermitted wetland impacts or land clearing activities, prior to Bona Fide Agricultural land classification, may result in code enforcement action.

The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

### **For Board Consideration**

The Board may wish to consider the request is consistent and compatible with the surrounding area and the potential impact of agritourism.

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

**Item # 21Z00039**

**Applicant:** Justin Falscroft

**Zoning Request:** RR-1 to AU

**Notes:** Applicant wants agricultural uses; farm animals, accessory building, higher fence.

**P&Z Hearing Date:** 01/10/22; **BCC Hearing Date:** 02/03/22

**Tax ID No:** 2404081

- 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/Wetlands
- Aquifer Recharge Soils
- Land Clearing and Landscape Requirements
- Protected Species

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### **Land Use Comments:**

#### **Hydric Soils/Wetlands**

The subject parcel contains mapped hydric soils (Valkaria sand) as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities or building permit application submittal. Per Section 62-3694(c)(2), 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. 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 property. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with 62-3696.

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#### **Aquifer Recharge Soils**

Valkaria sand may also function as an aquifer recharge soil. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

## **Land Clearing and Landscape Requirements**

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for Protected and Specimen tree preservation, and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM. The discovery of unpermitted land clearing 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. 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 and/or U.S. Fish and Wildlife Service, as applicable.