



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS**

**21Z00038**

**Steven Long**

**GU (General Use) to AU (Agricultural Residential)**

Tax Account Number: 2538150  
Parcel I.D.: 25-35-02-00-3  
Location: South side of Providence Road, approximately 0.2 miles west of Tucker Lane (District 1)  
Acreage: 4.81 acres

Planning & Zoning Board: 01/10/2022

Board of County Commissioners: 02/03/2022

**Consistency with Land Use Regulations**

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposed zoning 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>	GU	AU
<b>Potential*</b>	0 units	One single-family unit and agricultural uses
<b>Can be Considered under the Future Land Use Map</b>	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 applicant is seeking a change of zoning classification from GU (General Use) to AU (Agricultural Residential) for the purpose of legitimizing an undersized substandard GU lot, which would allow the property owner to build a single-family home, a barn, and to keep farm animals.

The subject parcel was recorded in its current configuration in Official Records Book 2225, Page 2296, in February 1980. The resulting lot is 4.81 acres in size. The parcel is therefore substandard in regards to lot size for the GU zoning classification. GU requires a minimum lot size of 5 acres. The applicant does not own any adjacent property that could resolve the substandard status.

GU is the original zoning of the lot. The property was subject to a Conditional Use Permit for two towers and antenna as part of zoning action **Z-8418**, but this was removed with zoning action **Z-10775(11)**. Wireless telecommunication facilities and broadcast towers are conditional uses in the AU zoning classification.

## **Land Use**

The subject property retains a FLU designation of Residential 2 (RES 2). Both the existing GU and the proposed AU zoning classifications are consistent with the RES 2 FLU designation.

## **Applicable Future Land Use Policies**

**FLUE Policy 1.8** – The Residential 2 land use designation permits lower density residential development with a maximum density of up to two (2) units per acre, except as otherwise may be provided for within this element. The Residential 2 land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan.

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.**

The applicant is seeking to construct a single-family residence and to keep farm animals on the property, which has a FLU designation of Residential 2. The RES 2 FLU designation permits a density of up to 2 units per acre. The parcel abutting the subject property to the east also retains a FLU designation of RES 2 and is currently vacant. The properties to the south and west are both within the city limits of Rockledge. The parcel across Providence Road to the north contains a single-family home and a large pond, and has a FLU designation of Residential 15.

In general, this area of Providence Road west of I-95 contains a mix of Residential 2 (RES 2) on the south side of the road and Residential 15 (RES 15) FLU designations on the north side of the road. Despite the FLU designations permitting residential densities of 2+ units per acre, most parcels in the area are at least 4.5 acres in size and contain single-family residences and residential amenities. Therefore, the construction of a single-family residence and residential amenities on a 4.81-acre lot is compatible with the existing land uses in the area.

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

Developing the lot with a single-family structure and accessory agricultural uses is in keeping with the character of the neighborhood. This area to the west of I-95 is mostly vacant and has a rural character, with lots close to five acres in size at a minimum. AU and GU are the only zoning classifications present along Providence Road. Further to the north the density becomes greater, characterized by a mobile home park and an RV park zoned TR-3 and RVP respectively. To the south lies the city limits of Rockledge. All of the land within the city that is to the south of this property and to the west of I-95 is unimproved.

## Surrounding Area

The abutting parcel to the east is currently vacant and has a FLU designation of RES 2 and a zoning classification of GU. The property is adjacent to Providence Road on the north, across which is a parcel with Residential 15 (RES 15) FLU designation and GU zoning being used for a single-family residence. The parcel to the east has a FLU designation of RES 2 with GU zoning, and is currently vacant. The properties to the west and south are within the city limits of Rockledge.

The GU zoning 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.

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

There are no agritourism uses in the surrounding area.

There have been no rezoning applications in the surrounding area in the past 3 years.

## Environmental Constraints

The subject parcel contains mapped hydric soils. A wetland delineation will be required prior to any land clearing activities or site plan application. 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 multi-family 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 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with Section 62-3696.

This lot was established prior to September 9, 1988, and therefore the policy of Section 62-3694(c)(1), and therefore can be developed with a residential use.

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 discovery of unpermitted wetland impacts, prior to Bona Fide Agricultural land classification, may result in enforcement action.

The entire parcel is located within an area mapped as FEMA Special Flood Hazard Area AE (Riverine Floodplain); and is thus subject to development criteria in Conservation Element Objective 4, its subsequent policies, and Section 62-3724 of the Floodplain Protection ordinance, including compensatory storage for fill and residential land use density restrictions. Per Section 62-3724, there

shall be no net change in the rate and volume of floodwater from the pre-development 100-year, 25-year, 10-year or mean annual riverine floodplain to be determined using the best available data. Development shall not adversely impact the drainage of adjoining properties.

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

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is SR 520, between SR 524 and I-95, which has a Maximum Acceptable Volume of 41,790 trips per day, a Level of Service (LOS) of E, and currently operates at 47.66% of capacity daily. The maximum development potential from the proposed rezoning does increase the level of MAV utilization by 0.2%. 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 serviced by Brevard County sewer. The closest sewer line to the parcel is approximately 928 feet to the east at the intersection of Providence Road and Tucker Lane.

### **For Board Consideration**

The Board may wish to consider whether the requested rezoning action is consistent and compatible with the surrounding area.

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

**Item # 21Z00038**

**Applicant:** Steven Long

**Zoning Request:** GU to AU

**Note:** Applicant wants to graze and raise farm animals, and build a pole barn.

**P&Z Hearing Date:** 01/10/21; **BCC Hearing Date:** 02/03/21

**Tax ID No:** 2538150

- 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
- Floodplain
- 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 site plan application. 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 multi-family 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 65-3694(c)(6). Any

permitted wetland impacts must meet the requirements of Sections 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with Section 62-3696.

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

### **Land Use Comments:**

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

The subject parcel contains mapped hydric soils (Riviera 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 site plan application. 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 multi-family 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 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 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 site plan design or permit submittal.

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## **Floodplain**

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## **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.

## **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.