



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

21Z00036

David C. and Cynthia R. Ramage, Co-Trustees

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

Tax Account Number: 2101027 and 3020477
Parcel I.D.: 21-34-24-00-262 and 21-34-24-00-292
Location: East side of Turpentine Road, 312 feet north of Lion Lane (District 1)
Acreage: 4.25 acres

Planning & 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 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)

	CURRENT	PROPOSED
Zoning	AU	RR-1
Potential*	1 unit**	two single-family units
Can be Considered under the Future Land Use Map	YES, RES 1 & RES 4	YES, RES 1 & RES 4

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

** Existing unit built in 1980 on overall property.

Background and Purpose of Request

The applicant is seeking a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential) for the purpose of legitimizing a lot split which created two substandard lots and to be able to construct a single-family residence on the south parcel. The north parcel is developed with a single-family home.

The subject parcels were recorded into the current configuration per Official Records Book 9270, Page 2855, on September 24, 2021. The resulting lots are 2.13 and 2.12 acres in size. The parcels are therefore substandard in regards to lot size for the AU zoning classification. AU requires a minimum lot size of 2.5 acres having a minimum width of 150 feet and a minimum depth of 150 feet.

The south parcel has an access easement, Foggy Bottom Lane, approved (**AA-2340**) across the south 10 feet of the parcel.

AU is the original zoning of the parcels.

Land Use

The subject properties retain FLU designations of Residential 1 (RES 1) and Residential 4 (RES 4). Both the AU and the proposed RR-1 zoning classification can be considered with RES 1 FLU and RES 4 FLU.

Applicable Future Land Use Policies

FLUE 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.

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 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 subject parcels lie within the Residential 1 FLU designation and Residential 4 FLU designations. The parcels each have Residential 1 FLU on the west 1.1 acre with Residential 4 FLU on the remainder of the parcels.

The Board may wish to restrict the parcels from future expansion with a Binding Development Plan (BDP) limiting each parcel to one single-family residence.

The lots to the north of the property are also designated Residential 1 and Residential 4. The lot to the west of these parcels is designated Residential 4. The lot to the south of the property is designated Residential 1 and Residential 4. To the west is Turpentine Road. The proposed two plus acre lot is allowed in both FLU designations.

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

The developed character of the surrounding area is low-density residential. Most parcels in the area are developed with single-family homes and exceed one-acre lot size.

To the north are an undeveloped parcel and a parcel developed with a single-family residence, both parcels are zoned AU. To the west is an undeveloped parcel zoned AU. To the south is a parcel developed with a single-family residence zoned AU. The character of the area is single-family residential use with a rural nature. However, On December 02, 2021, application **21Z00030** changed

the zoning classification on 79.16 acres from RU-1-11 with a Binding Development Plan (BDP) to RU-1-7 with a proposed BDP limited to 198 units with 6,000 sq. ft. lots with the single-family house having a minimum of 1,800 sq. ft. of living area. This parcel is located on the east side of Turpentine Road, 665 feet north of the subject property.

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

The proposed 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 principal residence within the RR-1 zoning classification.

Surrounding Area

The properties abut the county zoning classification of AU to the north, east and west.

There have been two rezoning applications in the surrounding area in the past 3 years.

On December 02, 2021, application **21Z00030** changed the zoning classification on 79.16 acres from RU-1-11 with a Binding Development Plan (BDP) to RU-1-7 with a proposed BDP limited to 198 units with 6,000 sq. ft. lots with the single-family house having a minimum of 1,800 sq. ft. of living area. This parcel is located on the east side of Turpentine Road, 665 feet north of the subject property. This application will require the BDP approved by the Board.

On December 03, 2020, application **20Z00028** changed the zoning classification from AU & EU-2 (Estate Use) with a Binding Development Plan (BDP) to all EU-2 and removal of the BDP. This parcel is located on the east side of Arnold Palmer Drive, 1,923 feet south easterly of the subject property.

On May 03, 2018, application **18PZ00005** changed the zoning classification from AU to RR-1. This parcel is located on the east side of Tomato Farm Road, 1,015 feet south westerly of the subject property.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- 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 site plan application. 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 would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one unit per five acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property as defined in Section 65-694(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.

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 land clearing, site plan design or permit submittal.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Highway 46, between Fawn Lake Blvd. and Interstate I-95, which has a Maximum Acceptable Volume of 14,160 trips per day, a Level of Service (LOS) of D, and currently operates at 66.24% of capacity daily. The maximum development potential from the proposed rezoning does increase the level of MAV utilization by 0.07%. The corridor is anticipated to operate at 66.24% 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 parcels are not serviced by Brevard County sewer. The closest sewer line to the parcel is approximate 1,087 feet to the east, along Arnold Palmer Drive. The parcels are serviced by Brevard County water.

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Rezoning Review & Summary
Item # 21Z00036

Applicant: Ramage

Zoning Request: AU to RR-1

Note: Applicant wants legitimize lot to build a single-family home.

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

Tax ID No: 3020477

- 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

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)(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 would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one unit per five acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property as defined in Section 65-694(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.

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 land clearing, site plan design or permit submittal.

Land Use Comments:

Hydric Soils/Wetlands

The subject parcel contains mapped hydric soils (Basinger sand, Anclote sand and Tomoka muck) 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)(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 would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one unit per five acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property as defined in Section 65-694(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 land clearing, site plan design or 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.

Aquifer Recharge Solis

The subject parcel contains mapped aquifer recharge soils (Basinger sand and Pomello sand) as shown on the USDA Soil Conservation Service Soils Survey map. 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

Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), a purpose and intent of the ordinance is to encourage the protection of Heritage Specimen Trees. 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. 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 and/or U.S. Fish and Wildlife Service, as applicable.