



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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**STAFF COMMENTS**

**22Z00002**

**John Johanson**

**AU (Agricultural Residential) to RU-1-13 (Single-Family Residential)**

Tax Account Number: 2501508  
Parcel I.D.: 25/36/02/27/2/6-8  
Location: 887 S. Tropical Trail Merritt Island, FL 32952 (District 2)  
Acreage: 0.65 acres

Planning & Zoning Board: 3/14/2022  
Board of County Commissioners: 4/07/2022

**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>	AU	RU-1-13
<b>Potential*</b>	3 nonconforming SF units	2 SF units
<b>Can be Considered under the Future Land Use Map</b>	YES RES 15	YES RES 15

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

**Background and Purpose of Request**

The applicant requests to change the property from AU (Agricultural Residential) to RU-1-13 (Single-Family Residential) zoning classification. AU zoning is the original 1958 zoning. The three lots # (6, 7, & 8) are nonconforming lots of record meeting the size requirements of Section 62-1188 (1) of Brevard County Code as the River Cliff Plat was recorded prior to May 2, 1958. The owner proposes to divide the property east/west into two (2) lots.

This request has the potential to reduce the number of lots from 3 to 2 lots and increase the required minimum residential living area from 750 square feet required by the AU zoning to at least 1,300 square feet required by the RU-1-13 zoning classification.

## Land Use

The subject property is currently designated Residential 15 (RES 15). The existing AU and proposed RU-1-13 zoning request are consistent with the Residential 15 (RES 15) FLU designation.

### Applicable Land Use Policies

**FLUE Policy 1.4** – The Residential 15 Future Land Use designation affords the second highest density allowance, permitting a maximum residential density of up to fifteen (15) units per acre. This land use category allows single and multi-family residential development.

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.**

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 the reconfiguration of three single-family residential lots into two new parcels. The owner will propose a new residence upon each lot. Property is currently vacant.**

- 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;

**This area is can be considered residential in nature. Most of the subdivision lots within this area are zoned RU-1-9 (Single-Family Residential). Those lots developed as parcels outside of the subdivision process have EU (Estate Use Residential) designations. Original AU zoning remains on multiple large tracts as remnants of prior agricultural holdings.**

- 2. actual development over the immediately preceding three years; and

**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.

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

D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

**As this site is currently vacant/unimproved, no material violation of relevant policies have been identified.**

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

The developed character of the surrounding area is a mixture of single-family residential zonings. Surrounding the property is existing developed lots retaining the AU zoning classification.

#### **Surrounding Area**

	Existing Land Use	Zoning	Future Land Use
<b>North</b>	SF residence	AU	RES 15
<b>South</b>	SF residence	AU/RU-1-13	RES 15
<b>East</b>	SF residence	AU	RES 15
<b>West</b>	SF residence	AU	RES 15

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.

EU zoning classification is an estate single family residential zoning classification. The minimum lot size is 15,000 square feet with a minimum lot width and depth of 100 feet. The minimum living area is 2,000 square feet.

RU-1-9 classification permits single family residential development on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet.

RU-1-13 classification permits single family residential development on lots of 7,500 square feet (minimum). The minimum house size is 1,300 square feet.

There were two zoning actions within a half-mile radius of the subject property within the last three years. The first action was **21Z00001** which was approved by the Board on April 15, 2021. The request changed the property from AU to EU. That site is 411 feet to the south of this request. The second action was **21Z00004** which was approved by the Board on July 7, 2021. The request changed the property from RU-1-9 to BU-2 subject to a Binding Development Plan recorded in ORB 9183, Page 614. That site is located 2,600 feet in a NE direction from this request at the SW corner of Cone Road and Oleander Drive.

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is S. Tropical Trail, between Plantation Road to Cone Road, which has a Maximum Acceptable Volume (MAV) of 12,480 trips per day, a Level of Service (LOS) of E, and currently operates at 59.33% of capacity daily. The maximum development potential from the proposed rezoning decreases the percentage of MAV utilization by 0.08%. The corridor is anticipated to operate at 59.25% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development proposal reduces the number of residential lots.

The parcel has access to public water from the City of Cocoa. Sanitary sewer is on the east side of S. Tropical Trail at the entrance to River Cliff Lane approximately 170 feet north.

### **Environmental Constraints**

- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- Land Clearing and Landscape Requirements
- Protected Species

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 whether the request is consistent and compatible with the surrounding area.

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

**Item # 22Z00002**

**Applicant:** John Johanson

**Zoning Request:** AU to RU-1-13

**Note:** Applicant wants to split lot

**P&Z Hearing Date:** 03/14/22; **BCC Hearing Date:** 04/07/22

**Tax ID No:** 2501508

- 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:**

- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- Land Clearing and Landscape Requirements
- Protected Species

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:**

**Aquifer Recharge Soils**

The subject parcel contains mapped aquifer recharge soils (Paola fine 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.

## **Indian River Lagoon Nitrogen Reduction Overlay**

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

## **Land Clearing and Landscape Requirements**

Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage 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 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.