



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  
 22Z00003**

**Scott Minnick**

**AU (Agricultural Residential) to RR-1 (Rural Residential) with a Binding Development Plan (BDP)**

Tax Account Numbers: 2004518  
 Parcel I.D.s: 20G-35-02-AI-7.01  
 Location: 5170 Dixie Way, Mims, Florida 32754 (District 1)  
 Acreage: 2.76 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	RR-1 with BDP
<b>Potential*</b>	1 SF unit	1 SF unit
<b>Can be Considered under the Future Land Use Map</b>	YES RES 1:2.5	YES** RES 1:2.5

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. \*\*Application includes a Binding Development Plan (BDP), limiting density to 1 unit per 2.5 acres.

**Background and Purpose of Request**

The applicant requests to change 2.76 acres of the parcel from AU (Agricultural Residential) to the RR-1 (Rural Residential) zoning classification, in order to reduce the minimum required lot width, along with a BDP requiring a minimum 2.5 acre lot size to maintain consistency with the maximum Future Land Use (FLU) density of the Comprehensive Plan. The northern 25 feet of the existing parcel is excluded from the rezoning request, in order for that land to retain the AU zoning of the lot to the west, as the applicant intends to split off this 25-foot-wide strip and adjoin it to that lot. To gain access to the abutting lot, for the purposes of obtaining a residential building permit, the applicant for such lot split will need to demonstrate compliance with Section 62-102 by obtaining approval of an Administrative Action (AA) for a flag lot. The applicant could be eligible to apply for an AA for a flag lot to the abutting property to the west if this rezoning is approved.

The current zoning of AU is the original zoning classification of the property.

## **Land Use**

The subject property is currently designated Residential 1:2.5 (RES 1:2.5) FLU. The proposed RR-1 zoning, with a BDP limiting density to 1 single-family dwelling unit per 2.5 acres, could be considered to be consistent with the RES 1:2.5 FLU designation.

## **Applicable Land Use Policies**

### **FLUE Policy 1.10 – Residential 1:2.5 (maximum of 1 unit per 2.5 acres)**

The Residential 1:2.5 land use designation, which establishes the lowest density of all the residential future land use designations, permits a maximum density of up to one (1) unit per 2.5 acres, except as otherwise may be provided for within this element. Development in the Residential 1:2.5 land use designation should seek to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses. The Residential 1:2.5 land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan.

### **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;

**Since RR-1 is considerably less intense than AU in terms of permitted uses, the potential effects in terms of hours of operation, lighting, odor, noise levels, traffic or other site activity of the proposed RR-1 zoning could be considerably less than what is permitted by the current AU zoning.**

- 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 historical land use pattern is agricultural use with AU zoning, including some residential, on parcels of 2.5 acres and larger. The agricultural use of land has mostly transitioned to low- density residential uses, with lot sizes of 2.5 acres or larger.**

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

**There have been approximately one half-dozen single-family residences granted building permits and no zoning actions approved within ½ mile of the subject property in the last three years.**

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

**No development plans have been approved within ½ mile of the subject property in the last three years.**

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

**This could be considered to create increased impact on abutting properties. The requirement of the BDP for a minimum lot area of 2.5 acres could be considered to make the proposed action materially consistent with policies of elements of the Comprehensive Plan.**

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

The developed character of the surrounding area is a mixture suburban residential, agricultural-residential, and agricultural uses.

**Surrounding Area**

	<b>Existing Land Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	One (1) single-family residential lot and one (1) vacant lot	AU	RES 1:2.5
<b>South</b>	Two (2) vacant lots	AU	RES 1:2.5
<b>East</b>	One (1) vacant lot (across right-of-way)	AU (across ROW)	RES 1 (across ROW)
<b>West</b>	One (1) vacant lot	AU	RES 1:2.5

The subject property is currently zoned AU, as are all adjacent properties and all properties in the general vicinity. The introduction of RR-1 zoning classification within this exclusively AU zoned area could be considered to be out of character with the area because this zoning classification allows one acre lots. The BDP will cap the density potential of the subject property to 1 unit per 2.5 acres, which could provide the consistency and compatibility with the surrounding area.

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.

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.

There have been six (6) Administrative Actions for flag lots and/or access easements approved within a half-mile radius of the subject property within the last three years. Additionally, an application for an Administrative Action (21AA00053) for an easement through the subject property to access the abutting property to the west was denied.

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is US-1, from Burkholm Road to Volusia County Line, which has a Maximum Acceptable Volume (MAV) of 40,300 trips per day, a Level of Service (LOS) of C, and currently operates at 10.16% of capacity daily. The maximum development potential from the proposed rezoning does not change the percentage of MAV utilization. The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development proposal is below the threshold requiring school concurrency review.

The parcel is not connected to water. The closest Brevard County water line is approximately 2.8 miles south of the subject property. The parcel is not connected to sanitary sewer. The closest Brevard County sanitary sewer line is approximately 3.6 miles south of the subject property.

### **Environmental Constraints**

- Hydric Soils/Wetlands
- Indian River Lagoon Nitrogen Reduction Overlay
- Land Clearing and Landscape Requirements
- Protected Species

No noteworthy land use issues were identified. Natural Resources Management (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 to RR-1 and the BDP limiting the development to one dwelling on 2.5 acres is consistent and compatible with the surrounding area.

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

**Item # 22Z00003**

**Applicant:** Scott Minnick

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

**Note:** Applicant wants to create a flag stem on portion of parcel, and place BDP on remainder of parcel to be no less than 2.5 acres in size.

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

**Tax ID No:** 2004518

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

No noteworthy land use issues were identified. Natural Resources Management (NRM) reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

**Land Use Comments:**

**Hydric Soils/Wetlands**

The subject property contains an area of mapped hydric soils (Bradenton fine sand) as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that wetlands may be present on the property. 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. At time of building permit application, a wetland determination/delineation may be required.

Recent aerials indicate that a portion the parcel has been filled. The discovery of unpermitted wetland impacts may result in enforcement action.

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

The east portion of the 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**

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. 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.