



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>

BOARD OF COUNTY COMMISSIONERS

STAFF COMMENTS

22Z00017

Daniel Allen and Amber Allen

Conditional Use Permit (CUP) for Farm Animals & Fowl in Rural Residential (RR-1)

Tax Account Number: 2405506
 Parcel I.D.: 24-35-22-05-* -19
 Location: West side of Wagon Road, 360 feet north of Ranchwood Drive (District 1)
 Acreage: 1.03 acres

Planning and Zoning Board: 07/18/2022
 Board of County Commissioners: 08/04/2022

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)

	CURRENT	PROPOSED
Zoning	RR-1	RR-1 with CUP for farm animals and fowl
Potential*	One single-family home	One single-family home w/ farm animals and fowl
Can be Considered under the Future Land Use Map	YES Residential 1	YES Residential 1

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

Background and Purpose of Request

The property owner is seeking a Conditional Use Permit (CUP) to allow farm animals and fowl in the RR-1 zoning classification as per Sec. 62-1927. The lot currently contains a single-family home. The applicant intends to locate two (2) pot-bellied pigs as medical support animals on the property.

Sec. 62-1927 allows an application for a CUP for farm animals and fowl in the RR-1 classification on less than two and one-half acres in cases where the animal is necessary to alleviate a bona fide medical hardship. This CUP application is for two (2) pot-bellied pigs as medical support animals. Any additional animals intended as medical support on the property would require a separate CUP application and approval. The applicant has submitted documentation showing the necessity for the animal from a medical doctor licensed to practice medicine in the State of Florida. If approved on the basis of medical hardship, the CUP shall expire after five years, or upon the sale of the property.

The original zoning of this property was GU (General Use). On March 28, 1968, it was rezoned under zoning action **Z-2243** from GU to RR-1. The subject property is within a subdivision that was platted and recorded March 14, 1974.

Land Use

The RR-1 zoning classification can be considered consistent with the Residential 1 (RES 1) Future Land Use designation.

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.

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 proposed CUP for medical support animals (two potbellied pigs) is not anticipated to 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 the surrounding area. The applicant has not identified any outdoor lighting or a method for waste disposal.

- 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 use.

- 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 historic land use pattern has been the development of single-family homes on lots one acre or greater in size within a residential platted subdivision.

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

It appears no changes to the immediate area have occurred within the last three years.

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

It appears there has been no development approved within the past three years that has not yet been constructed.

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

The proposed use would not result in a material violation of relevant policies in any elements of the Comprehensive Plan.

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

The developed character of the surrounding area consists of 1-acre or larger lots zoned RR-1 developed with single-family homes in a platted subdivision. The area does not appear to have other CUP's for farm animals. The closest agricultural zoned lot is a 9.94 acre lot zoned AU located approximately 2,100 feet southeast of the subject property on Friday Road.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Single-family residence	RR-1	RES 1
South	Single-family residence	RR-1	RES 1
East	Single-family residence (across Wagon Rd)	RR-1	RES 1
West	Single-family residence	RR-1	RES 1

The subject property is surrounded to the north, south, east and west by single-family homes on one-acre or larger lots with RR-1 zoning, which is consistent with the FLU designation of RES 1.

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 no zoning actions within a one-half mile radius of the subject property within the past three years.

Special Considerations for CUP (Conditional Use Permit)

The Board should consider the compatibility of the proposed CUP pursuant to Section 62-1151(c) and to Section 62-1901, as outlined on pages 6 – 8 of these comments. Section 62-1901 provides that the approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. **The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved.** The applicant's responses and staff observations, if any, are indicated below.

Section 62-1151(c) directs the Board to consider the character of the land use of the property and its surroundings; changes in the conditions of the land use being considered; impact upon infrastructure; compatibility with land use plans for the area; and appropriateness of the CUP based upon consideration of applicable regulations relating to zoning and land use within the context of public health, safety and welfare. The applicant has submitted documentation showing the necessity for the animal to alleviate a bona fide medical hardship, consistent with the standards set forth in Section 62-1927.

This request should be evaluated in the context of Section 62-1927 which allows for an application for a CUP to have farm fowl and farm animals in the RR-1 classification on less than two and one-half acres in cases where the animal is necessary to alleviate a bona fide medical hardship.

General Standards of Review

Section 62-1901(c)(1)(a): The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1) the number of persons anticipated to be using, residing or working under the conditional use; (2) noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3) the increase of traffic within the vicinity caused by the proposed conditional use.

Applicant's Response: N/A.

Staff analysis: The CUP will not permit the two (2) pot-bellied pigs to be used for any commercial purposes. The CUP is not anticipated to result in excessive noise, odor, or traffic. The applicant has not identified any outdoor lighting or a method for waste disposal.

Section 62-1901(c)(1)(b): The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.

Applicant's Response: N/A.

Staff analysis: The proposed area where the two (2) pot-bellied pigs will be contained when not inside the residence is a fenced area to the rear of the residence on the property line. If there is noise and odor, it may be close to neighboring properties.

Section 62-1901(c)(1)(c): The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebutably presumed to have occurred if abutting property suffers a 15 percent reduction in value as a result of the proposed conditional use.

A reduction of ten percent of the value of abutting property shall create a reputable presumption that a substantial diminution has occurred. The board of county commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by a MAI certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.

Applicant's Response: No effect.

Staff analysis: Evidence from an appraiser has not been provided by the applicant.

Section 62-1901(c)(2)(a): Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1) adequate to serve the proposed use without burdening adjacent and nearby uses, and (2) built to applicable county standards, if any.

Note: Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20 percent, or ten percent if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at level of service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable county standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.

Applicant's Response: N/A.

Staff analysis: This property will remain residential and therefore is not anticipated to cause an increase of any traffic.

Section 62-1901(c)(2)(b): The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.

Applicant's Response: No effect on adjacent properties.

Staff analysis: This project shall comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272.

Section 62-1901(c)(2)(c): Noise levels for a conditional use are governed by section 62-2271.

Applicant's Response: Not noisy support animals.

Staff analysis: This project shall comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272. Any proposed outdoor lighting and noise standards should remain within code parameters or a violation will be created.

Section 62-1901(c)(2)(d) The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.

Applicant's Response: N/A.

Staff analysis: The use is not anticipated to cause the adopted level of service for solid waste disposal to be exceeded.

Section 62-1901(c)(2)(e): The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.

Applicant's Response: N/A.

Staff analysis: The subject property is within the City of Cocoa's service area for potable water. The closest Brevard County sewer line is approximately 0.7 miles to the southwest on Adamson Road.

Section 62-1901(c)(2)(f): The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.

Applicant's Response: Private fencing will be provided.

Staff analysis: Must meet the fence code of 62-2109 and any requirements in the building code for materials.

Section 62-1901(c)(2)(g): Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to, traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.

Applicant's Response: N/A.

Staff analysis: No signage or exterior lighting has been identified.

Section 62-1901(c)(2)(h): Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.

Applicant's Response: N/A.

Staff analysis: The use will need to comply with noise level performance standards.

Section 62-1901(c)(2)(i): The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.

Applicant's Response: N/A.

Staff analysis: No new structures are proposed. The proposed fence must meet height limitations.

Section 62-1901(c)(2)(j): Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

Note: for existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

Applicant's Response: N/A.

Staff analysis: New parking will not be required.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Friday Road, between SR 524 and James, which has a Maximum Acceptable Volume (MAV) of 17,700 trips per day, a Level of Service (LOS) of D, and currently operates at 17.80% of capacity daily. The CUP is not anticipated to increase the MAV utilization. The corridor is anticipated to operate at 17.80% of capacity daily (LOS C). The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as this site is not proposing additional residential density.

The subject property is within the City of Cocoa's service area for potable water. The closest Brevard County sewer line is approximately 0.7 miles to the southwest on Adamson Road.

Environmental Constraints

- Hydric Soils
- Aquifer Recharge Soils
- Protected Species
- Protected and Specimen Trees

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 compatible and consistent with the surrounding area. The Board may also wish to consider additional conditions beyond those cited in Sections 62-1901 and 62-1927 in order to mitigate potential offsite impacts to the abutting properties.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Conditional Use Permit (CUP) Review & Summary

Item #22Z00017

Applicant: Daniel & Amber Allen

CUP Request: Applicant wants farm animals – chickens and pot belly pigs

P&Z Hearing Date: 07/18/22; **BCC Hearing Date:** 08/04/22

Tax ID No: 2405506

- 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
- Aquifer Recharge Soils
- Protected Species
- Protected and Specimen Trees

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:

Hydric Soils

The subject parcel contains Basinger sand as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that hydric soils and wetlands may be present on the property. 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 and should be contacted at 321-264-5393 for requirements to meet this classification.

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. Any permitted wetland impacts must meet the requirements of Section 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 plan or permit submittal.

Aquifer Recharge Soils

Basinger 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.

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.

Protected and Specimen Trees

Aerials indicate Protected and Specimen Trees may exist on the parcel. 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. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.