



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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

STAFF COMMENTS

22Z00032

Carla T. Reece

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

Tax Account Number: 2403816

Parcel I.D.: 24-35-11-00-757

Location: North side of James Road approximately 0.4 miles west of Cox Road
(District 1)

Acreage: 7.21 acres

Planning & Zoning Board: 8/15/2022

Board of County Commissioners: 9/01/2022

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 | AU |
| Potential* | 7 SF units | 2 SF unit |
| Can be Considered under the Future Land Use Map | YES RES 1 | YES RES 1 |

* 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 RR-1 (Rural Residential) to AU (Agricultural Residential) on a 7.21-acre flag lot parcel for agricultural pursuits such as raising quail for off-site resale of birds and eggs; raising chicken for off-site sale of eggs - and birds as needed; and honey production and off-site sales. The subject parcel consists of a flag lot, approved July 13, 1990 as administrative action **AA-0517**, and is currently developed with one single family residence built in 2004.

The parcel was originally zoned GU and was rezoned from GU to RR-1 on April 4, 1974, as zoning action **Z-3595**.

Land Use

The subject property is currently designated as Residential 1 (RES 1) FLU. The proposed AU zoning can be considered consistent with the existing RES 1 FLU designation.

Applicable 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.

The applicant's request can be considered consistent with the existing RES 1 Future Land Use.

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.

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 to rezone the 7.21-acre flag lot property to AU zoning classification for agricultural pursuits such as raising quail for resale of birds and eggs; raising chicken for sale of eggs - and birds as needed; and honey production and sales. Preliminary concurrency would need to meet code sections 62-2251 through 62-2272. The proposal is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area.

- 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 surrounding area is single-family residential and agricultural residential in character on lots one (1) acre or larger in size. The predominant FLU designation south of State Road 528 is RES 1.

- 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.

While there has not been any actual development within this area in the preceding three (3) years, three zoning actions have been approved within one-half mile.

21Z00046, approved by the Board on March 3, 2022, was a request to change GU (General Use) to AU(L) (Agricultural Residential, Low Intensity) on 1.08 acres located approximately 1,440 feet north of the subject property. 21PZ00039, approved April 19, 2022, was a request to change RR-1 (Rural Residential) to AU(L) (Agricultural Residential, Low Intensity) with a BDP prohibiting agritourism on 3.96 acres located approximately 2,275 feet northwest of the subject property. 19PZ00078, approved September 5, 2019, was a request to change RR-1 (Rural Residential) to AU (Agricultural Residential) on 8.88 acres located approximately 1,640 feet southwest of the subject property.

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

No material violation of relevant policies has been identified.

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

There is an existing pattern of agricultural and rural residential zoning surrounding the subject parcel.

Surrounding Area

| | Existing Use | Zoning | Future Land Use |
|--------------|---------------------|---------------|------------------------|
| North | Vacant | AU | RES 1 |
| South | Vacant | RR-1 | RES 1 |
| East | Vacant | RR-1 | RES 1 |
| West | SF residences | RR-1 | RES 1 |

The developed character of the surrounding area is residential and agricultural residential. Most parcels in the immediate area are one (1) acre or larger in size and developed with single-family homes.

To the north is an AU-zoned portion of a 10.1-acre parcel that has RR-1 zoning on the remaining portion west of the subject property. To the south, across James Road, is an undeveloped 8.48-acre parcel with RR-1 zoning. To the west are two parcels (3.0-acre and 1.96-acre), each developed with a single-family residence and zoned RR-1. To the east is an undeveloped 15.7-acre parcel with RR-1 zoning.

The 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 and plants nurseries.

RR-1 zoning 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 RR-1 zoning.

Two (2) properties classified as bona fide agricultural with the Brevard County Property Appraiser's office are located within 500 feet of the subject property.

Florida Statute 570.86 defines "agritourism activity" as "any agricultural related activity consistent with a bona fide farm, livestock operation, or ranch or in a working forest which allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, civic, ceremonial, training and exhibition, or harvest-your-own activities and attractions." Local government is prohibited from adopting ordinances, regulations, rules, or policies that prohibit, restrict, regulate, or otherwise limit an agritourism activity on land that has been classified as agricultural land.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Cox Road, from SR 524 to James Road, which has a Maximum Acceptable Volume (MAV) of 17,700 trips per day, a Level of Service (LOS) of D, and currently operates at 14.32% of capacity daily. The development potential from the proposed rezoning decreases the percentage of MAV utilization by 0.27%. The corridor is anticipated to operate at 14.05% 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 parcel is within the City of Cocoa utilities service area for public water. The closest Brevard County sewer line is approximately 1.9 miles southwest on Adamson Road.

Environmental Constraints

- Wetlands/Hydric Soils
- Aquifer Recharge Soils
- Floodplain
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped wetlands and hydric soils; indicators that wetlands may be present of the property. A wetland determination will be required prior to any land clearing activities, site plan design or building permit submittal. 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 acreage. 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.

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 Office establishes Bona Fide Agricultural land classification**, and should be contacted at 321-264-6700 for Bona Fide Agricultural classification requirements. If Bona Fide Agriculture classification is not established, then land clearing and accessory structures, including barns, sheds and other detached structures, are not permitted in wetlands. Section 62-3694(a)(1) states that non-bonafide 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.

Portions of the property are mapped as being within an isolated floodplain as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. Per Section 62-3724(3)(d), compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within the isolated floodplain greater than one third (1/3) acre in size. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance.

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

For Board Consideration

The Board may wish to consider if the request is consistent and compatible with the surrounding area. The Board may also wish to consider the potential impacts of agritourism activities in the area.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item #22Z00032

Applicant: Carla Reece

Zoning Request: RR-1 to AU

Note: Applicant wants to raise fowl & keep bees

P&Z Hearing Date: 08/15/22; **BCC Hearing Date:** 09/01/22

Tax ID No: 2403816

- 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:

- Wetlands/Hydric Soils
- Aquifer Recharge Soils
- Floodplain
- Protected and Specimen Trees
- Protected Species

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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.

Portions of the property are mapped as being within an isolated floodplain as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. Per Section 62-3724(3)(d), compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within the isolated floodplain greater than one third (1/3) acre in size. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance.

Land Use Comments:

Wetlands/Hydric Soils

The subject parcel contains mapped NWI wetlands, SJRWMD wetlands, and hydric soils (Anclote sand, Tomoka muck, Basinger sand and Valkaria sand) as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service Soils Survey maps, respectively. A wetland determination will be required prior to any land clearing activities, site plan design or building permit submittal. 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 acreage. 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.

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Aquifer Recharge Soils

Basinger and Valkaria sands may also function as aquifer recharge soils. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Floodplain

Portions of the property are mapped as being within an isolated floodplain as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. Per Section 62-

3724(3)(d), compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within the isolated floodplain greater than one third (1/3) acre in size. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance.

Additional impervious area increases stormwater runoff that can adversely impact nearby properties unless addressed on-site. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Protected and Specimen Trees

Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) 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. A tree survey will be required at time of any building permit submittal, and is recommended prior to any site plan design.

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.