



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

22Z00026

Earl T. and Laura G. McCullough

SR (Suburban Residential) with BDP to RR-1 (Rural Residential) retaining BDP

Tax Account Number: 2320550
Parcel I.D.: 23-36-36-00-506
Location: North side of Hall Rd. approximately 285 ft. east of Wood Duck Ln.
(District 2)
Acreage: 2.35 acres

NMI Board: 8/11/2022

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 as it has an approved BDP to limit density to one (1) unit per acre.
- 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	SR w/Binding Development Plan	RR-1 retaining Binding Development Plan
Potential*	One single-family home with Binding Development Plan	One single-family home retaining Binding Development Plan
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.

** Parcel includes an existing Binding Site Plan limiting density to 120 units over 120 acres.

Background and Purpose of Request

The applicants are seeking a change of zoning classification from SR (Suburban Residential) with an existing BDP to RR-1 (Rural Residential) retaining BDP. The BDP which is attached to Zoning Resolution, **Z-8165**, 1) Limit density to 120 units over 120 acres, 2) Work with governing agencies regarding wetlands regulations & permitting. SR zoning has a minimum lot size of 0.5-acres and RR-1 has a minimum lot size of 1-acre. To keep the density limited they are requesting to rezone to a classification that meets the BDP criteria. The applicants would like to keep up to 2 horses on their

property for personal use. According to Brevard County Code of Ordinance Section 62-2100.5(2) the keeping of horses in proposed zoning classification RR-1 is an accessory agricultural use and they can have up to 4 horses per acre. The subject parcel is currently developed with one single-family residence since 1999. A flag lot access approval was issued under AA-1276 on April 29, 1998.

Access to this single-family residence is from the south from E. Hall Rd. to Sea Island Ln. The subject parcel was recorded into the current configuration per Official Records Book 3844, Page 2679, on May 20, 1998.

Land Use

The subject property is currently designated as Residential 1 (RES 1) FLU. The proposed RR-1 zoning is also consistent with the existing Residential 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 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 has stated the proposed use of the rezoning classification for the purpose of having up to 2 horses on the property. It is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area. Residential uses will need to comply with Brevard County's Performance Standards, as defined by Sections 62-2251 through 62-2272.

- 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 general area is residential in character with single-family homes on lots ranging in size from approximately one (1) to three (3) acres.

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.

No material violation of relevant policies has been identified.

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

The subject lot is 2.35-acres in size and is abutting AU undeveloped property to the east. There is a 2.5-acre AU single residential lot to the north and Wood Duck Lane to the immediate west. There is a 1.32-acre SR single residential developed lot to the north west abutting Wood Duck Lane and White Ibis Lane. Below to the south east abutting Wood Duck Lane and White Ibis Lane is a 1.22-acre SR single residential developed lot. There is a 1.26-acre SR single residential lot to the south west and another 1.26-acre SR single residential lot to the south east. The parcel was originally zoned GU and was rezoned from GU to SR on August 1, 1988, as zoning action **Z-8165**.

Most parcels in the immediate area are one (1) acre or larger in size and developed with single-family homes. The subject lot is 2.35 acres in size and is abutting AU undeveloped property to the east. To the north is a 2.5-acre AU single residential developed lot. Wood Duck Lane is to the immediate west. There is a 1.32-acre SR single residential developed lot to the north west abutting Wood Duck Lane and White Ibis Lane. Below to the south east abutting Wood Duck Lane and White Ibis Lane is a 1.22-acre SR single residential developed lot. There is a 1.26-acre SR single residential developed lot to the south west and another 1.26-acre SR single residential developed lot to the south east.

To the south east there is a planned unit development (PUD) called The Savannahs. To the north east there is an undeveloped PUD called Tranquility Estates. To the south west is a developed PUD called Bella Vita approved under Z-6625.

Within a half-mile radius there are no other parcels with the RR-1 zoning classification. Lot size for this zoning is a minimum of one (1) acre and allows for horses. The lot size of the subject parcel is similar to those in the surrounding area.

There have been a total of two zoning actions over the last three years within a half mile radius. There was a minor PDP amendment to the PUD (**22PUD00004**) which is located to the north side of E. Hall Rd. There was an Administrative Action extending the PDP from 22PUD00004, from 5/28/2021 through 5/28/2022 (**21AA00032**). Those have been the only zoning actions within a half mile radius within the last three years.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	SF residence	AU	RES 1
South	SF residences	SR	RES 1
East	SF residence	AU	RES 1
West	SF residences	SR	RES 1

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.

SR zoning classification permits single-family residences of relatively spacious land character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings. Must meet a minimum lot size of 0.5 acres, with a minimum lot width of 100 feet and depth of 150 feet. The minimum house size in SR is 1300 square feet.

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 principle residence within RR-1 zoning.

PUD is an area of land to provide for a variety of residential and compatible uses and common open space. It is intended to encourage the development of planned residential neighborhoods and communities that provide a full range of residence type, as well as industrial, commercial and institutional land uses.

Preliminary Concurrency

The closest concurrency management segment to the subject property is East Hall Road, between N. Courtenay Parkway to N. Tropical Trail, which has a Maximum Acceptable Volume (MAV) of 41,790

trips per day, a Level of Service (LOS) of D, and currently operates at 37.36% of capacity daily. The maximum development potential from the proposed rezoning does not increase the percentage of MAV utilization. The corridor is anticipated to operate at 37.36% 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 560 feet south on E. Hall Road.

Environmental Constraints

- Hydric Soils/Wetlands
- Floodplain
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

The entire parcel is mapped with hydric soils, an indicator that wetlands may be present on the property. A wetland survey is required prior to any land clearing activities, or building 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. Land clearing and accessory structures, including barns, sheds and other detached structures, are not permitted in 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 design or permit submittal. The discovery of unpermitted wetland impacts may result in enforcement action.

Per Section 62-3724(4) of the Brevard County Floodplain Protection ordinance, the parcel may be subject to compensatory storage for fill brought onto the parcel within the floodplain. Please see floodplain section in NRM comments for more information.

For Board Consideration

The Board may wish to consider if the request is consistent and compatible with the surrounding area recognizing existing development trends.

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

Item #22Z00026

Applicant: Laura McCullough

Zoning Request: SR to RR-1

Note: Applicant wants 1 or 2 horses

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

Tax ID No: 2320550

- 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
- Floodplain
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

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Per Section 62-3724(4) of the Brevard County Floodplain Protection ordinance, the parcel may be subject to compensatory storage for fill brought onto the parcel within the floodplain. Please see floodplain section in NRM comments for more information.

Land Use Comments:

Hydric Soils/Wetlands

The entire parcel is mapped with hydric soils (Copeland-Bradenton-Wabasso complex and Riviera & Winder soils) as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that wetlands may be present on the property. A wetland survey is required prior to any land clearing activities, or building 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. Land clearing and accessory structures, including barns, sheds and other detached structures, are not permitted in 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 design or permit submittal. The discovery of unpermitted wetland impacts may result in enforcement action.

Floodplain

A majority of the property is located within the floodplain. Per Section 62-3724(4) of the Brevard County Floodplain Protection ordinance, any development, land alteration, or grading on North Merritt Island in the area from Hall Road, north to State Road 405, herein after referred to as "Area," is subject to compensatory storage, and written certification from the engineer of record that there will be no adverse flooding impacts upon properties within the Area resulting from the proposed development. The engineer shall provide a report that includes full engineering data and analysis, including the hydraulic and hydrologic modelling and analysis demonstrating that there is no impact. Sealed pre-existing topographic survey or engineered site plan delineating floodplain limits on the property, if any, with base flood elevation using best available flood elevation data. Delineation of floodplains shall use best available pre-alteration ground elevation data. Any engineered compensatory storage shall be maintained by the owner in perpetuity. Please call NRM at 321-633-2016 prior to any grading, filling or land alteration activities.

Indian River Lagoon Nitrogen Reduction Overlay

The parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If applicable, the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required if no sewer is available. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

Protected and Specimen Trees

Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. A tree survey will be required at time of site plan submittal, and is recommended prior to any site plan design. 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. 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.