



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

23Z00004

Chelsey L. Cobb

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

Tax Account Number: 2405118
Parcel I.D.: 24-35-14-00-271
Location: 4475 James Rd., Cocoa, FL 32926 (District 1)
Acreage: 3.09 acres

Planning & Zoning Board: 03/13/2023
Board of County Commissioners: 04/06/2023

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*	3 SFR	1 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 requesting to rezone the property from RR-1 (Rural Residential) to AU (Agricultural Residential) to seek compliance with Code Enforcement case, 22CE-00499, related to a pole-barn being constructed without a permit. The applicant also proposes to use the property for a small nursery and be able to raise their children with animals, chickens, small livestock as well as make the property more sustainable and self-sufficient. The applicant currently has a cow and bull on the property.

The subject parcel was recorded into the Official Record Book 1918, page 67, in June 1978. Parcel was rezoned from GU (General Use) to RR-1 (Rural Residential) per Zoning Resolution, **Z-2219**, on February 29, 1968.

The existing single-family residence was built in 1991. The parcel size meets both RR-1 and AU minimum lot size and dimensions measuring 154-feet wide by 883-feet deep.

Land Use

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

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.

Applicable Land Use Policies

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;

There is an existing pattern of residential land uses surrounding the subject parcel. A preliminary concurrency analysis does not indicate that the proposed request would materially or adversely impact the surrounding established neighborhood. There is a mixture of AU and RR-1 zoning classifications in the general area.

The proposed use(s) would not have any different hours of operation, lighting, odor, noise levels, traffic or site activity than that which the applicant is currently conducting.

- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.

Only a certified MAI (Master Appraisers Institute) 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;

There are two (2) FLU designations (RES 1 and RES 3 Dir) within 500-feet of this site. There have been no FLU changes within 500-feet. Property sizes in the immediate area range from 1.0-acre to 9.62-acres. The surrounding area is developed as single-family residential homes.

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 have been three (3) zoning changes approved within 0.5-miles over the preceding three (3) years:

21Z00039 was a zoning change established April 21, 2022 from RR-1 to AU(L) (Agricultural Residential-Low Intensity) with a BDP (Binding Development Plan) to restrict agritourism.

22Z00032 was a zoning change from RR-1 to AU with a resolution date of August 31, 2022.

22Z00036 was a zoning change from RR-1 to AU with a resolution date of October 6, 2022.

- D. Whether the proposed use(s) would 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.

1. Most parcels in the immediate area are one (1) acre or larger in size and developed with single-family home. To the north are two parcels, 1.0-acre SFR zoned RR-1 and the other, a 3.39-acre parcel with a SFR zoned AU. To the south is one (1) 8.88-acre parcel developed as a SFR with AU zoning. To the east is a SFR 3.06-acre parcel with RR-1 zoning. To the west is one (1) SFR on 3.09-acres zoned RR-1.
2. The proposed AU zoning could be considered to be consistent with RES 1 as AU has a minimum required lot area of 2.5-acres. The AU (Agricultural Residential) zoning classification is generally intended to encompass lands devoted to agricultural pursuits and single-family residential development of spacious character.
3. The Board may consider a lower intensity zoning classification such as AU(L), with agriculture activity on a non-commercial level. It is a lower intensity sub-classification of AU. The AU(L) classification allows the raising/grazing of animals, fowl and beekeeping for personal use, while prohibiting the more intense "commercial" agricultural activities. Should the Board consider AU(L) zoning be a more

appropriate zoning classification in order to protect the existing residential character of the neighborhood.

4. 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. Within a 500-foot radius there are no parcels that have an Agricultural exemption. Both of the AU zoned parcels have a Homestead First and Homestead Additional 2022 exemption.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Single-family	RR-1 & AU	RES 1
South	Single-family	AU	RES 1
East	Single-family	AU	RES 1
West	Single-family	RR-1	RES 1

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.

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 permits the raising/grazing of animals and plant nurseries. Conditional uses in AU include hog farms, zoological parks, and land alteration.

The AU(L) zoning classification permits single-family residences and agricultural pursuits on 2 ½ acre lots for personal use, with a minimum lot width and depth of 150 feet. The minimum house size in AU(L) is 750 square feet. The AU(L) classification also permits the raising/grazing of animals, fowl and beekeeping for personal use but mitigates commercial agricultural activities.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Cox Rd., between SR 524 to James Rd., 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 maximum development potential from the proposed rezoning decreases the percentage of MAV utilization by -0.11%. The corridor is anticipated to operate at 14.21% 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 closest City of Cocoa utilities service area for potable water is 1.4 miles away at the intersection of SR 524 and Cox Rd. The subject property is developed and has current water service. The developed subject property has City of Cocoa sewer.

Environmental Constraints

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

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees may exist on the parcel. A tree survey will be required at time of a site plan submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. 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. 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.

Information available to NRM indicates that unpermitted land clearing activities may have occurred 2021/2022. The discovery of unpermitted land clearing activities may result in code enforcement action.

For Board Consideration

The Board may wish to consider if the request is consistent and compatible with the surrounding area. The Board may consider whether the potential of Agritourism activities adversely affect the surrounding area.

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary**

Item #23Z00004

Applicant: Chelsea Lyn Cobb

Zoning Request: RR-1 to AU

Note: Need AU zoning for existing business.

P&Z Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID No: 2405118

- 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 and Specimen Trees
- Protected Species

Protected and Specimen Trees

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Information available to NRM indicates that unpermitted land clearing activities may have occurred 2021/2022. The discovery of unpermitted land clearing activities may result in code enforcement action.

Land Use Comments:

Hydric Soils

The subject parcel contains mapped hydric soils (Basinger sand and Valkaria sand) as shown on the USDA Soil Conservation Service Soils Survey map. This is an indicator that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design, 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. 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 site plan design or permit submittal.

Aquifer Recharge Soils

Basinger sand and Valkaria sand may also function as an 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

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees may exist on the parcel. A tree survey will be required at time of a site plan submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. 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. 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.

Information available to NRM indicates that unpermitted land clearing activities may have occurred in the Surface Water Protection Buffer. The discovery of unpermitted land clearing activities may result in code enforcement action.

Protected Species

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.