



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

22Z00069

**Thomas A. Metzger; Alan and Grace Metzger
RR-1 (Rural Residential) to AU (Agricultural Residential)**

Tax Account Number: 2801827
Parcel I.D.: 28-36-11-01-KK-1
Location: South side of Chicago Avenue, 300 feet east of Cavel Street. (District 5)
Acreage: 5.14 acres

Planning & Zoning Board: 3/13/2023
Board of County Commissioners: 4/06/2023

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposed zoning 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*	5 units	1 unit
Can be Considered under the Future Land Use Map	YES, RES 2	Yes, RES 2

* 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) for the purpose of having horses, fowl and a barn to store farm equipment. The property is undeveloped. The parcel is a Flag Lot configuration and the applicant has applied for Flag Lot administrative approval application **22FL00070**. Access will need to meet section 62-102. The parcel was created on November 19, 2021 when the abutting parcel to the east was split per Official Records Book 9332, page 2686.

In the AU and AU(L) zoning classification accessory buildings shall be located to the rear of the front building line, excluding barns, of the principal building and shall be set back not less than 15-feet from the side lot lines and not less than 15-feet from the rear lot lines. There are also setbacks for barns and stalls: 125-feet from the front lot line, 50-feet from the side lot lines and 50-feet from the rear lot

line. The AU zoning allows for buildings or structures accessory to agricultural uses including stables, barns, paddock areas and storage areas without a principal dwelling.

The current 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 existing parcel was originally zoned RU-1 (Single-Family Residential). The property was rezoned to all RR-1 on September 08, 1966 as part of zoning action **Z-1971**.

Land Use

The subject property retains a FLU designation of Residential 2 (RES 2). Both the existing RR-1 and the proposed AU zoning classifications may be considered consistent with the RES 2 FLU designation.

Applicable Future Land Use Policies

FLUE Policy 1.8 – The Residential 2 Future land use designation permits lower density residential development with a maximum density of up to two (2) units 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 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 having farm animals; horses, chickens and a barn to store farm equipment. Development would need to meet performance standards set forth in code sections 62-2251 through 62-2272 for hours of operation, lighting, odor, noise levels, traffic, or site activity. As the parcel is abutting two parcels, to the east and south, with AU zoning on these parcels, the proposal is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhood 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 has AU zoning to the south and east and RR-1 zoning to the west. The AU zoning to the south and east have existed since May 22, 1995 per zoning action Z-9535. The proposed AU zoning may be considered consistent with the existing RES 2 Future Land Use.

2. actual development over the immediately preceding three years.

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. There have been no zoning actions approved within one-half mile.

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.

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

The applicant proposes having farm animals; horses, chickens and a barn to store farm equipment. As the parcel is abutting two parcels, to the east and south, with AU zoning on these parcels, and RR-1 zoning to the west which permits four horse per acre on single-family developed parcels, the proposal is not anticipated to impact the existing neighborhood within the area with traffic, parking, commercial activity or industrial activity.

B. In determining whether an established residential neighborhood exists, the following factors must be present:

1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.

The area is established by existing developed parcels and developed platted lots with established roads.

2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.

The parcel does not have any established neighborhood commercial uses or non-conforming commercial uses.

3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

The established area is rural residential and agricultural and does not have commercial or industrial uses.

As the subject parcel abuts RR-1 zoning to the west which does not permit commercial agricultural uses, the Board may consider the lower intensity zoning classification of AU(L). The AU(L) zoning classification is a lower intensity sub-classification of AU. The AU(L) classification allows agricultural pursuits of a personal non-commercial nature. It also allows the raising/grazing of animals, fowl and beekeeping for personal use, while prohibiting the more intense “commercial” agricultural activities to help preserve the residential character of the neighborhood.

Surrounding Area

Direction	Existing Land Use	Zoning	Future Land Use
North	Right-of-Way	N/A	N/A
South	Single-Family	AU	RES 2
East	Single-Family	AU	RES 2
West	Single-Family	RR-1	RES 2

To the north, across Chicago Avenue, is a 1.16-acre parcel with RR-1 zoning developed with a single-family residence. To the east is a 10.82-acre parcel with AU zoning developed with a single-family residence with a barn/stable and horses. To the south is a 4.82-acre parcel with AU zoning developed with a single-family residence and residential accessory structures. To the west are 0.85-acre parcels with RR-1 zoning developed a single-family residence.

The current 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.

The proposed 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 zoning classification also permits all agricultural pursuits, including the raising/grazing of animals, plants nurseries, and the packing and processing of commodities raised on site.

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.

There are 22 single-family residences currently within a 500 feet radius.

There are no agritourism activity currently within a 500 feet radius.

There have been no zoning actions approved within one-half mile of the parcel in the last three years.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Highway US 192, between Simon Road and I-95, which has a MAV (Maximum Acceptable Volume) of 41,790 trips per day, a Level of Service (LOS) of C, and currently operates at 31.20% of capacity daily. The maximum proposed development potential from the proposed rezoning increases the percentage of MAV utilization by 0.03%. The corridor is anticipated to operate at 31.23% of capacity daily. The maximum development potential of 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 not serviced by Brevard County water or sewer. The closest water line to the parcel is approximately 8.8 miles to the north along the east side of Lake Andrew Drive. The closest sewer line to the parcel is approximately 7.1 miles away to the north at the east end of Kennesaw Place.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils
- Wetlands

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

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #22Z00069

Applicant: Thomas Metzger

Zoning Request: RR-1 to AU

Note: Applicant wants to have farm animals and associated accessory structures.

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

Tax ID No: 2801827

- 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

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 mapped hydric soils (Malabar sand), in the northern part of the property, an indicator that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities. The wetland delineation shall be verified at time of site plan submittal.

Wetlands

The National Wetlands Inventory maps show a freshwater emergent wetland on the southeast corner of the property. The SJRWMD FL Land Use and Land Cover (FLUCCS), 2009 map shows Code 6430, Wet Prairies, in that same location. 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. 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. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

Protected and Specimen Trees

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 and minimum landscaping requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. There is potential for the presence of Gopher Tortoises on site. 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.