



BOARD OF COUNTY COMMISSIONERS

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>

**STAFF COMMENTS
23Z00010**

Matthew and Christine Morak

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

Tax Account Number: 2004738
Parcel I.D.: 20G-35-20-AI-3-7
Location: North side of Burkholm Road, approximately 2,000-feet east of Highway 1 (District 1)
Acreage: 2.2 acres
Planning & Zoning Board: 4/17/2023
Board of County Commissioners: 5/04/2023

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal cannot 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	AU	RR-1
Potential*	0	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 applicants are seeking a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential) for the purpose of building a single-family residence. The subject parcel is currently undeveloped. The AU zoning requires 2.5-acres and the subject property is 2.2-acres.

The subject parcel was recorded originally in Plat Book 2, Page 33 in May 1914. The parcel was then changed into the current configuration per Official Records Book 6838, Page 1680, on March 28, 2013 and does not qualify as a nonconforming lot of record. The subject lot is 2.22 acres in size and has frontage on Burkholm Road and is approximately 1,100 feet east of Highway 1. The parcel was zoned AU (Agricultural Residential) since its formation.

The current AU zoning classification allows for the sales of commodities raised on the premises in line with all agricultural pursuits. RR-1 zoning permits single-family residential land uses on a minimum one-acre lot encompassing lands devoted to development of spacious character, together

with accessory uses as may be necessary or are normally compatible with residential surroundings, and at the same time permits uses which are conducted in such a way as to minimize possible incompatibility with residential development.

Land Use

The subject property is currently designated as Residential 1 (RES 1) FLU. The proposed RR-1 zoning is consistent with the existing RES 1 FLU designation. Both the current AU zoning and proposed RR-1 zoning classifications are consistent with the RES 1 FLU designation. There is only one Future Land Use Designation, RES 1, within 500-feet of the subject property.

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.

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;

Currently the parcel is maintained and fenced in but remains undeveloped. The applicant proposes the development of only a single-family home. It is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area. This would be consistent with the other recent developments in the immediate 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 general area is residential in character with single-family homes on lots ranging in size from approximately one (1) to five (5) acres.

There is a mixture of AU, RU-1-7 and RR-1 zoning classifications in the general area. There is one (1) FLU designations (RES 1) within 500-feet of this site.

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

There have been many new developments within 0.5 miles in the preceding three (3) years.

- **21BC15016 was for a single-family residence completed September 2022 and is located 0.5 miles north west off Highway 1.**
- **20BC03451 was for a single-family residence completed August 2022 and is located one (1) mile driving distance to the north east off Pennsylvania Ave.**
- **21BC19912 was for a barn completed April 2022 and is located approximately 1,162 feet east off Burkholm Rd.**
- **20BC01735 was for a single-family residence completed July 2021 and is located approximately 675 feet east off Burkholm Rd.**
- **21BC07161 was for a single-family residence completed September 2021 and is located approximately 310 feet east off Burkholm Rd.**
- **21BC16403 was for a single-family residence completed July 2022 and is located approximately 153 feet west off Burkholm Rd.**
- **20BC03445 was for a single-family residence completed August 2020 and is located approximately 345 feet west off Burkholm Rd.**

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

Application 22Z00064 was approved by the Board on March 2, 2023, rezoning from AU to RR-1, on 3.91 acres, located approximately 665 feet south of the subject property on Orlando Ave.

- 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.

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.

The developed character of the surrounding area is low-density 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 a 4.9-acre parcel developed with a single-family residence zoned AU. To the south across ROW is a 2.27-acre parcel developed with a single-family residence zoned AU. To the east is a 4.66-acre parcel with a single-family residence zoned AU. To the west is a 2.49-acre parcel developed with a single-family residence zoned AU.

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.

This undeveloped parcel is north of Burkholm Road and approximately 1,100 feet east of Highway 1. Within 500-feet there are two (2) zoning classifications: Agricultural Residential (AU) and Rural Residential (RR-1). The closest RR-1 zoning classification is approximately 30 feet to the southeast across ROW Burkholm Rd.

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 request is not for commercial use. It is located in an existing residential area.

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 area is primarily single-family residential along with agricultural uses. Application 22Z00064 was approved by the Board on March 2, 2023, rezoning from AU to RR-1, on 3.91 acres, located approximately 665 feet south of the subject property on Orlando Ave.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	SF residence	AU	RES 1
South	SF residence	AU	RES 1
East	SF residence	AU	RES 1
West	SF residence	AU	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 plant nurseries. Conditional uses in AU include hog farms, zoological parks, and land alteration.

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.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Highway 1, between Lionel to Burkholm Rd., which has a Maximum Acceptable Volume (MAV) of 40,300 trips per day, a Level of Service (LOS) of C, and currently operates at 23.47% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.02%. The corridor is anticipated to operate at 23.50% 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 not within any public potable water or sewer lines. The applicant will be installing a well for potable water and septic for sewer.

Environmental Constraints

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

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 if the request is consistent and compatible with the surrounding area recognizing existing development trends.

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

Item #23Z00010

Applicant: Matthew & Christine Morak

Land Use Request: AU to RR-1

Note: Current zoning requires 2.5 acres to develop a SFR.

P&Z Hearing Date: 04/17/23; **BCC Hearing Date:** 05/04/202

Tax ID No: 2004738

- 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:

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

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:

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Pomello sand) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations (~22 to 23 feet NAVD) indicate the soils may consist of Type 3 Aquifer Recharge soils that have impervious area restrictions. 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.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be utilize the property (e.g., gopher tortoises). 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.