



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

23Z00028

Afficap Cocoa, LLC

AU (Agricultural Residential) to RU-2-10 (Medium-density Multiple-family Residential)

Tax Account Number: 2424005 & 2441241
Parcel I.D.: 24-36-31-00-515 & 24-36-31-00-505
Location: Eastside of Range road approximately 700 feet north of Pluckebaum (District 1)
Acreage: 19.48 +/- acre

Planning & Zoning Board: 6/12/2023
Board of County Commissioners: 7/13/2023

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use (FLU) 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	AU	RU-2-10
Potential*	7	190 units
Can be Considered under the Future Land Use Map	YES RES 4 & NC	NO, RES 4** YES, NC**

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.

The applicant has submitted a companion Small Scale Comprehensive Plan Amendment application to change the Future Land Use Map (FLUM) from RES 4 & NC to RES 15 (Residential 15) under **23SS00003.

Background and Purpose of Request

The applicants are requesting a change of zoning classification from AU (Agricultural Residential) to RU-2-10 (Medium-density Multiple-family Residential) on 2 parcels totaling 19.48 acres for the purposes of a unified zoning across the entire proposed

project area which includes 2 parcels to the east that are not included in this request. The proposed project is an approximate 300-unit townhome development located directly east of the subject property. The need for additional land came about during the site plan process when it was determined that a larger stormwater retention facility would be required. Existing structures on-site include one pole barn, outbuilding and single-family residence.

At this time, there are no active code enforcement associated with the subject parcels.

Land Use

The subject property is currently designated as Neighborhood Commercial (NC) and Residential 4 (RES 4) FLU. The existing AU zoning can be considered consistent with the existing RES 4 FLU designation. AU may also be considered consistent with NC, if permitted by Policy 2.10

The parcel associated with Tax account 2424005 totaling 14.82 acres is located in the Neighborhood Commercial (NC) and Residential 4 (RES 4 - maximum of 4 dwelling units per acre) designations. Approximately 9 acres of the 14.82 acres is located in the RES 4 District. The remainder of the property is located in the NC.

The parcel associated with Tax account 2441241 totaling 4.66-acre is located in the Neighborhood Commercial.

The proposed RU-2-10 zoning cannot be considered consistent with the existing RES 4 but may be considered consistent with NC, if permitted by Policy 2.10.

A companion application, **23SS00003**, would amend the Future Land Use designation from NC and RES 4 to Residential 15 (RES 15 – maximum of 15 dwelling units per acre).

Applicable Land Use Policies

FLUE Policy 1.4

The Residential 15 land use designation affords the second highest density allowance, permitting a maximum density of up to fifteen (15) units per acre, except as otherwise may be provided for within this 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 has proposed to only use these properties for a stormwater retention facility and recreational area for the 300-unit townhome development. The subject properties are located between single-family residential zoned properties. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the zoning and Future Land Use Map change be approved.

- 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 (Member Appraisal 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;

The character of the surrounding area is mix of low-density residential on parcels (1) acre or larger in size and non-retail commercial uses. FLU designations within 500 feet of the subject property includes NC and RES 4. RES 15 land use are located to the east abutting the subject property and further to the west on the east side of I-95 Highway.

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

Over the preceding three years, the Cocoa Grand apartments (City of Cocoa) and Boniface Chrysler Dodge dealership was constructed. Harvest Landing subdivision is in the beginning phases of construction (City of Rockledge). These developments are within ½ mile of the subject property.

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

To the southeast, Harvest Landing subdivision is in the beginning phases of construction.

FLUM amendments within one-half mile:

21PZ00062, request to amend Future Land Use Map (FLUM) from RES 4 to CC, approved by the Board on May 7, 2020 on 40 acres located immediately east of the subject properties.

- 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 developed character of the surrounding area agricultural residential, rural residential commercial and multi-family to the east. A 288-unit townhome development with RU-2-10 zoning is under site plan review (22SP00026) immediately east of the subject property. That project was originally approved by the Board on December 2, 2021 under zoning action **21Z00032** which changed AU (Agricultural Residential) to RU-2-10 (Medium-Density Multi-Family Residential) on 2 parcels totaling 40-acres.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Single-family/multi-family	GU/City of Cocoa	NC/ Medium-Density Residential District (15 units/acre)
South	Single-family	AU	RES 4/NC
East	Single-family	RU-2-10	RES 15

West	Junk yard/single-family	BU-1, BU-2, AU	RES 15, CC, NC
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There are 2 properties abutting the subject property to the north; a single-family residential on 5.61 acres with GU zoning designation and multi-family residential (280 units) on 94.9 acres within the City of Cocoa. Other properties further north are approximately 0.5-acre to 3-acres in size with GU and RR-1 zoning developed as single-family residential.

The property to the immediate south has AU zoning and developed as single-family residential with Pole Barns, horse run and an outbuilding on 18-acres. South across Pluckebaum Rd, uses include an AM radio station, borrow pits (within City of Rockledge boundary), low-lying vacant lands, junk yard/open storage, and a farm with horse runs. Continuing east across Pluckedbaum Rd, within the City of Rockledge, is Harvest Landing Subdivision, currently under construction, with 364-units developed under Planned Unit Development (PUD) zoning on approximately 156-acres.

A 300-unit townhome development is proposed on 2 properties, approximately 40-acres, directly east of the subject properties. Both properties are zone RU-2-10 which permits up to 10-units/acre. The subject properties and the 2 properties to the east will be part of the same development project.

To the west, existing businesses include; an auto towing and junk yard, auto repair, auto-body/auto paint shop and a business plaza. Zonings classification for these properties include BU-1, BU-2, and AU. Continuing west are vacant properties, small strip center type retail, neighborhood convenience store, Brevard County park facility, single-family residential, club/lodge and other businesses. GML, BU-1, BU-2 and IN(L) can be found in this area.

The AU zoning classification permits single-family residences and agricultural pursuits on 2 ½ 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, fowl and beekeeping

The RU-2-10 classification permits multiple-family residential development or single-family residences at a density of up to 10 units per acre on minimum lot sizes of 7,500 square feet.

Previous zoning actions the properties include **Z-6801** (Conditional Use Permit - Security trailer 1984), **Z-5936** (Suburban residential - SR to AU 1982), **Z-4657** (Single-family mobile home TR-1 to SR 1978), **Z-3655** (Light Industrial IU to TR-1 1974) & **Z-2343** (General Use GU to IU 1968).

Preliminary Concurrency

The closest concurrency management segment to the subject property is Pluckebaum Rd, between Clearlake Rd and Fiske Blvd, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 38.67% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 7.08%. The corridor is anticipated to operate at 45.74% of capacity daily. The proposal would not create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

The subject site is within the City of Cocoa's service area for potable water. The closest Brevard County sewer line is approximately 0.80 miles northwest on Parrish Road.

The school concurrency indicates there is enough capacity for the total of projected and potential students from the proposed development. There is sufficient capacity at Saturn Elementary School, McNair Middle School, and Rockledge High School for the total of projected and potential students from this development.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands Protection/Hydric Soils
- Floodplain Protection
- Protected and Specimen Trees

The subject parcel contains mapped wetlands and hydric soils, indicators that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing or alteration activities. The wetland delineation shall be verified at time of site plan submittal. Per Section 62-3694(c)(1), 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 renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For multi-family parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). 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 property is mapped as being within the St. Johns Riverine floodplain as identified by the Federal Emergency Management Agency and as shown on the FEMA Flood Map. **The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance, including compensatory storage and density restrictions.** 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."

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #23Z00028

Applicant: Javier Fernandez

Land Use Request: Res-4 & NC to Res-15

Note: Wants to develop a 300-unit townhome community

LPA Hearing Date: 06/12/2023; **BCC Hearing Date:** 07/13/2023

Tax ID Nos: 2424005 & 2441241

- 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.**

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Land Use Comments:

Wetlands Protection/Hydric Soils

The subject parcel contains mapped National Wetlands Inventory (NWI) wetlands and hydric soils (Holopaw sand, 0 to 2 percent slopes, and Ancloste sand), indicators that wetlands may be present on the property. A wetland delineation is required prior to any land clearing or alteration activities. The wetland delineation shall be verified at time of site plan submittal. Per Section 62-3694(c)(1), 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 renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For multi-family parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). 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, or performing any land clearing activities.

Floodplain Protection

The property is mapped as being within the St. Johns Riverine floodplain as identified by the Federal Emergency Management Agency and as shown on the FEMA Flood Map. **The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance, including compensatory storage and density restrictions.** Per Section 62-3723(4), elevations of the riverine 100-year, riverine 25-year, and ten-year floodplains shall be determined utilizing the best available data, which includes FIRM maps and the Flood Insurance Study for Brevard County, Florida and Unincorporated Areas, April 3, 1989, prepared by the Federal Emergency Management Agency; and the Mean Annual, 10-Year, 25-Year and 100-Year Profiles for the Upper St. Johns River Under the Existing Conditions, prepared by Dr. Donthamesetti V. Rao, P.E., St. Johns River Water Management District (March 1985). 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." The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal, or performing any land clearing activities.

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.