



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

23Z00031

Samir and Ilham Itani Revocable Living Trust

AU (Agricultural Residential) to EU-2 (Estate Use Residential)

Tax Account Number: 2101052

Parcel I.D.: 21-34-24-00-507

Location: East side of Ford Road approximately 226 feet south of Guil Drive
(District 1)

Acreage: 11.13 acres

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 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	EU-2
Potential*	4 SF units	24 SF units
Can be Considered under the Future Land Use Map	YES RES 4	YES RES 4

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

Background and Purpose of Request

The applicant is requesting to change the zoning classification from AU (Agricultural Residential) to EU-2 (Estate Use Residential) on a 11.13-acre lot to develop a 24 lot subdivision. The subject parcel is currently developed with an 864 sq. ft. shed. The subject parcel was recorded into the current configuration per Official Records Book 2381, Page 47 on August 5, 1982 and has frontage on Ford Road.

A prior variance request was denied on January 15, 1986 under **V-1622**. That request was for a variance of 3 ft. 3 in. over the 4 ft. height limitation for a fence within the front setback in an AU zoning classification.

The subject property is located within the Mims Small Area Study. The Mims Study, accepted by the Board on April 10, 2007, recommended a reduction in the Future Land Use Map density from RES 15

to RES 4 in this area. A Comprehensive Plan Amendment was approved by the Board as part of the 2008A package to confirm the findings in the study.

Land Use

The subject property is currently designated as Residential 4 (RES 4) FLU. Both the existing AU as well as the proposed EU-2 zoning classifications are consistent with the RES 4 FLUM designation.

Applicable Land Use Policies

FLUE Policy 1.7 - Residential 4 (maximum of 4 dwelling units per acre)

The Residential 4 land use designation affords an additional step down in density from more highly urbanized areas. This land use designation permits a maximum density of up to four (4) units per acre, except as otherwise may be provided for within the Future Land Use Element.

FLUE Policy 1.2 - Public Facilities and Services Requirements

Minimum public facilities and services requirements should increase as residential density allowances become higher. The following criteria shall serve as guidelines for approving new residential land use designations:

Criteria:

- C. In the Residential 30, Residential 15, Residential 10, Residential 6 and Residential 4 land use designations, centralized potable water and wastewater treatment shall be available concurrent with the impact of the development.
- D. Where public water service is available, residential development proposals with densities greater than four units per acre shall be required to connect to a centralized sewer system.
- E. Where public water service is not available, residential development proposals with densities greater than two units per acre shall be required to connect to a centralized sewer system.
- F. The County shall not extend public utilities and services outside of established service areas to accommodate new development in Residential 2, Residential 1 and Residential 1:2.5 land use designations, unless an overriding public benefit can be demonstrated. This criterion is not intended to preclude acceptance of dedicated facilities and services by the County through MSBU's, MSTU's and other means through which the recipients pay for the service or facility.

The subject site is within Brevard County's service area for potable water. The closest Brevard County sanitary sewer line is located approximately 110 feet east of the subject property at Dunsford Road and Ayshire Drive. Connection to centralized sewer and potable water is required under Criterion C, above.

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;

Development would need to meet performance standards set forth in code 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 surrounding area is residential in character on lots one (1) acre or larger in size along Ford Road. East of the subject property is a single-family residential neighborhood with lots approximately one-quarter acre in size with RES 15 FLU. There are three (3) FLU designations within 500 feet of the subject site: RES 15, RES 4, and PUB-CONS.

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

It appears no changes to the immediate area have occurred within the last three years.

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

There has not been any development approved but not yet constructed within this area in the preceding three (3) years.

There is one (1) pending zoning action within a half-mile radius of the subject property: 23Z00035 is a request to rezone from GU, AU, EU, SR, PUD, RU-1-13, RU-2-15, RU-2-10 with a BDP, and RU-1-11 with a BDP to PUD (Planned Unit Development) and removal of two BDPs on 137± acres located north of the subject property to develop 212 single-family residences and 696 multi-family units (Sherwood PUD).

- 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 is agricultural residential to the west and suburban estate residential use to the east on lots one acre or larger in size along Ford Road. Adjacent to the east of the subject property is a residential neighborhood (Sherwood Estates) with lots approximately one-quarter acre to one-half acre in size.

While the predominant zoning classification to the east of the subject property is EU-2, this request can be considered an introduction of EU-2 along Ford Road. This request may also be considered compatible with the surrounding area, recognizing existing development trends.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Single-Family Residence	AU	RES 4
South	Single-Family Residence; Vacant Land	AU	RES 4; PUB-CONS
East	Single-Family Residences	EU-2	RES 15
West	Single-Family Residences	SEU, AU	RES 4

To the north is a 4.72-acre parcel with AU zoning developed as a single-family residence.

To the south is a 1.3-acre parcel with AU zoning developed as a single-family residence and a 95.29-acre undeveloped parcel owned by Brevard County.

To the east is Sherwood Estates, a single-family residential subdivision with EU-2 zoning on lots approximately one-quarter acre to one-half acre in size.

To the west are five (5) single family residences with SEU zoning on lots ranging from approximately 1 to 2 acres in size and a one (1) single family residence with AU zoning on a 2.15-acre lot.

The current 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.

The proposed EU-2 zoning classification is an estate single family residential zoning classification. The minimum lot size is 9,000 square feet with a minimum lot width of 90 feet and depth of 100 feet. The minimum living area is 1,500 square feet.

SEU zoning permits suburban estate residential uses on lots of one acre (minimum) with a width of 125 feet and a depth of 200 feet. Minimum floor area is 2,000 square feet of living area.

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.

No zoning action has been approved within a half-mile radius of the subject property within the last three years. There is one (1) pending zoning action within a half-mile radius of the subject property: 23Z00035 is a request to rezone from GU, AU, EU, SR, PUD, RU-1-13, RU-2-15, RU-2-10 with a BDP, and RU-1-11 with a BDP to PUD (Planned Unit Development) and removal of two BDPs on 137± acres located north of the subject property to develop 212 single-family residences and 696 multi-family units (Sherwood PUD).

Preliminary Concurrency

The closest concurrency management segment to the subject property is State Road 46, from Fawn Lake Boulevard to I-95, which has a Maximum Acceptable Volume (MAV) of 14,160 trips per day, a Level of Service (LOS) of D, and currently operates at 74.29% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 1.61%. The corridor is anticipated to operate at 75.90% of capacity daily. The maximum development potential of the proposal is not anticipated to 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 school concurrency indicates there is enough capacity for the total of projected and potential students from the proposed development. There is sufficient capacity at Oak Park Elementary School, Madison Middle School, and Astronaut Sr High School for the total of projected and potential students from this development.

The closest Brevard County potable water line is located adjacent to the east of the subject property at Dunsford Road. The closest Brevard County sewer line is approximately 110 feet east at Dunsford Road and Ayshire Drive. Connection to centralized sewer and potable water is required under Criterion C of FLUE Policy 1.2.

Environmental Constraints

- Wetlands Protection/Hydric Soils
- Protected and Specimen Trees

The subject parcel contains mapped wetlands and hydric soils, indicators that wetlands may be present on the property. Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

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 #23Z00031

Applicant: Brian Simpkins

Zoning Request: AU to EU-2

Note: Wants to develop 24 single-family residences

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

Tax ID Nos: 2101052

- 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:

- Wetlands Protection/Hydric Soils
- 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.

Land Use Comments:

Wetlands Protection/Hydric Soils

The subject parcel contains mapped National Wetlands Inventory (NWI) wetlands and hydric soils (Delray sand, occasionally flooded and Copeland-Bradenton-Wabasso complex, limestone substratum), 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.

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.