



BOARD OF COUNTY COMMISSIONERS

## Planning and Development Department

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### STAFF COMMENTS

23Z00020

John E. Bassford and Chelsea Bassford

#### BU-1-A (Restricted Neighborhood Retail Commercial) to AU (Agricultural Residential)

Tax Account Number: 2003014

Parcel I.D.: 20G-34-39-00-1.1

Location: East of Highway 1, south of Country Line Road, and approximately 610-feet west of Laurel Oak Lane (District 1)

Acreage: 3.09 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 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
<b>Zoning</b>	BU-1-A	AU
<b>Potential*</b>	3 Single-family Residences	1 Single-family Residence
<b>Can be Considered under the Future Land Use Map</b>	YES** RES 1	YES RES 1

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

\*\* Considered as a transitional use per Policy 2.11 for commercial uses only.

#### Background and Purpose of Request

The applicant requests to rezone from BU-1-A (Restricted Neighborhood Retail Commercial) to AU (Agricultural Residential) for the purpose of building a single-family residence. Although the BU-1-A classification permits single-family residential, for commercial uses in Res 1, it has to meet the criteria in Policy 2.11 to be considered a transitional use. The applicant has chosen to rezone the property because the bank will not allow a loan for the construction of a single-family residence within property that is zoned for commercial purposes. The subject parcel is 3.09-acres and is currently undeveloped.

The subject parcel was recorded originally in Official Record Book 1184, Page 755 on July 1, 1971. The subject lot has frontage to the west on Highway 1. Zoning Resolution **Z-10154** rezoned the subject parcel effective November 30, 1998 from AU to BU-1-A.

The current BU-1-A has a front setback of no less than 50-feet from the front property line, side setback of no less than 15-feet from an abutting residential classification, and rear setback of no less than 25-feet.

## **Land Use**

The subject property is currently designated as Residential 1 (RES 1) FLU. The proposed AU zoning can be considered consistent with the existing RES 1 FLU designation. Both the current BU-1-A zoning and proposed AU 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.

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 parcel 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 land uses 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 Master Appraisal Institute (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 twenty-five (25) acres.**

**There is a mixture of AU and RRMH-1 (Rural Residential Mobil Home) 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 not been any new developments within 0.5 miles in the preceding three (3) years.**

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

**There have not been any approved development projects within the past three years that have not yet been constructed.**

- 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 County Line Road and then Volusia County. To the south is a 4.54-acre parcel developed with a single-family residence zoned AU. To the east is a 9-acre parcel with a single-family residence zoned AU. To the west is Highway 1.**

- 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 south of County Line Road and east of Highway 1. Within 500-feet there are two (2) zoning classifications: Agricultural Residential (AU) and Rural Residential Mobile Home (RRMH-1). The closest commercial zoning classification is approximately 0.5 miles to the south and it is also undeveloped.**

**Within 500-feet of the subject property there are no bona fide agricultural properties according to the Brevard County Property Appraiser's website with agricultural exemptions.**

**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.**

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.**

## **Surrounding Area**

	<b>Existing Land Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	County Line Road	N/A	N/A
<b>South</b>	Single-family residence	AU	RES 1

<b>East</b>	Single-family residence	AU	RES 1
<b>West</b>	Highway 1	N/A	N/A

The current BU-1-A classification allows retail commercial land uses on minimum 7,500 square foot lots. The minimum floor area is 300-square feet.

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

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Deering Parkway, between I-95 to Highway 1, which has a Maximum Acceptable Volume (MAV) of 14,200 trips per day, a Level of Service (LOS) of D, and currently operates at 19.58% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.07%. The corridor is anticipated to operate at 19.65% 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
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species – Florida Scrub Jay

Protected ( $\geq 10$  inches in diameter) and Specimen ( $\geq 24$  inches in diameter) trees may have existed on the parcel. Clearing of most the property occurred in 2021/2022. A restoration plan meeting Chapter 62, Article XIII, Division 2, entitled Landscaping, Land Clearing & Tree Protection; and Article X, Division 3, entitled Surface Water Protection may be required during the Building Permit review.

### **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 #23Z00020**

**Applicant:** MBV for John and Chelsea Bassford

**Zoning Request:** BU-1-A to AU

**Note:** To allow permit for single-family residence

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

**Tax ID No:** 2003014

- 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
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species – Florida Scrub Jay

Protected ( $\geq 10$  inches in diameter) and Specimen ( $\geq 24$  inches in diameter) trees may have existed on the parcel. Clearing of most the property occurred in 2021/2022. A restoration plan meeting Chapter 62, Article XIII, Division 2, entitled Landscaping, Land Clearing & Tree Protection; and Article X, Division 3, entitled Surface Water Protection may be required during the Building Permit review.

**Land Use Comments:**

**Aquifer Recharge Soils**

The very eastern edge and southeastern corner of the subject parcel contains mapped aquifer recharge soils (Valkaria sand) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations 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.

### **Indian River Lagoon Nitrogen Reduction Overlay**

The northeast corner of the parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

### **Protected and Specimen Trees**

Protected ( $\geq 10$  inches in diameter) and Specimen ( $\geq 24$  inches in diameter) trees may have existed on the parcel. Clearing of most the property occurred in 2021/2022. A restoration plan meeting Chapter 62, Article XIII, Division 2, entitled Landscaping, Land Clearing & Tree Protection; and Article X, Division 3, entitled Surface Water Protection may be required during the Building Permit review.

### **Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, a mapped Florida Scrub Jay occupancy polygon is located to the west and south of the property. Additionally, gopher tortoises can be found in aquifer recharge soils. 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.