



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

19PZ00127

Timothy D. and Rebecca F. Reaves

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

Tax Account Number: 2000310  
Parcel I.D.: 20-35-31-AB-3-2.01  
Location: South side of Richy Road, approximately 0.12 mile west of U.S. 1. (No assigned address. In the Mims area)  
Acreage: 2 acres

Planning and Zoning Board: 01/13/20

Board of County Commissioners: 02/06/20

### 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>	AU	RR-1
<b>Potential*</b>	0 single-family units	1 single-family unit
<b>Can be Considered under the Future Land Use Map</b>	YES Residential 1:2.5	NO Requires Residential 1**

\*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 1:2.5 (Residential 1:2.5) to RES 1 (Residential 1) under **19PZ00126**.

### Background and Purpose of Request

The applicant is seeking a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential) for the purpose of legitimizing an undersized lot to build a single-family home. The subject parcel was subdivided and sold on May 31, 1985. The resulting parcel does not meet the 2.5 acre minimum lot size requirement for AU zoning. The applicant states they reached out to the owner of the parcel to the south to request the opportunity to purchase an additional 0.5 acres. That owner was not agreeable.

AU is the original zoning classification of the parcel.

## Land Use Compatibility

The subject property retains the RES 1:2.5 (Residential 1:2.5) Future Land Use designation. The existing zoning classification is consistent with the Future Land Use Designation; however, the current parcel size fails to meet the 2.5 acre requirement and therefore is not consistent with the FLUM. The proposed zoning classification of RR-1 is not consistent with the current RES 1:2.5 Future Land Use Designation.

The applicant has submitted a Small Scale Comprehensive Plan Amendment application to change the FLUM from RES 1:2.5 to RES 1 under **19PZ00126**. Should the proposed Future Land Use designation of RES 1 be approved, then this request to RR-1 can be heard.

*FLUE Policy 1.9, The Residential 1 Future Land Use designation permits lower density residential development with a maximum density of up to one (1) 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.

## Environmental Constraints

No noteworthy land use issues were identified. Natural Resources Management reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

## Preliminary Transportation Concurrency

The closest concurrency management segment to the subject property is U.S. Highway 1 between Lionel and Burkholm, which has a Maximum Acceptable Volume (MAV) of 40,300 trips per day, a Level of Service (LOS) of D, and currently operates at 23.82% of capacity daily. The maximum development potential from the proposed rezoning does increase the proposed trip generation by 0.03%. The corridor is anticipated to continue to operate at 23.85% of capacity daily (LOS C). The proposal is not anticipated to create a deficiency in LOS.

The parcel is not on Brevard County sewer. The closest available Brevard County sewer line is approximately 11,685 feet south of the subject parcel, and this sewer line runs along the south side of Clubhouse Road.

The parcel is not on a Brevard County water line. The closest available Brevard County water line is approximately 2,037 feet south of the subject parcel, and this water line runs along the south side of Lionel Road.

## Applicable Land Use Policies

The applicant has submitted a Small Scale Comprehensive Plan Amendment application to change the FLUM from RES 1:2.5 to RES 1 under **19PZ00126**. Should the proposed Future Land Use designation of RES 1 be approved, then this request to RR-1 can be heard.

The current AU (Agricultural Residential) zoning classification permits single-family residences and agricultural pursuits on 2.5-acre lots, with a minimum width and depth of 150 feet, and a 750 square-

foot minimum house size. The AU zoning also allows the raising/grazing of animals, fowl, and beekeeping.

The proposed RR-1 zoning permits single-family residential land uses on one acre lots, with a minimum lot width and depth of 125 feet, and a 1,200 square-foot minimum house size. The keeping of horses, barns, and agricultural pursuits, including horticulture, are accessory to a principal residence.

The developed character of the parcels along the south side of Richy Road west of US-1 is AU zoning with a Future Land Use (FLU) designation of RES 1:2.5 and BU-1 (General retail commercial) zoning with a Community Commercial (CC) FLU on the parcels adjacent to US-1. BU-1 permits business uses on a minimum of 7,500 square feet with a minimum width and depth of 75 feet. There is no other RR-1 zoning in the surrounding area except for some parcels lying east of Highway 1.

North of the parcel is Richy Road. The abutting parcel to the east is zoned AU and developed with a single-family home on 2.97 acres. The abutting parcel to the south is zoned AU and developed with a single-family home on 6.45 acres. The abutting parcel to the west is zoned AU and developed with a single-family home on 2.9 acres. Each of the adjacent parcels has RES 1:2.5 FLUM.

There have been two zoning actions within a half-mile of the subject property within the last five years. On March 09, 2018, application **17PZ00118** changed the zoning from BU-1 to BU-2 (Retail, Warehousing and Wholesale Commercial) on one parcel totaling 2.98 acres located approximately 938 feet south of the subject parcel. On November 2, 2017, application **17PZ00120** changed the zoning from RU-1-9 (Single-Family Residential) to GML(I) (Government Managed Lands – Institutional) on one parcel totaling 15 acres approximately 2,068 feet southeast of the subject parcel.

### **For Board Consideration**

The applicant is seeking a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential) for the purpose of legitimizing an undersized lot to build a single-family home. The subject parcel was subdivided and sold on May 31, 1985. The resulting parcel does not meet the 2.5 acre minimum lot size requirement for AU zoning. The applicant states they reached out to the owner of the parcel to the south to request the opportunity to purchase an additional 0.5 acres. That owner was not agreeable.

The applicant has submitted a Small Scale Comprehensive Plan Amendment application to change the FLUM from RES 1:2.5 to RES 1 under **19PZ00126**. Should the proposed Future Land Use designation of RES 1 be approved, then this request to RR-1 can be heard.

As a result of the Mims Small Area Study adopted in April of 2007, the Board directed staff to reduce residential density by one designation in the northern and western area of Mims. The subject property is within this area. The Future Land Use designation change resulted in a total of 25.61 acres on the south side of Richy Road being reduced by one designation from RES 1 to RES 1:2.5. Therefore, if rezoned, this lot will be the only RR-1 lot, surrounded by AU lots, south of Richy Road.

The Board may wish to consider whether the request is consistent and compatible with the AU parcels to the east, south and west, as well as and the BU-1 parcels located adjacent to U.S. 1. Should the Board not approve the change of zoning from AU to RR-1, the owners would need to

apply for a variance to the minimum lot area to attempt to legalize the lot under the AU zoning classification.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Rezoning Review & Summary**

**Item # 19PZ00127**

**Applicant:** Rebecca Reaves

**Rezoning Request:** AU to RR-1

**Note:** Applicant wants to legitimize lot to build single family home

**P&Z Hearing Date:** 01/13/20; **BCC Hearing date:** 02/06/20

**Tax ID No:** 2000310

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management (NRM) Department 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.**
- If the owner/applicant has questions regarding any potential limitations, s/he is encouraged to contact NRM at 321-633-2016 prior to design of any plans.

**Summary of Mapped Resources and Noteworthy Land Use Issues:**

- Hydric Soils
- Floodplain
- 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:**

**Hydric Soils**

The subject parcel contains hydric soils (Basinger sand-depressional) as shown on the USDA SCSSs soils map; an indicator that hydric soils and wetlands may be present on the property. Per Section 62-3694(c)(2), 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 would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. The preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts as described in Sec. 65-3694(c)(1)a above. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property as defined in Sec. 65-694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.

## **Floodplain**

The subject parcel is located within a mapped floodplain (potentially isolated) as identified by FEMA, and as shown on the FEMA Flood Map. The floodplain area is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. If within an isolated floodplain, then per Section 62-3724(1), development within isolated floodplain areas shall not increase the rate and volume of floodwater discharged from the predevelopment 100-year, 25-year, 10-year or annual mean riverine floodplain. Compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within the isolated floodplain greater than one third (1/3) acre in size. 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."

## **Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. 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.

## **Landscape Requirements**

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.