



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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

STAFF COMMENTS

19PZ00132

Charles and Lindsey Michell

GU (General Use) to AU (Agricultural Residential)

Tax Account Number: 2314035
Parcel I.D.: 23-35-33-010-14-7
Location: 5430 Florida Palm Avenue, Cocoa (District 1)
Acreage: 2.38 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 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	GU	AU
Potential*	One Single Family Unit	One Single Family Unit
Can be Considered under the Future Land Use Map	YES Residential 1:2.5	YES Residential 1:2.5

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

Background and Purpose of Request

The applicant is seeking a change of zoning classification from General Use (GU) to Agricultural Residential (AU) for the purpose of having farm animals, specifically a cow and potentially a horse in the future. The requested AU zoning classification permits farm animals.

GU zoning is original to the lot adopted May 22, 1958; no zoning actions have been previously applied for. The lot is a non-conforming lot of record located in the Canaveral Groves area. Pursuant to section 62-1188 structures are permitted on lots "provided that such lot of record met the requirements of the zoning regulations at the time such lot was recorded." The lot was recorded in Survey Book 2, Page 55 in August 1960. When zoning was adopted by Brevard County on May 22, 1958, GU required a minimum lot size of one acre and a minimum lot width and depth of 150 feet. On May 20, 1975, the GU lot size minimum was changed from one acre to five acres and a minimum lot width and depth of 300 feet. A GU lot recorded or platted prior to this date is considered non-

conforming if they are less than five acres and the lot has not been altered from its original configuration.

The subject parcel is 2.38 acres, which makes the parcel nonconforming to the GU five-acre standard required after May 20, 1975. Pursuant to section 62-1188(8), any nonconforming lot of record may be considered for rezoning to another zoning classification consistent with the Comprehensive Plan. If the rezoning were granted, the lot would continue to be nonconforming to today's standards as the AU zoning classification's minimum lot size, is 2.5 acres.

Land Use

The subject property retains the Residential 1:2.5 (RES 1:2.5) Future Land Use (FLU) designation. Both GU and AU zoning classifications are consistent with the Residential 1:2.5 (RES 1:2.5) Future Land Use (FLU) designation.

FLUE Policy 1.10, The Residential 1:2.5 land use designation, which establishes the lowest density of all the residential future land use designations, permits a maximum density of up to one (1) unit per 2.5 acres, except as otherwise may be provided for within this element. Development in the Residential 1:2.5 land use designation should seek to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses.

The parcel is nonconforming to the density required by the RES 1:2.5 FLU. The parcel contains 1 unit on 2.38 acres.

FLUE Policy 15.5, The following provisions for the development of non-conforming lots to allow for the reasonable use of such properties shall apply. At a minimum, the following criteria shall apply:

Criteria:

A. Non-conforming lots of record are those properties which meet the nonconforming provisions of the Brevard County Zoning Code but which are non-conforming to this Comprehensive Plan and/or Zoning regulations.

B. Non-conforming lots of record may be developed to a use permitted by Chapter 62, Article VI, Division 2, Subdivision II, "Non Conforming Uses" of the Brevard County Land Development Regulations, provided that it is also a use permitted by the Future Land Use Map of this Comprehensive Plan.

C. The Land Development Regulations should continue to include provisions for minimum lot dimensions and setbacks for non-conforming lots of record to ensure that these uses will be compatible with surrounding land uses.

D. If an existing non-conforming lot does not meet the minimum lot size established by this element, relief may be obtained in accordance with the Zoning Code of Brevard County.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 and other pertinent regulations on pages 6 through 9 of these staff comments.

Environmental Constraints

- Hydric Soils
- Aquifer Recharge Soils
- Protected Species
- Heritage Specimen Trees

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 subject property is on the concurrency management segment of Citrus Boulevard, between Pine Street and Lee Street, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of D, and currently operates at 24.55% of capacity daily. As the parcel is currently developed with a single-family residence, the trip generation from the proposed rezoning application will not produce additional trips, which is 10 trips per day and 1 trip during the PM peak hour and 1 trip during the AM peak hour. The corridor is anticipated to operate at the same 24.55% 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 subject property can connect to potable water through the City of Cocoa. The subject property is not served by sewer. Potential sewer connection to county sewer is over 9,300 feet away in a Northeast direction at the intersection of Fay Boulevard and Homestead Avenue.

Applicable Land Use Policies

The abutting parcels to the north and south are zoned GU; to the east across the street is zoned AU; to the west is a drainage ditch, on the other side of which is undeveloped land zoned GU. The FLU classification in the entire surrounding area is RES 1:2.5. Nearby properties are zoned AU or GU on lots slightly smaller than 2.5 acres. The trend in the surrounding area is a gradual transition from GU zoning to AU zoning.

There have been two zoning actions within a half-mile of the subject property within the last five years. On September 5, 2019, application **19PZ00069** changed the zoning from GU to AU on one parcel totaling 2.09 acres located approximately 1,172 feet north of the subject property. On March 7, 2019, application **18PZ00145** changed the zoning from GU to AU on one parcel totaling 2.38 acres located approximately 1,989 feet south of the subject property.

The subject parcel has 2.38 acres which makes the parcel nonconforming to the GU five-acre requirement required after May 20, 1975. Pursuant to section 62-1188(8), any nonconforming lot of record may be considered for rezoning to other zoning classifications consistent with the Comprehensive Plan. If the rezoning were granted, the lot would continue to be nonconforming to today's standards as the AU zoning classification's minimum lot size, is 2.5 acres. The parcel is also nonconforming to the density required by the RES 1:2.5 FLU as it currently contains 1 unit on 2.38 acres.

For Board Consideration

The applicant is seeking a change of zoning classification from General Use (GU) to Agricultural Residential (AU) for the purpose of having farm animals, specifically a cow and potentially a horse in the future. The requested AU zoning classification permits having farm animals.

The subject parcel is 2.38 acres which makes the parcel nonconforming to the GU five-acre standard required after May 20, 1975. Pursuant to section 62-1188(8), any nonconforming lot of record may be considered for rezoning to other zoning classifications consistent with the Comprehensive Plan. If the rezoning were granted, the lot would continue to be nonconforming to today's standards as the AU zoning classification's minimum lot size, is 2.5 acres. Because it is a non-conforming lot, the Board may consider this request.

The trend of the surrounding area is a gradual transition from original GU zoning to AU zoning.

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

Item # 19PZ00132

Applicant: Lindsey & Charles Michell

Zoning Request: GU to AU

Note: Applicant wants agricultural use; raising & grazing animals

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

Tax ID No: 2314035

- 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:

- Hydric Soils
- Aquifer Recharge Soils
- Protected Species
- Heritage Specimen Trees

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 mapped Basinger sand as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that hydric soils and wetlands may be present on the property. Section 62-3694(a)(1) states that agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not adversely affect the functions of wetlands and do not result in permanent degradation or destruction of wetlands. Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt. **The Brevard County Property Appraiser's Office establishes Bona Fide Agricultural land classification and should be contacted at 321-264-5393 for requirements regarding this classification.** Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and Section 62-3696. Prior to approval of any building permits, a wetland determination/delineation will be required. Accessory structures, such as a barn, are not permitted in wetlands. Prior to any land clearing activities, plan design or permit submittal, the applicant is encouraged to contact NRM at 321-633-2016.

Aquifer Recharge Soils

Basinger sand may also function as an aquifer recharge soil. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

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.

Heritage Specimen Trees

The parcel contains a mapped polygon of SJRWMD Florida Land Use and Cover Classification System (FLUCCS) code 4110 – Pine Flatwoods Forest. Aerials indicate that Heritage Specimen Trees (greater than or equal to 24 inches in diameter), including Pines and Southern Live Oak, may reside on subject property. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, 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 tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.