



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

19PZ00134

John Vogt

RU-1-7 (Single-Family Residential) and TR-1 (Single-Family Residential) to AU(L) (Agricultural Residential)

Tax Account Numbers: 2002584, 2002585, 2002587, 2003161, 2002586, 2003162, 2002593, 3020704

Parcel I.D.: 20G-34-37-AF-37-10; 20G-34-37-AF-37-11; 20G-34-37-AF-37-17; 20G-34-41-AF-37-8; 20G-34-37-AF-37-15; 20G-34-41-AF-37-13; 20G-34-37-AF-89-14; 20G-34-37-AF-*-R

Location: No assigned address. In the Mims area. (District 1)

Acreage: 3.20 acres

Planning and Zoning Board: 01/13/20

Board of County Commissioners: 02/06/20

Consistency with Land Use Regulations

- Current zoning cannot be considered under the Future Land Use Designation, Section 62-1255, however lots are considered nonconforming to the Comprehensive Plan and are subject to Section 62-1188 Nonconforming lots of record.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255 and removes the Nonconforming status.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	RU-1-7 and TR-1	AU(L)
Potential*	18 units	One unit
Can be Considered under the Future Land Use Map	No requires RES 6 However Lots are nonconforming to the FLU subject to section 62-1188	YES

* 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 RU-1-7 (Single-Family Residential) and TR-1 (Single-Family Mobile Home) to AU(L) (Agricultural Residential (Low Intensity) for the purpose of building a barn for agriculture supplies and equipment to maintain the property before building a single-family house. The subject parcel is vacant land.

The owner of the subject parcel has a combined 18 platted lots along with the vacated 50 feet right-of-way of Pike Street under one deed per Official Records Book 8572, Page 614 to meet the 2.5-acre minimum lot size required for AU(L). Previously, the 50 feet Pike Street right-of-way was vacated by the County Commission per Resolution 2019-116 on July 23, 2019, and recorded in Official Records Book 8514, Page 2278.

Land Use

The subject property retains the RES 1 (Residential 1) Future Land Use designation. The existing zoning classifications RU-1-7 and TR-1 are not consistent with the Future Land Use designation RES 1, however the lots are considered nonconforming to the Comprehensive Plan and are subject to Section 62-1188 Nonconforming lots of record. The proposed AU(L) is consistent with the RES 1 (Residential 1) Future Land Use designation.

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

The subject parcel contains 90% mapped National Wetlands Inventory wetlands; hydric soils; aquifer recharge soils; heritage specimen trees and protected species. A wetland delineation will be required prior to any site planning, land clearing activities, or building permit submittal. The applicant is encouraged to contact Natural Resources Management at 321-633-2016 for further information.

Preliminary Transportation Concurrency

The closest concurrency management segment to the subject property is Highway US 1, between Burkholm Road and the Volusia County line, which has a Maximum Acceptable Volume (MAV) of 40,300 trips per day, a Level of Service (LOS) of C, and currently operates at 10.52% 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 10.53% of capacity daily (LOS C). The proposal is (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 serviced by Brevard County sewer. The closest available Brevard County sewer line is approximately 7.25 miles south of the subject parcel and is located on Highway U.S. 1.

The parcel is not serviced by Brevard County water. The closest available Brevard County water line is approximately 4.75 miles south of the subject parcel, and this water line runs along the east side of Highway U.S. 1.

Applicable Land Use Policies

The current RU-1-7 classification permits single family residences on minimum 5,000 square-foot lots with minimum width of 50 feet and depth of 100 feet. The minimum house size is 700 square feet.

The AU(L) zoning classification permits single-family residences and agricultural pursuits on 2.5 acre lots for personal use, with a minimum lot width and depth of 150 feet. The minimum house size in AU(L) is 750 square feet. The AU(L) classification also permits the raising/grazing of animals, fowl and beekeeping for personal use and prohibits commercial agricultural activities and no selling of agricultural products from the site.

The developed character of the area along Palm Street is RU-1-7 and TR-1 zoning with a Future Land Use (FLU) designation of RES 1. There is AU (Agriculture Residential) and RR-1 (Rural Residential) zoning located west of the subject parcel which is separated from the subject parcel by the undeveloped 40 feet wide Mangrove Street. The RR-1 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.

The abutting parcels to the north are zoned RU-1-7 and the northwesterly parcel is developed with a single-family home on 0.82 acres. The abutting northeasterly parcel is vacant land and is owned by the applicant, but is not part of this application. The abutting parcel to the east is the undeveloped 40 feet wide Mangrove Street. The parcels east of the said undeveloped 40 feet Mangrove Street are zoned AU, RR-1 and RU-1-7. The abutting parcel to the south is zoned RU-1-7. West of the parcel is Palm Street a 50 feet wide Right-of-Way. The parcels abutting Palm Street to the west are zoned RU-1-7 and TR-1. Each of the adjacent parcels has RES 1 Future Land Use.

There has been one zoning action within a half-mile of the subject property within the last six years. On December 05, 2013, application **13PZ-00082** changed the zoning from AU to RR-1 on a parcel totaling 4.25 acres located approximately 1,250 feet northeast of the subject parcel.

For Board Consideration

The applicant is seeking a change of zoning classification from RU-1-7 (Single-Family Residential) and TR-1 (Single-Family Mobile Home) to AU(L) (Agricultural Residential (Low Intensity)) for the purpose of building a barn for agriculture supplies and equipment to maintain the property before building a single-family house. The proposed AU(L) is consistent with the Residential 1 Future Land Use.

The owner of the subject parcel has a combined 18 platted lots along with the vacated 50 feet right-of-way of Pike Street under one deed per Official Records Book 8572, Page 614 to meet the 2.5 acre minimum lot size required for AU(L). Previously, the 50 feet Pike Street Right-of-Way was vacated by the County Commission per Resolution 2019-116 on July 23, 2019 and recorded in Official Records Book 8514, Page 2278.

The Board may wish to consider the setbacks allowed for a barn in AU and AU(L) require a 50 feet side and rear setback.

The Board may wish to consider whether the request is consistent and compatible with the surrounding areas with RU-1-7 and TR-1 parcels to the north, south and west. The Board may also wish to consider the effect of the potential agritourism adjacent to single-family residential.

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

Item # 19PZ00134

Applicant: John Vogt

Zoning Request: RU-1-1 & TR-1 to AU(L)

Note: Applicant wants to rezone combined parcels to erect a barn for personal storage.

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

Tax ID Nos: 2002593, 2002585, 2002584, 2002587, 2003161, 2002586, & 2003162

- 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:

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

The subject parcel contains 90% mapped NWI wetlands and hydric soils. A wetland delineation will be required prior to any site planning, land clearing activities, or building permit submittal. The applicant is encouraged to contact NRM at 321-633-2016.

Land Use Comments:

Wetlands

The subject parcel contains approximately 90% mapped NWI wetlands and hydric soils (Pompano sand) as shown on the NWI Wetlands and USDA Soil Conservation Service Soils Survey maps, respectively; indicators that wetlands may be present on the property. 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 further requirements related to obtaining this classification.**

Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and Section 62-3696.

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).

A wetland delineation will be required prior to any structure planning or land clearing activities.

Aquifer Recharge Soils

Pompano 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.

Heritage Specimen Trees

Aerials indicate that Heritage Specimen Trees (greater than or equal to 24 inches in diameter) 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, Definitions, 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.

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.