



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

19PZ00140

Estrella Funeias Shouppe

GU (General Use), RRMH-1 (Rural Residential Mobile Home), and AU (Agricultural Residential) to all AU with a Binding Development Plan (BDP) Limiting the Subject Property to Seven Lots

Tax Account Number: 3000537 and 3000560
Parcel I.D.: 30-37-09-26-*-28
Location: North side of Willowbrook Street approximately 0.75 miles west of Babcock Street) (District 5)
Acreage: 31.04 acres

Planning and Zoning Board: 01/13/20

Board of County Commissioners: 02/06/20

Consistency with Land Use Regulations

- Current GU and AU zoning can be considered, but current RRMH-1 zoning can not 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, RRMH-1, and AU	All AU
Potential*	10 Single-Family Residential Lots	7 Single-Family Residential Lots
Can be Considered under the Future Land Use Map	No, RRMH-1 Portion is Not Consistent with RES 1:2.5	Yes AU is Consistent with RES 1:2.5

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. Applicant voluntarily requesting property be limited to Seven Lots via a BDP.

Background and Purpose of Request

The applicant is seeking a zoning change from General Use (GU), Rural Residential Mobile Home (RRMH-1), and Agricultural Residential (AU) to all AU in order to develop the 31.04-acre property in the future with a use that is consistent with AU zoning.

The original zoning of the entire property was General Use (GU). A portion of the property was rezoned from GU to RRMC-1 per zoning resolution **Z-4004** approved January 1976. A CUP for a Commercial Barrow Pit was approved April 1989 under Zoning Resolution **Z-8370**. This CUP was removed April 14, 2003, per **Z-10800 (27)**.

The existing zoning was adopted under zoning resolution **Z-9939** on July 28, 1997.

Land Use

This site retains the Residential 1:2.5 FLU (Future Land Use) designation. The existing zoning classifications of GU and AU are consistent with the Future Land Use designation, but the existing zoning classification of RRMH-1 is not consistent with the RES 1:2.5 FLU.

FLUE Policy 1.10 Residential 1:2.5 (maximum of 1 unit per 2.5 acres)

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 Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 through 8 of the Future Land Use Element.

Environmental Constraints

The property is mapped within the Indian River Lagoon Septic Overlay. The change in use to AU may require septic system modifications designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. The applicant shall contact the Florida Department of Environmental Health at 321-633-2100 for applicable requirements.

Please refer to comments provided by the Natural Resources Management Department for additional information.

Preliminary Transportation Concurrency

The concurrency management segment the subject property is nearest to is the concurrency management segment of Babcock Street, Micco Road, and Grant Road, which has a Maximum Acceptable Volume (MAV) of 14,200 trips per day, a Level of Service (LOS) of D, and currently operates at 38.61% of capacity daily. The trip generation from the maximum development potential within the AU zoning classification, as reduced to seven lots by the applicant, is 67 trips per day and 7 trips during the PM peak hour. The trips anticipated from this proposed change of zoning classification will not create a deficiency in LOS.

The applicant has offered to enter into a BDP (Binding Development Plan) to limit the subject property to seven lots because a concurrency application has not been submitted for review. With the BDP, the development potential of this site falls below the minimum number of new residential lots that would require a formal review, therefore no concurrency information is provided.

The subject property is neither served by county nor city potable water. The property also is neither served by county nor city sanitary sewer. The closest water and sewer services are City of Palm Bay utilities in the Waterstone development, three-quarters of a mile directly north of the property in the City of Palm Bay. The applicant indicates that they intend to use a well for potable water and onsite septic system for sanitary sewage treatment. Please see Environmental Constraints Section above in these staff comments for septic system requirements.

Applicable Land Use Policies

The applicant is seeking a zoning change from General Use (GU), Rural Residential Mobile Home (RRMH-1), and Agricultural Residential (AU) to all AU in order to develop the 31.04 acre property in the future with a use that is consistent with AU zoning.

There are two adjacent properties to the north. The westernmost property to the north is an approximately 11 acre parcel that retains AU zoning and is developed with a single-family residence. The easternmost property to the north is a 5.59 acre parcel, approved as a flag lot with access to Willowbrook Road, retains GU zoning, and is developed with a barn that serves as an accessory structure to growing crops. The flag stem of this lot also abuts the subject property along the eastern lot line of the subject property. To the east of that flag stem is a flag stem for an 8.93-acre parcel that retains AU zoning and is developed with a single family residence to the northeast of the subject property. The property to the south is the County maintained road known as Willowbrook Street. To the south of Willowbrook Street is a 3.31-acre undeveloped parcel that retains GU zoning. The adjacent property to the west is 9.74-acre parcel developed as single family residential that retains GU zoning. The proposed zoning is consistent with agricultural and residential character of adjacent properties and the surrounding area, but could allow some more intense agricultural uses.

There have been no zoning actions within 0.5 miles of the subject property within the last three years. The most recent zoning action within 0.5 miles was **Z-10817(24)**, approved May 22, 2003, removed CUP **Z-8432** for a Commercial Barrow Pit on a property located approximately 2,500 feet east of the subject property.

For Board Consideration

The Board may wish to consider if all permitted and permitted with conditions uses in the AU zoning classification are consistent and compatible with the existing land use, Future Land Use designation, and zoning of adjacent and surrounding properties.

The Board may also wish to consider the effect of the potential agritourism adjacent to single-family residential.

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

Item # 19PZ00140

Applicant: Estrella Shouppe

Zoning request: AU & GU & RRMH-1 to AU

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

Tax ID Nos: 3000560 & 3000537

- 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
- Indian River Lagoon Septic Overlay
- Protected Species

The property is mapped within the Indian River Lagoon Septic Overlay. The change in use to AU may require septic system modifications designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. The applicant shall contact the Florida Department of Environmental Health at 321-633-2100 for applicable requirements.

Land Use Comments:

Hydric soils

The subject parcel contains mapped hydric soils (Pineda sand and Eau Gallie sand) as shown on the USDA Soil Conservation Service Soils Survey map; and indicator that hydric soils and wetlands may be present on the property. A wetland determination and delineation may be required. Prior to any land clearing activities, plan design or permit submittal, the applicant is encouraged to contact NRM at 321-633-2016.

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. 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), for multi-family parcels greater than 5 acres in area, and if applicable, mixed-use land development activities as specified in Section 65-3694(c)(5). Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and Section 62-3696.

A request for AU zoning may include agricultural activities. Section 62-3694 that states that agricultural and forestry operations utilizing best management practices shall be permitted in wetlands provided they 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.

Indian River Lagoon Septic Overlay

The property is mapped within the Indian River Lagoon Septic Overlay. The change in use to AU may require septic system modifications designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. The applicant shall contact the Florida Department of Environmental Health at 321-633-2100 for any applicable requirements.

Protected Species

Federally and/or state protected species may be present on properties with aquifer recharge soils. Should any protected species be present, 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 prior to any plan, permit submittal, or development activity, including land clearing, as applicable.

Heritage Specimen Trees

Aerials indicate that Heritage Specimen Trees (greater than or equal to 24 inches in diameter) and Protected trees (greater than or equal to 10 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.