



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

20Z00028

Donald Minnick

AU (Agricultural Residential Use) and EU-2 (Estate Use Residential) with BDP to all EU-2 with removal of BDP

Tax Account Number: 2112241

Parcel I.D.: 21-34-24-25-D-1

Location: 670 feet west of King Richards Drive on right side of London Town Road
(District 1)

Acreage: 0.24 acres

Planning and Zoning Board: 11/09/2020

Board of County Commissioners: 12/03/2020

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	AU & EU-2 with BDP	EU-2
Potential*	0	One Single Family Unit
Can be Considered under the Future Land Use Map	YES Residential 15	YES Residential 15

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

Background and Purpose of Request

The applicant is requesting a change of zoning classification from AU (Agricultural Residential Use) and EU-2 (Estate Use Residential) with Binding Development Plan (BDP) to all EU-2 with removal of BDP for the purpose of building a single-family residence.

The parcel's split zoning fails to incorporate sufficient land area under either zoning classification to meet the required minimum lot area, lot width or lot depth of either zoning classification. To correct this issue, the applicant has opted to expand the EU-2 zoning to cover the entire lot. As the current BDP contains parameters not applicable to this lot, the applicant is also requesting to remove the BDP from this property. The BDP covered an area which later became the Eagle Pointe Subdivision recorded in Plat Book 52 Page 37. The subdivision identifies the subject property as Lot 1, Block D, which is separate from Tract A and B (park tracts) as identified in the BDP. The BDP parameters in Z-

9537 adopted on May 19, 1995 and recorded in ORB 3477, Pages 3615 through 3626, identify the following four (4) limitations/criteria:

1. Developer/owner shall provide a natural buffer from the project commonly referred to as Sherwood Forest Townhomes. Developer/owner agrees that the property described in Tract "A" in Exhibit "B" shall constitute the buffer. Construction of any structure on Tract A as shown on Exhibit "B" is hereby prohibited and Tract "A" shall remain undeveloped. The restrictions set forth in this agreement shall also be set forth on the plat of the property.
2. Developer/owner agrees to provide for the maintenance of Tract "A". Prior to the platting of the proposed subdivision within Exhibit "A", Developer/owner will add a line of trees on the property line between lot number 28 and Tract "A". The trees shall be no further than 10 feet apart.
3. Vehicle/equipment storage or staging is prohibited within Tract "A".
4. Developer/owner agrees that the area identified as "Park" and described in Exhibit "C" shall be a green belt of trees and grass and absent of playground or similar equipment. The park shall be maintained by the Developer/owner or by a homeowner's association.

The BDP conditions noted above, may still need to be enforced upon the remaining properties within the Eagle Pointe Subdivision recorded in PB 52 PG 37 with recording date of October 22, 2004.

The AU zoning is original to the lot adopted May 22, 1958. The lot was created under the Eagle Point Subdivision as Block D, Lot #1.

There appears to be a golf cart path which crosses the NW portion of this lot. An easement for this golf cart path has not been depicted in the recorded plat nor has it been identified within the recorded property deed. However, the golf cart path has been located upon the survey that the applicant provided and it appears to not interfere with the proposed location of the proposed single-family residence (12-feet separates the path from the edge of the proposed residential structure). The applicant should address this issue prior to obtaining approval of the active building permit currently under review (**20BC14689**). This permit is for the construction of a 2,036 square foot living area residence with attached garage and porches for a total size of 2,794 square feet.

Land Use

The subject property is currently designated Residential 15. Both the existing AU and EU-2 zoning classifications are consistent with this Future Land Use designation.

Environmental Constraints

The subject parcel contains mapped SJRWMD wetlands and hydric soils, indicators that wetlands may be present on the property. A wetland determination will be required prior to any plan design, land clearing activities, or building permit submittal. 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. For subdivisions greater than five acres in area, 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). The applicant is

encouraged to contact NRM at 321-633-2016 prior to any planning or land clearing activities.

Preliminary Concurrency

The closest concurrency management segment to the subject property is N. Carpenter Road, between Dairy Road and SR 46, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 29.92% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 0.06%. The corridor is anticipated to continue to operate at 29.98% 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 currently serviced by Brevard County's public water and sewer system. Public water is adjacent to the east and sewer to the west of this lot.

Applicable Land Use Policies

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 of the Future Land Use Element.

FLUE Policy 1.4 – The Residential 15 Future Land Use designation affords the second highest density allowance, permitting a maximum residential density of up to fifteen (15) units per acre. This land use category allows single and multi-family residential development.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area. This request may be considered to be consistent with the Residential 15 FLUM. The lot is a 0.24-acre site and is proposed for single-family usage. A second FLUM of RES 4 lies 750 feet to the west and 1,000 foot to the north of this lot. The proposed single-family residential use is compatible with the mix of single-family and multi-family uses in the area.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The developed character of the surrounding area is a mix of single family detached dwellings under the EU-2, RU-1-11 and RU-1-13 zoning classifications, townhouses under the PUD zoning designation and a condominium developed under the RU-2-30 zoning designation. The proposed removal of the BDP conditions from this parcel will have no impact upon those areas retaining the BDP. Site specific conditions of the BDP affected other portions of the Eagle Pointe development outside of this lot. The recorded Plat identified the subject property as a separate lot.

Surrounding Area

This lot abuts roadways on its east and west. To the north is an open space tract identified as Tract B of the Eagle Pointe Subdivision recorded in PB 52 PG 37. To the south is a vacant residential lot zoned PUD. Zoning classifications in the immediate area are: EU, EU-2 and PUD.

The EU zoning classification is an estate single family residential zoning classification. The minimum lot size is 15,000 square feet with a minimum lot width and depth of 100 feet. The minimum living area is 2,000 square feet.

The EU-2 zoning classification is an estate single family residential zoning classification. The minimum lot size is 9,000 square feet with a minimum lot width of 90 feet and depth of 100 feet. The minimum living area is 1,500 square feet.

The Planned Unit Development (PUD) encourages and permits variation in development by allowing deviation in lot size, bulk or type of dwellings, density, lot coverage and open space from that required in any one residential zoning classification. The purpose of a PUD is to encourage the development of planned residential neighborhoods and communities that provide a full range of residence types, as well as industrial, commercial and institutional land uses. Variance **V-1964** proposed development of this tract as a single-family tract .

There have been no zoning actions within a half-mile radius of the subject property within the last three years.

For Board Consideration

The applicant is requesting to remove the parcel's split zoning by rezoning the entire lot from AU and EU-2 to all EU-2. The applicant is also requesting to remove the existing BDP conditions which does not directly limit building on this lot. The current BDP parameters in **Z-9537** adopted on May 19, 1995 and recorded in ORB 3477, Pages 3615 through 3626, contain four (4) limitations:

The Board may wish to consider whether the request is consistent and compatible with the surrounding neighborhood given that the EU-2 zoning classification offers a minimum living area of 1,500 square feet.

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

Item # 20Z00028

Applicant: Scott Minnick

Zoning Request: AU & EU-2 w/ BDP to EU-2 and remove BDP

Note: Applicant wants to make lot useable to build a single-family residence.

P&Z Hearing Date: 11/09/20; **BCC Hearing Date:** 12/03/20

Tax ID No: 2112241

- 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:

- Wetlands/Hydric Soils
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped SJRWMD wetlands and hydric soils, indicators that wetlands may be present on the property. A wetland determination will be required prior to any plan design, land clearing activities, or building permit submittal. 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. For subdivisions greater than five acres in area, 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). The applicant is encouraged to contact NRM at 321-633-2016 prior to any planning or land clearing activities.

Land Use Comments:

Wetlands/Hydric Soils

The subject parcel contains mapped SJRWMD wetlands and hydric soils (Terra Ceia muck) as shown on the USDA Soil Conservation Service Soils Survey map, indicators that wetlands may be present on the property. 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. For subdivisions greater than five acres in area, 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). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) and 62-3696.

Protected and Specimen Trees

Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Protected and 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.