



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>

BOARD OF COUNTY COMMISSIONERS

STAFF COMMENTS
20Z00101
Ag Ventures, LLC
RU-1-7 to RU-1-7 with BDP

Tax Account Number: 2102924, 2112294 and 2102925
 Parcel I.D.: 21-35-08-00-501, 21-35-08-00-569 and 21-35-08-00-503
 Location: On the northeast corner of Wiley Avenue and Old Dixie Highway, in the Mims area (District 1)
 Acreage: 110 acres
 Planning & Zoning Board: 01/11/2021
 Board of County Commissioners: 02/04/2021

Consistency with Land Use Regulations

- Current zoning cannot 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	RU-1-7	RU-1-7 with BDP**
Potential*	0 units	440 units
Can be Considered under the Future Land Use Map	No, RU-1-7 requires RES 6 (Residential 6)	Yes, BDP** (Binding Development Plan) proposes to limit density to 4 units per acre, 440 units

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

** The applicant has submitted a BDP (Binding Development Plan) to limit density to 4 units per acre to be consistent with the density requirement of RES 4 Future Land Use (FLU).

Background and Purpose of Request

The applicant is requesting a BDP (Binding Development Plan) for the purpose of developing a single-family subdivision, Hamlin Grove, which will limit the density on the parcels to four units per acre, 440 units on 110 acres, for the zoning classification to be consistent with the RES 4 FLU designation.

The applicant has provided a conceptual plan showing the anticipated location, the lot configuration, ingress/egress access and stormwater tracts for the proposed new subdivision and plat, Hamlin

Grove. Please note the concept plan does not meet the minimum requirements of the County's subdivision code and cannot be used to satisfy that requirement. Also, Interdepartmental Departments have not been conducted review and feasibility of the layout cannot be confirmed without a formal subdivision application review. The applicant has submitted a site plan (20SD00018) for subdivision and plat review.

March 01, 2005, Zoning action **Z-11036** changed the zoning from AU (Agricultural Residential) and RU-1-7 to RU-1-11 with a BDP limiting development of the property to a density of 3 units per acre, with a maximum of 300 units.

December 04, 2014, Zoning action **14PZ-00091** changed the zoning from RU-1-11 to RU-1-7 and removed the BDP. This Zoning action **14PZ-00091** also was to include a revised BDP to limit the density to 370 units. This revised BDP was overlooked at the Planning & Zoning and Brevard County Commission meeting and the revised BDP was never approved or recorded with this zoning action.

Land Use

The subject property retains the RES 4 (Residential 4) FLU (Future Land Use) designation. The current RU-1-7 zoning is not consistent with the RES 4 Future Land Use designation per 62-1255 (2). The proposed BDP (Binding Development Plan) limiting the density to 4 units per acres, 440 units on 110 acres, is for the RU-1-7 zoning to be consistent with the RES 4 FLU designation density.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- National Wetland Inventory (NWI) Wetlands
- SJRWMD Wetlands
- Hydric Soils
- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped NWI wetlands, SJRWMD wetlands, and hydric soils. 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), including avoidance of impacts, and 62-3696. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

Please see NRMD comments at the end of this report for further details.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Highway US 1, between State Highway 46 and Lionel Road, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 26.35% of capacity daily. The maximum development potential from the proposed BDP, limiting the development to 440 units, increases the percentage of MAV utilization by 10.02%. With the maximum development potential for the proposed BDP, the corridor is anticipated to operate at 36.37% of capacity daily (LOS D). The maximum development potential of the proposed BDP would not create a deficiency in LOS.

According to the School Impact Analysis Capacity Determination Letter (SCADL-2020-17) dated October 20, 2020, the proposed development for the subject property is projected to generate 123 elementary students, 35 middle school students, and 70 high school students. SCADL-2020-17 concludes: "At this time, Pinewood Elementary School is not projected to have enough capacity for the total of the projected and potential student from the Hamlin Grove development. Because there is a shortfall of available capacity in the concurrency service areas of the Hamlin Grove development, the capacity of adjacent concurrency service areas must be considered. The adjacent elementary school concurrency service area is Mims Elementary School. Considering the adjacent elementary school concurrency service area, there is sufficient capacity for the total projected student membership to accommodate the Hamlin Grove development.

The parcels and proposed subdivision will be serviced by Brevard County sewer.

The parcels and proposed subdivision will be serviced by Brevard County water.

Land Use Policy 1.2 addresses residential density requirements for sewer and potable water.

Applicable Land Use Policies

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, outlined in the Administrative Policies.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.

The abutting parcels to the north have FLU designations of RES 4 (Residential 4) and REC (Recreation). The abutting parcels to the east and south have FLU designation of RES 4 (Residential 4). The parcels to the west, west of Old Dixie Way, have a FLU designation of CC (Community Commercial). The RU-1-7 zoning classification is not consistent with RES 4 FLU.

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

The RU-1-11 classification permits single family residences on minimum 7,500 square foot lots, with a minimum width and depth of 75 feet. The minimum house size is 1,100 square feet.

The BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The subject parcels are currently zoned RU-1-7 and are currently undeveloped vacant land. There is a neighborhood of RU-1-7 zoning abutting the south of the subject parcel and along the north side of Wiley Avenue that is developed with single-family homes along with undeveloped lots.

The surrounding area of the subject parcel has FLU designations RES 4 and REC which are not consistent with the current RU-1-7 zoning classification.

There have been two recent zoning actions within a half-mile of the subject property within the last four years.

On October 13, 2016, application **16PZ00070**, changed the zoning from AU to SR on a 0.55 acre parcel, located on the west side of Folsom Road, approximately 1,795 feet southwest of the subject property.

On August 24, 2017, application **17PZ00009** changed the zoning from BU-1 to BU-2 with a Binding Development Plan (BDP) limiting development to include mini-warehouse, trailer, truck and boat storage, located on the west side of Highway US 1, approximately 714 feet southwest of the subject property.

Surrounding Properties

The abutting parcels to the north are an undeveloped 2.12 acre parcel with GML (Government Managed Lands) and an undeveloped 10 acre parcel with RU-1-11 (Single-Family Residential) zoning.

The abutting parcels to the east are an undeveloped 30 acre parcel with RR-1 (Rural Residential) and an undeveloped 58.95 acre parcel with RU-1-11 zoning. Also, to the east is a 16.07 parcel with IU (Light Industrial) zoning which is developed with commercial buildings and being used as a storage yard. This IU zoned parcel also has a RES 4 FLU which is not consistent with IU zoning. However, this parcel was rezoned from AU to IU on July 3, 1969 per zoning action **Z-2466** and the buildings were built before the Future Land Use of the Comprehensive plan was adopted in 1988.

The abutting parcels to the south have IN(L) (Institutional Use Low Intensity) zoning which is developed with a church; RU-1-7 (Single-Family Residential) parcels which are developed with single-family residences and a vacant 0.5 acre parcel with RU-1-11 zoning. Also, to the south is a 1.01 acre parcel with AU (Agricultural Residential) zoning which is developed with multi-family units for the Housing Authority of Brevard County. The AU zoning on this parcel is the original zoning and the multi-family units were built before zoning was adopted by Brevard County in 1958.

The parcel to the west directly across Old Dixie Highway has BU-1 (General Retail Commercial) zoning, RU-1-11 and RU-1-7 zoning. This parcel is also owned by the applicant and the BU-1 and RU-1-7 portions will be used for ingress to the proposed Hamlin Grove subdivision along with retention for the subdivision and future commercial uses on the remainder of the BU-1.

The IN(L) Institutional (Light) classification is intended to promote low impact private, nonprofit, or religious institutional uses to service the needs of the public for facilities of an educational religious, health or cultural nature. Minimum lot size shall be at least 7,500 square feet, with a minimum width

and depth of at least 75 feet. Where listed as a permitted use with conditions in the low intensity designation, institutional uses must be at least one (1.0) acre in size.

The AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet.

The GML government managed lands zoning classification is to recognize the presence of lands and facilities which are managed by federal, state and local government, special districts, nongovernmental organizations (NGOs) providing economic, environmental and/or quality of life benefits to the county, electric, natural gas, water and wastewater utilities that are either publicly owned or regulated by the Public Service Commission, and related entities. GML required a minimum lot size and area of not less than 7,500 square feet is required, having a width and depth of at least 75 feet.

The IU zoning classification permits light industrial land uses within enclosed structures. The minimum lot size is 20,000 square feet, with a minimum width of 100 feet and a minimum depth of 200 feet.

For Board Consideration

The Board may wish to consider whether this request is consistent and compatible with the surrounding area and whether the proposed Binding Development Plan mitigates the potential impacts of the request.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item # 20PZ00101

Applicant: Chad Genoni

Zoning Request: BDP to limit density to four units per acre to be consistent with FLU.

Note: Applicant wants to develop subdivision with approximately 440 units.

P&Z Hearing Date: 01/11/2021; **BCC Hearing Date:** 02/04/2021

Tax ID Nos: 2102924, 2112294, 2102925

- 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:

- National Wetland Inventory (NWI) Wetlands
- SJRWMD Wetlands
- Hydric Soils
- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped NWI wetlands, SJRWMD wetlands, and hydric soils. 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), including avoidance of impacts, and 62-3696. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

The subject property may contain mapped Type 2 aquifer recharge soils that are found within aquifer recharge areas with elevations greater than or equal to 30 feet mean sea level (NGVD 1929). Per Section 62-3636, within Type 2 aquifer recharge soils, the maximum impervious surface shall be 35 percent, private lakes shall be prohibited, and land alteration shall not alter the recharge or storage characteristics of the area. A topographic survey will be required to at time of site plan review to

determine elevations in aquifer recharge areas. Information available to NRM indicates that recent, unpermitted land clearing activities may have occurred. The discovery of unpermitted land clearing activities may result in enforcement action.

Portions of the property are mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required.

The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

Land Use Comments:

Wetlands

The subject parcel contains mapped NWI wetlands, SJRWMD (Mixed scrub-shrub wetlands and mixed wetland hardwoods), and hydric soils (Anclote sand – depressionnal, and St. Johns sand - depressionnal) as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service Soils Survey maps, respectively. All are indicators that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities.

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) including avoidance of impacts, and 62-3696.

Aquifer Recharge Soils

A large area of the subject parcel contains mapped aquifer recharge soils (Paola fine sand, Orsino fine sand, and Pomello sand) as shown on the USDA Soil Conservation Service Soils Survey map. Topographic maps available to NRM indicate elevations greater than or equal to 30 feet mean sea level (NGVD 1929) in portions of the aquifer recharge areas. Per Section 62-3636, Type 2 aquifer recharge areas, the maximum impervious surface shall be 35 percent of the Type 2 aquifer recharge area on the site. Private lakes as described in article XIII, division 5, of this chapter shall be prohibited. Land alteration shall not alter the recharge or storage characteristics of the area. This includes the removal high permeability soils or replacement with lower-permeability soils. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance. Information available to NRM indicates that recent, unpermitted land clearing activities may have occurred. The discovery of unpermitted land clearing activities may result in enforcement action.

Indian River Lagoon Nitrogen Reduction Overlay

Portions of the subject property are mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. This could amount to over 100 new septic systems within the 60-meter Nitrogen Reduction Overlay area.

Protected and Specimen Trees

Aerials indicate that Protected (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) may exist on subject property. 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. Specifically, gopher tortoises can be found in areas of aquifer recharge soils. In addition, a Florida Scrub Jay polygon is mapped on the northern end of 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.