



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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**STAFF COMMENTS
 20Z00037**

Thomas and Rachel Darnell

SEU (Suburban Estate Use Residential) to AU (Agricultural Residential)

Tax Account Number: 2700779
 Parcel I.D.: 27-36-09-00-758
 Location: South side of Lake Washington Rd., approximately 550 feet west of McGraw Ave. (District 5)
 Acreage: 5.45 acres
 Planning and Zoning Board: 1/11/2021
 Board of County Commissioners: 2/04/2021

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	SEU	AU
Potential*	1 SFR lot	1 SFR lot
Can be Considered under the Future Land Use Map	YES RES 2	YES RES 2

* 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 Suburban Estate Use Residential (SEU) to Agricultural Residential (AU) for the purpose of having more horses than are allowed through a conditional use permit in SEU, which limits the total to six, as well as 4 to 5 goats. The lot currently contains a single-family residence as well as a pole barn. These animals will be for personal use of the owner.

SEU is the original zoning of the lot. The flag lot was created December 8, 1994 by **AA-966**.

Land Use

The property retains Residential 2 (RES 2) Future Land Use (FLU) designation. The existing zoning classification SEU is consistent with the RES 2 FLU designation. The proposed zoning classification, AU, is also consistent with the current FLU designation.

Environmental Constraints

The subject parcel contains mapped hydric soils with potential for 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 classification requirements. 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.

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.

Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and Section 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any land clearing, site plan design or building permit submittal.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Lake Washington Road, between the lake and Harlock Road, which has a Maximum Acceptable Volume (MAV) of 17,700 trips per day, a Level of Service (LOS) of D, and currently operates at 29.59% of capacity daily. The maximum development potential from the proposed rezoning not does increase the percentage of MAV utilization. The corridor is anticipated to continue to operate at 29.59% of capacity daily. The proposal is not anticipated to create a deficiency in LOS D.

The parcel has water access through the City of Melbourne. The parcel is not serviced by Brevard County sewer. The closest available Brevard County sewer line is located approximately 4.4 miles northeast of the subject property on the south side of Post Road.

Applicable Land Use Policies

FLUE Policy 1.8 - The Residential 2 land use designation permits lower density residential development with a maximum density of up to two (2) units per acre, except as otherwise may be provided for within this element. The Residential 2 land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan.

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

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area. The parcel is a flag lot with frontage along Lake Washington Road. The parcels to the north, east, and south are vacant lots zoned SEU with a FLUM of RES 2. The parcel to the west is a lot developed with a single-family home zoned SEU with a FLUM of RES 2. The majority of lots in the area hold this SEU and RES 2 pattern, with the exception of two 12.69 acre lots zoned AU with a FLUM of RES 2 approximately 1,200 feet to the west.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The subject property is currently developed with a single-family home and a pole barn. The area is primarily single-family homes on lots larger than an acre, with some lots containing pole barns or other structures accessory to agricultural uses. There is a subdivision on the opposite side of Lake Washington Road that lies within the jurisdiction of the City of Melbourne. There are several large parcels owned by the City of Melbourne consisting of a water treatment facility along the waterfront of Lake Washington located approximately 2,000 feet to the west.

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 AU classification permits all agricultural pursuits, including the packing, processing, and sales of commodities raised on the premises. The AU classification also permits the raising/grazing of animals, fowl, beekeeping and plant nurseries. Additionally, the AU zoning classifications allows exceptions to the number and size of accessory buildings.

The SEU zoning classification permits single-family detached dwellings on one acre lots, with a minimum width of 125 feet and depth of 200 feet.

Surrounding Area

The parcel is a flag lot with frontage along Lake Washington Road. The parcels to the north, east, and south are vacant lots zoned SEU with a FLUM of RES 2. The parcel to the west is a lot developed with a single-family home zoned SEU with a FLUM of RES 2. The majority of lots in the area hold this SEU and RES 2 pattern, with the exception of two 12.69 acre lots zoned AU with a FLUM of RES 2 approximately 1,200 feet to the west. The majority of lots in the area hold this SEU and RES 2 pattern, with the exception of two 12.69 acre lots zoned AU with a FLUM of RES 2 approximately 1,200 feet to the west.

Zonings in the surrounding area are: SEU and AU.

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

For Board Consideration

The Board may wish to consider whether the introduction of the AU zoning classification is consistent and compatible with the surrounding neighborhood, given the surrounding area is primarily SEU. In addition, the Board may wish to consider the potential effects of agritourism in the surrounding area.

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

Item # 20Z00037

Applicant: Moore for Darnell

Zoning Request: SEU to AU

Note: Applicant wants to have more horses and goats than current zoning allows.

P&Z Hearing Date: 01/11/21; **BCC Hearing Date:** 02/04/21

Tax ID No: 2700779

- 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/Wetlands
- Floodplain
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped hydric soils with potential for 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 classification requirements. 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.

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.

Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and Section 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any land clearing, site plan design or building permit submittal.

Land Use Comments:

Hydric Soils/Wetlands

The subject parcel contains 100% mapped hydric soils (Malabar-Holopaw-Pineda soils and Riviera sand) as shown on the USDA Soil Conservation Service Soils Survey map; an indicator 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 classification requirements. If Bona Fide Agriculture classification is not established, then land clearing and construction of accessory structures, including barns, are not permitted in wetlands. A wetland delineation will be required prior to any land clearing activities.

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.

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 Section 65-3694(c)(1)a of wetland ordinance. 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 Section 65-694(c)(6).

Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and Section 62-3696.

Floodplain

A portion of the property is mapped as being within the floodplain as identified by the Federal Emergency Management Agency (FEMA) and as shown on the FEMA Flood Zones Map. The parcel is within the riverine floodplain defined as lands which have a surface water connection to a major freshwater surface water body during a 100-year flood. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Per Section 62-3723(1)(a), Agricultural pursuits, including forestry silviculture operations, utilizing best management practices, and agricultural structures which will not restrict the flow of floodwaters above the ten-year floodplain elevation are permitted uses within the riverine 100-year, riverine 25-year, riverine ten-year floodplains of the county. Any applications for a building permit will require determining elevations of the riverine 100-year, riverine 25-year, and ten-year floodplains utilizing the best available data. Per Section 62-3724, development shall not result in a net change in the rate and volume of floodwater discharged from the pre-development riverine floodplain, and compensatory storage requirements shall apply. Additional impervious area increases stormwater runoff that can adversely impact nearby properties unless addressed on-site. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties." The applicant is encouraged to contact NRM at 321-633-2016 prior to any building permit submittal.

Protected and Specimen Trees

A majority of the subject property is mapped within SJRWMD FLUCCS codes 4340-Upland mixed coniferous and hardwoods. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are included in these FLUCCS codes, and are likely found on the subject parcel. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen trees. In addition, per 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.