



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

21Z00005

Annette and Michael Costello

RR-1 (Rural Residential) to AU (Agricultural Residential)

Tax Account Number: 2700924
Parcel I.D.: 27-36-10-25-*-21
Location: West side of Appaloosa Blvd., approximately 975 feet south of Smithfield
(District 4)
Acreage: 5.0 acres

Planning and Zoning Board: 04/05/2021
Board of County Commissioners: 05/06/2021

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	RR-1	AU
Potential*	Five single-family units	Two single-family units
Can be Considered under the Future Land Use Map	RES 2	RES 2

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

Background and Purpose of Request

The applicants are requesting a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential) on a five-acre lot in order to board horses and offer horses for hire. The applicants are attempting to resolve code enforcement action **20CE-01435** for running a business boarding horses and offering riding lessons. The parcel is currently developed with a single-family home, a pole barn, and a riding arena. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence but does not permit commercial activities. In addition to the boarding of horses and horses for hire, AU zoning would allow for other agricultural pursuits including the raising and grazing of animals, plant nurseries, and the packing, processing, and sales of commodities raised on the premises.

Zoning action **Z-2658** changed the zoning from the original zoning of GU to RR-1 on July 27, 1970. The administrative action **AA-1487** granted two flag lots on May 25, 2000. This action was filed under the previous owner. The current owners have no plans to split the lot into the configuration with two flag lots and instead chose to develop the full 5-acre lot.

Boarding of horses and horses for hire is a conditional use in AU where the number of horses does not exceed four per acre. The applicant does not plan to exceed this number. The conditions of Sec. 62-1913 must be met, which states: "A minimum lot area of five acres shall be required for boarding of horses and horses for hire, and all structures for the permanent or temporary housing of horses shall meet the setback requirements for such structures in the AU and AGR zoning classifications."

Barns in AU must meet the following setbacks: 125 feet from the front property line; 50 feet from the side property lines; and 50 feet from the rear property lines. The applicant submitted a survey with the application showing the existing pole barn meets these setback requirements.

Per code enforcement action **20CE-01435**, the applicant also violates Sec. 62-2257 of the lighting code, as the light fixtures in the riding arena illuminate 0.4 and 0.3 tenths foot-candle along a residential property line which should not exceed 0.2 tenths foot-candle. If this rezoning is approved, the applicant will need to address this part of the violation.

Land Use

The subject property retains the RES 2 (Residential 2) FLU designation. The current zoning of RR-1 on the subject property is consistent with the RES 2 FLU per Sec. 62-1255 (2). The proposed zoning of AU is consistent with the RES 2 FLU per Sec. 62-1255 (2).

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 and south have a FLU designation of RES 2 (Residential 2). The lot abuts a drainage right-of-way to the west and Appaloosa Boulevard to the east. The parcels across the road and the drainage easement also have a FLU designation of RES 2. AU is consistent with the RES 2 FLU designation per the consistency table in Sec. 62-1255.

The current RR-1 zoning classification permits a single-family residence and horses, barns and horticulture as accessory uses to a single-family residence on 1.0 acre lots with a minimum lot and depth of 125 feet. The proposed AU zoning classification permits single-family residences in addition to "all agricultural uses" including the packing, processing, and sales of commodities raised on the premises, the raising and grazing of animals, and agritourism uses.

Certain agritourism uses have the potential to significantly impact traffic, noise levels, and lighting in the neighborhood, which presently is entirely residential. The code enforcement complaint indicates the level of tolerance within the neighborhood for commercial activity on the subject property.

Analysis of Administrative Policy #4 - Character of a neighborhood or area.

The subject parcel is zoned RR-1 and developed with a single-family home, a pole barn, and a riding arena.

The abutting parcels to the south and north are both zoned RR-1. The parcels across the road to the east and the drainage easement to the west are also zoned RR-1. These parcels are all developed with single-family homes.

If rezoned, the subject property would be the only lot with AU zoning on Appaloosa Boulevard and could potentially introduce a new commercial activity that is not already present, as the other lots are all zoned RR-1. The closest AU zoning is approximately 658 feet to the east along Ranchland Road. Every home along Richland Road is zoned AU. The uses on these lots are single-family homes and two plant nurseries.

Surrounding Properties

There has been one zoning action within a half-mile of the subject property within the last three years.

On July 8, 2019, application **19PZ00055** changed the zoning classification from SEU to RR-1 on a 3.29 acre property located approximately 1,780 feet southwest of the subject property.

Environmental Constraints

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Lake Washington Road, west of 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 increases the percentage of MAV utilization by 0.66%. With the maximum development potential from the proposed rezoning, the corridor is anticipated to operate at 30.15% of capacity daily (LOS D). 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 parcels are not serviced by Brevard County sewer or the City of Melbourne sewer.

The parcel is serviced by City of Melbourne water.

For Board Consideration

The Board may wish to consider whether this request for AU is consistent and compatible with the surrounding area, given the surrounding lots are zoned RR-1 and whether the use of boarding of horses and horses for hire is consistent with the single-family residential uses in the area. The Board

may also wish to consider limiting the uses on the property to exclude the more intensive uses allowed in AU zoning. Finally, the Board should be aware that if the rezoning is approved the applicant still must address the code enforcement violation over lighting in the riding arena.

NATURAL RESOURCES MANAGEMENT DEPARTMENT

Zoning Request Review & Summary

Item # 21Z00005

Applicant: Michael and Annette Costello

Zoning Request: RR-1 to AU

Note: Applicant wants to board horses.

P&Z Hearing Date: 04/05/21; **BCC Hearing Date:** 05/06/21

Tax ID No: 2700924

- 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
- Protected and Specimen Trees
- Protected Species

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

Hydric Soils/Wetlands

The subject parcel contains mapped hydric soils (Myakka sand depressional) as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities. 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 to meet 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. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

Protected and Specimen Trees

The subject property is within a mapped polygon of SJRWMD FLUCCS code 4340-Upland Mixed Coniferous/Hardwood trees. 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 this FLUCCS code and may be found on the property. 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. Per Section 62-4339, parcels greater than 2.5 acres in size shall meet canopy preservation requirements. 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.