



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

21Z00025

Scott Minnick

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

Tax Account Number: 2102550
Parcel I.D.: 21-35-07-00-26
Location: West side of U.S. 1, north of Glenn Road (District 1)
Acreage: 1.15 acres

Planning & Zoning Board: 11/15/2021
Board of County Commissioners: 12/02/2021

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposed zoning 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	RR-1
Potential*	0 units	One single-family unit
Can be Considered under the Future Land Use Map	YES, NC	Yes, NC

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

Background and Purpose of Request

The applicant is seeking a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential) for the purpose of legitimizing a substandard lot and constructing a single-family residence on the property.

The subject parcel was recorded in its current configuration in Official Records Book 2099, Page 48, in October 1979. The resulting lot is 1.15 acres in size. The parcel is therefore substandard in regards to lot size for the AU zoning classification. AU requires a minimum lot size of 2.5 acres. The applicant does not own any adjacent property that could resolve the substandard status. Per Sec. 62-2102, "No person shall sever any lot in such a manner that a violation of any of the provisions of this chapter would be created on any new or altered lot, including their uses and structures."

AU is the original zoning of the lot. A zoning action, **Z-3468**, would have rezoned the property to BU-1 with a CUP for Beer & Wine, but was denied on December 3, 1973.

Land Use

The subject property retains a FLU designation of Neighborhood Commercial (NC). The proposed RR-1 zoning classification can be considered with NC FLU per Policy 2.13 of the Future Land Use element, which states: "Residential development or the integration of residential development with commercial development shall be permitted in the Neighborhood Commercial and Community Commercial land use designations, provided that the scale and intensity of the residential/mixed use development is compatible with abutting residential development and areas designated for residential use on the Future Land Use Map." The closest residential FLU designation to this property is RES 4, which RR-1 is compatible with.

Applicable Future Land Use Policies

FLUE Objective 15 – Brevard County shall eliminate inconsistencies between the Comprehensive Plan and the zoning regulations of the Land Development Regulations, and thereafter, shall reduce the number of existing land uses which are non-conforming to the Comprehensive Plan.

FLUE Policy 2.13 – Residential development or the integration of residential development with commercial development shall be permitted in the Neighborhood Commercial and Community Commercial land use designations, provided that the scale and intensity of the residential/mixed use development is compatible with abutting residential development and areas designated for residential use on the Future Land Use Map. Residential development is permissible in these commercial land use designations at density of up to one category higher than the closest residentially designated area on the Future Land Use Map (FLUM) which is on the same side of the street. Increases in density beyond this allowance may be considered through a public hearing.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 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.

In the future, the applicant will be constructing a single-family home on the subject 1.15-acre parcel, which has a FLU designation of Neighborhood Commercial. FLUE Policy 2.13 permits residential/mixed-use development in NC, provided these developments are compatible with the scale and density/intensity in the area. The parcel abutting the subject property to the north retains a FLU designation of Community Commercial (CC) and the parcel to the south across Glenn Road retains a FLU designation of NC. This is consistent with the role of Highway 1 as a commercial corridor. The abutting residential land use to the west is a 13-acre parcel containing a single-family home and had an agricultural exemption until April 2021.

In general, this area of Highway 1 contains a mix of Community Commercial (CC) and NC FLU designations on the parcels on the west side of the highway, all CC on the east side of the highway, and RES 4 FLU designations on the lots to the west of the lots fronting Highway 1.

The request for a residential use is consistent with the existing development in the area. Despite the commercial land use designations, the majority of developed parcels on the western side contain single-family homes or are vacant rather than containing commercial uses. Directly across Highway 1 to the east of the subject property are additional parcels with CC FLU that are developed with light manufacturing and wholesale/distribution uses. Additional parcels across the highway to the east with a CC FLU designation contain single-family homes.

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

The 1.15-acre subject property currently has a zoning classification of AU. To the north is a half-acre parcel zoned BU-1. The parcel to the south across Glenn Road has a zoning classification of RR-1 on 1.05 acres. Across Highway 1 to the east are two parcels zoned BU-2, one of which is 1.65 acres, while the other is 10.45 acres. The size of the latter parcel is not typical for this area.

Lot sizes vary in the surrounding area, but the majority are half an acre in size or greater. Many of the parcels with commercial zoning classifications on the west side of Highway 1 are occupied by single-family residential uses, including the two parcels to the south of the subject property. On the east side of Highway 1, parcels with commercial zoning contain a mix of single-family residences and commercial uses.

The trend for the parcels in the surrounding area has been the gradual rezoning of larger AU parcels to commercial and residential zoning classifications that require a smaller minimum lot size, then splitting these parcels into smaller lots. These commercial zoning classifications include BU-1 and BU-2, and the residential zoning classifications include RR-1 and EU-2. AU is still present in the area on lots above the 2.5 acre minimum lot size, including the lots directly to the west and to the north.

The request would not be an introduction of RR-1 zoning into the surrounding area, as the parcel to the south was rezoned from AU to RR-1 in May 1986. The applicant chose to apply for the RR-1 zoning classification because they wish to construct a single-family residence, and RR-1 is already present in the area. The RR-1 zoning would ensure the lot could not be split, as the minimum lot size is one acre.

The BU-1 and BU-2 zoning classifications allow retail commercial land uses in addition to single-family residential uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling, while BU-2 does. The applicant would need to change the FLU designation to CC in order to rezone the property to one of these classifications. The NC FLU designation is consistent with BU-1-A zoning, but the applicant does not wish to do commercial activities.

Surrounding Area

The abutting parcel to the north contains a single-family home and has a FLU designation of CC and a zoning classification of BU-1. The property is adjacent to Highway 1 on the east, across which are parcels with Community Commercial (CC) FLU designation and BU-2 zoning being used for light manufacturing and wholesale/distribution. The parcel to the south has a FLU designation of NC with RR-1 zoning, and contains a single-family residence built in 1945. The property to the west has a FLU designation of RES 4, AU zoning, and has a single-family residence in addition to accessory agricultural uses.

The current 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 also permits the raising/grazing of animals, fowl and beekeeping.

The proposed RR-1 classification permits single-family residential land uses on a minimum one acre lot, with a minimum lot width and depth of 125 feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The minimum house size is 1,200 square feet. Keeping of horses and agricultural uses are accessory to a principal residence within the RR-1 zoning classification.

There have been no rezoning applications in the surrounding area in the past 3 years.

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 Highway 1, between State Road 46 and Lionel, which has a Maximum Acceptable Volume of 41,790 trips per day, a Level of Service (LOS) of E, and currently operates at 24.89% of capacity daily. The maximum development potential from the proposed rezoning does increase the level of MAV utilization by 0.2%. 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 serviced by Brevard County sewer. The closest sewer line to the parcel is approximately 1.15 miles to the south at the intersection of Highway 1 and Stanley Street. The parcel is adjacent to a water line supplied by Brevard County.

For Board Consideration

The Board may wish to consider whether the request is consistent and compatible with the surrounding area.

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

Item # 21Z00025

Applicant: Scott Minnick

Zoning Request: AU to RR-1

Note: Applicant wants to conform the substandard lot.

P&Z Hearing Date: 11/15/21; **BCC Hearing Date:** 12/02/21

Tax ID No: 2102550

- 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:

- Land Clearing and Landscape Requirements
- Protected Species
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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:

Land Clearing and Landscape Requirements

The entire parcel is overlaid 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 are likely found on the project area. 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. 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.