



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

21Z00029

Donald White and Trevantay Raymond Curry

AU (Agricultural Residential) to RU-1-13 (Single-family Residential)

Tax Account Number: 2103419
Parcel I.D.: 21-35-17-00-770
Location: South side of Warren Street 205 feet east of Harry T. Moore Avenue
(District 1)
Acreage: 0.55 acres

Planning and 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 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	RU-1-13
Potential*	0 units	2 units
Can be Considered under the Future Land Use Map	YES RES 4	YES RES 4

* 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) to RU-1-13 (Single-family Residential) for the purpose of developing two single-family residential lots.

The AU zoned area was original 1958 zoning. It appears the deed creating this lot was recorded on May 1, 1984 under ORB 2506 Page 1827. This lot appears to have been split out as a substandard lot and needs to be rezoned to be able to receive development rights.

Access to the property is through Warren Street which is paved and maintained by Brevard County.

Land Use

The subject property is currently designated as Residential 4 FLU. Both the current zonings of AU and RU-1-13 are consistent with the RES 4 FLU designation.

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 1.7 – The Residential 4 Future land use designation affords an additional step down in density from more highly urbanized areas. This land use designation permits a maximum density of up to four (4) units per acre, except as otherwise may be provided for within 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 subject property and the surrounding area are all within the Residential 4 Future Land Use (FLU) designation. The subject property is 0.55 acres in size which can be subdivided consistent with this FLU designation creating, 2 - 0.25+ acre lots. Lots to the west, range in size from <0.25 acres to ½ acre in area; Larger lots 0.5+ acres can be found located to the north, south and east of this lot.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The developed character of the surrounding area is a mixture of vacant and developed residential properties. Brevard Housing Authority is located across Warren Street to the north and developed with 25 duplex units upon 7.75 acres of land. The site has a current developed density of 3.22 units per acre. The adjacent lot to the west (0.2 acres) is developed with a single-family home, while the lots to the east and south are vacant lots ranging in size from 0.5 acres to over 4 acres in size.

Surrounding Area

The parcel's location is located within the East Mims Neighborhood lying east of Highway 1 and south of E. Main Street. The Mims Small Area Study was completed in March, 2007. The Brevard County Department of Housing and Human Services in 2004 prepared, and the Board of County Commissioners adopted, a Neighborhood Action Plan for the East Mims Neighborhood Strategy Area. The Action Plan contains numerous goals and objectives toward improving quality of life in East Mims. Although most relate to potential funding with Community Development Block Grant (CDBG) funds, the Action Plan is a reasonably comprehensive look at the community's development needs. In East Mims, particularly the core neighborhood area around Main Street and Harry T. Moore Boulevard, the need is less focused on new growth and greenfield development and more focused on redevelopment and expansion of opportunity in existing neighborhoods.

The parcel to the North is zoned RU-2-30, the highest residential zoning classification allowed within Brevard County. This zoning has the potential to develop up to 30-units per acre; however, with a Residential FLUM of RES 4 only 4-units per acre would be allowed/permitted. The property lying East of this site is zoned AU and is a vacant parcel. To the South is a parcel zoned RU-2-10 which

allows development up to 10 units per acre. This area also is limited to the Residential 4 FLUM. To this parcel's west lies a developed single-family home site, zoned AU. That lot fails to meet current zoning criteria to be consistent with that zoning classification.

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.

RU-2-10 classification permits multiple-family residential development or single-family residences at a density of up to 10 units per acre on minimum lot sizes of 7,500 square feet.

RU-2-30 classification permits high density multi-family residential development of up to 30 unit per acre. Multiple-family residential structures may be constructed on a minimum lot size of 10,000 square feet, with at least 100' of lot width and 100' of lot depth. Single-family residences are also permitted on minimum lot sizes of 7,500 square feet with at least 75' of lot width and 75' of lot depth.

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. RU-1-11 does not permit horses, barns or horticulture.

Although RU-1-13 zoning has not been established in the surrounding area, RU-1-11 has and requires the same lot size. The only difference between the two is the size of the house. RU-1-11 requires an 1,100 sq.ft. house vs. 1,300 sq.ft. for RU-1-13.

There has been three zoning actions within a half-mile radius of the subject property within the last three years. The most recent action, **20Z00041**, was for a change of zoning from BU-1 and AU to all BU-1 adopted on March 4, 2021. This location lies 1,790 feet in a southwesterly direction from this parcel and is located at the NE corner of US Highway 1 and Cuyler Street. The second action, **20Z00035**, was for a rezoning from AU to EU-1 adopted on February 4, 2021. This location lies 620 feet in a northeasterly direction from this site and is located on the south side of E. Main Street. The third action, **20Z00023**, was for a rezoning from RU-1-9 and BU-1 to BU-1-A with a BDP recorded in ORB 9063, Pages 1956-1961, limiting development of the RU-1-9 portion of the request to 4-units per acre; no limitations to the BU-1-A portion was stipulated. This zoning action was adopted on March 25, 2021. This location lies 470 feet in a NW direction from this lot at the SW corner of E. Main Street and Harry T. Moore Avenue.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US Highway 1, between Dairy Road to SR Highway 46, which has a Maximum Acceptable Volume (MAV) of 41,700 trips per day, a Level of Service (LOS) of D, and currently operates at 37.17% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 0.04%. The corridor is anticipated to operate at 37.21% 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 has access to public water from Brevard County Utilities, if it is extended from the north side of Warren Street. No sewer is available. A septic system will be required.

Environmental Constraints

- Wetlands
- Aquifer Recharge Soils
- Protected Species
- Land Clearing and Landscape Requirements

The subject parcel contains mapped SJRWMD wetlands, an indicator that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design or building permit submittal. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to splitting the lot, if applicable.

For Board Consideration

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

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

Item #21Z00029

Applicant: Donald White

Zoning Request: AU to RU-1-13

Note: Applicant wants to develop lot, and possibly subdivide into two lots

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

Tax ID No: 2103419

- 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
- Aquifer Recharge Soils
- Protected Species
- Land Clearing and Landscape Requirements

The subject parcel contains mapped SJRWMD wetlands, an indicator that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design or building permit submittal. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to splitting the lot, if applicable.

Land Use Comments:

Wetlands

The subject parcel contains mapped SJRWMD wetland code 6300 – Mixed Forested Wetland, as shown on the SJRWMD Florida Land Use & Cover Codes map, an indicator that wetlands may be present on the property. A wetland determination/delineation will be required prior to any land clearing activities, site plan design, or building permit submittal. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or splitting of the lot, if applicable.

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 specific 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 will require mitigation in accordance with Section 62-3696.

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Pomello sand). The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

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. 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.

Land Clearing and Landscape Requirements

Aerials indicate that 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 62-4331(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.