



AGENDA REPORT
May 3, 2018

SUBJECT:

Public Hearing, Re: Jeffrey D. and Karen Atwell request a change of zoning classification from GU to AU. The property is 1 acre, located at 3775 Felda St., Cocoa. (18PZ00004) (District 1)

FISCAL IMPACT:

None.

DEPT/OFFICE:

Planning and Development

REQUESTED ACTION:

It is requested that the Board of County Commissioners conduct a public hearing to consider the request for a change of zoning classification from GU (General Use) to AU (Agricultural Residential)

SUMMARY EXPLANATION and BACKGROUND:

The applicants are seeking a change of zoning classification from GU to AU for the purpose of raising bees and producing honey. The applicants would like to sell the honey from bees raised on the property. The property is currently developed with a 1,601 square-foot single-family residence. The current GU zoning allows agricultural operations on parcels of less than 5 acres with a conditional use permit. Conversely, the requested AU zoning classification allows all agricultural pursuits, including the packing, processing, and sales of commodities raised on the premises as provided in Chapter 86, Article IV, as a permitted use.

The current GU zoning is the property's original zoning adopted May 1958; no actions have been previously applied for. The lot is a non-conforming lot of record in the Canaveral Groves area, recorded in Survey Book 2, Page 59, in October 1961.

The AU zoning classification is consistent with the current Res 1 (Residential 1) Future Land Use Designation.

The requested AU zoning classification allows for a full range of agricultural uses; beekeeping being only one of those uses. The Board may wish to consider whether the AU zoning classification and its agricultural pursuits are compatible with the surrounding neighborhood.

The Board may wish to consider whether a limitation on the commercial nature of the

agricultural pursuit should be limited by consideration of the AU(L) (Agricultural Residential, Low-Intensity) zoning classification.

On April 9, 2018, the Planning and Zoning Board heard the request and unanimously recommended approval.

Staff contact: Erin Sterk, Interim Planning & Zoning Manager, erin.sterk@brevardfl.gov

ATTACHMENTS:

Description

- ▢ **Staff Comments**
- ▢ **Maps**

WA

RESOLUTION NO. 18PZ00004

On motion by Commissioner Barfield, seconded by Commissioner Isnardi, the following resolution was adopted by a unanimous vote:

WHEREAS, JEFFREY D. AND KARIN ATWELL have applied for a change of classification from GU (General Use) to AU (Agricultural Residential), on property described as Tract 13, Block 37, Canaveral Groves Subdivision, unrecorded, according to Survey Book 2, Page 59, of the Public Records of Brevard County, Florida. (1 acre) Located on the northeast side of Felda St., approx. 150 ft. east of Hartville Ave. (3775 Felda St., Cocoa); and

Section 02, Township 24S, Range 35E, and,

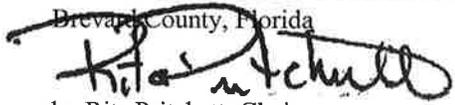
WHEREAS, a public hearing of the Brevard County Planning & Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning & Zoning Board recommended that the application be approved; and,

WHEREAS, the Board, after considering said application and the Brevard County Planning & Zoning Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be Approved; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of classification from GU to AU, be APPROVED as recommended, and that the zoning classification relating to the above described property be changed to AU, and the Planning & Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of May 3, 2018.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida



by Rita Pritchett, Chair
Brevard County Commission

As approved by Brevard County Commission on May 3, 2018.

ATTEST:



SCOTT ELLIS, CLERK
(SEAL)

(P&Z Hearing – April 9, 2018)

Please note: A Conditional Use Permit will generally expire on the three year anniversary of its approval if the use is not established prior to that date. Conditional Use Permits for Towers and Antennas shall expire if a site plan for the tower is not submitted within one (1) year of approval or if construction does not commence within two years of approval. A PUD Preliminary Development Plan expires if a final development plan is not filed within three years.

THE GRANTING OF THIS ZONING DOES NOT GUARANTEE PHYSICAL DEVELOPMENT OF THE PROPERTY. AT THE TIME OF DEVELOPMENT, SAID DEVELOPMENT MUST BE IN ACCORDANCE WITH THE CRITERIA OF THE BREVARD COUNTY COMPREHENSIVE PLAN AND OTHER APPLICABLE LAWS AND ORDINANCES.

REZONING REVIEW WORKSHEET

18PZ00004

Commission District # 1

Hearing Dates: P&Z 04/09/18

BCC 05/03/18

Owner Name: JEFFREY D. AND KARIN ATWELL

Request: GU to AU

Subject Property:

Parcel ID# 24-35-02-01-37-13

Tax Acct.# 2401213

Location: Northeast side of Felda St., approx. 150 ft. east of Hartville Ave.

Address: 3775 Felda St., Cocoa

Acreage: 1 acre

Consistency with Land Use Regulations

<u>Yes</u>	Current zoning can be considered under the Future Land Use Designation. Sec. 62-1255
<u>Yes</u>	Proposal can be considered under the Future Land Use Designation. Sec. 62-1255
<u>Yes</u>	Would proposal maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	GU	AU
Potential*	1	1
Can be Considered under FLU MAP	Yes RES 1:2.5	Yes RES 1:2.5

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

	ADT	PM PEAK		
Trips from Existing Zoning	10	1	Segment Number	053A
Trips from Proposed Zoning	10	1	Segment Name	Canaveral Groves Lee - Grissom
Maximum Acceptable Volume (MAV)	15,600	1,404	Acceptable LOS	E
Current Volume	7,292	656	Directional Split	0.5
Volume With Proposed Development	7,302	657	ITE CODE	
Current Volume / MAV	46.74%	46.74%	210	
Volume / MAV with Proposal	46.81%	46.81%		
Current LOS	C	C		
LOS With Proposal	C	C		
Findings	<input checked="" type="checkbox"/> Non-Deficiency		<input type="checkbox"/> Deficiency	

Background & Purpose of Request

The applicants are seeking a change of Zoning classification from General Use (GU) to Agricultural Residential (AU) for the purpose of raising bees and producing honey. The applicants would like to be able to sell the honey from the bees raised on the property. The property is currently developed with a 1,601 square foot single-family residence. Although the current GU Zoning doesn't allow agricultural operations on parcels of less than 5.0 acres without the approval of a conditional use permit for agricultural pursuits, the requested AU zoning classification allows for all agricultural pursuits, including the packing, processing, and sales of commodities raised on the premises as provided in chapter 86, article IV.

Florida Statutes section 586.055 states that apiaries may be located on land classified as agricultural under **F.S. 193.461** or on land that is integral to a beekeeping operation. F.S. 193.461 states the land shall be classified as agricultural through the property appraiser. As of 2/12/18, the subject property has not been classified as agricultural by the Property Appraiser Office (PAO).

The zoning is original to the lot adopted May 22, 1958; no actions have been previously applied for. The lot is a non-conforming lot of record located in the Canaveral Groves area. The lot was recorded in survey book 2, page 59 in October 1961.

Land Use Compatibility

The subject parcel retains the Residential 1:2.5 (Res 1:2.5) Future Land Use designation. **FLUE Policy 1.10** addresses the Residential 1:2.5 residential land use designation, which retains the lowest established density of all the residential future land use designations and permits a maximum density of up to one (1) unit per 2.5 acres, except as otherwise may be provided for within the Future Land Use Element. Development in the Residential 1:2.5 land use designation should seek to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 and other pertinent regulations on pages 6 through 9 of these staff comments.

Environmental Constraints

Please refer to comments provided by the Natural Resource Management Department.

Applicable Land Use Policies

The request is to change the Zoning classification GU to AU. Both classifications are consistent with the adopted Residential 1:2.5 Future Land Use designation. The GU Zoning classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet.

The AU Zoning classification permits single-family residences and agricultural pursuits on 2 ½ 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. Accessory buildings are exempt from the size limitations when located within agricultural Zoning classifications pursuant to subsection (g) of Section 62-2100.5 of Brevard County Code.

The abutting neighbors on all surrounding sides have GU zoning on one acre lots, though there is AU zoning one block to the east and spattered through the surrounding neighborhood. The trend in the surrounding area is a slow transition from residential to an agricultural character, but that could be because most of the parcels with GU Zoning in the area have already been developed with single-family residential development.

Consideration of the Agricultural Residential Low-Intensity AU(L) Zoning classification as a low intensity sub-classification more suited to smaller lots where the neighborhood has a more residential than agricultural character. Agricultural pursuits within AU(L) Zoning are limited to those of a personal non-commercial nature and does not permit sales of commodities raised on the premises. The AU(L) Zoning classification also contains limitations to the location of structures for agricultural pursuits, specifying that structures for the housing of livestock and animals shall not be permitted within 100 feet of any existing residence under different ownership, except where otherwise permitted in section 62-2108.

There have been three (3) rezoning applications to the AU and AU(L) zoning classification since 9/5/2012. Those actions are: **12PZ-00019**, **12PZ-00032** and **14PZ-00007**.

12PZ-00019 was an approval from GU to AU with a BDP recorded in ORB 6683 PGs 2953-2957 dated 9/5/12 stipulating that no hogs or commercial agricultural activities are to be permitted.

12PZ-00032 was an approval from GU to AU with a BDP recorded in ORB 6737 PGs 1650-1653 dated 11/14/12 stipulating that the property shall not be used for raising farm animals or fowl, or for commercial purposes.

14PZ-00007 was an approval from GU to AU(L) for increased accessory building size.

For Board Consideration

The requested AU Zoning classification allows for a full range of agricultural uses; beekeeping being only one of those uses.

The Board may wish to consider whether the AU Zoning classification and its agricultural pursuits are compatible with the surrounding neighborhood.

The Board may wish to consider whether a limitation on the commercial nature of the agricultural pursuit should be limited by consideration of the Agricultural Residential Low-Intensity AU(L) Zoning classification.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
 Rezoning Review**

SUMMARY

Item #: 18PZ00004	Applicant: Jeff and Karin Atwell
Request: GU to AU	
P&Z Hearing Date: 04/09/18	BCC Hearing Date: 05/03/18

This is a preliminary review based on environmental maps available to the Natural Resources Management (NRM) Department at the time of this review and does not include a site inspection to verify the accuracy of this information. This review does not ensure whether or not a proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations. In that this process is not the appropriate venue for site plan review, specific site designs that may be submitted with the rezoning will be deemed conceptual and any comments or omissions relative to specific site design do not provide vested rights or waivers from these regulations, unless specifically requested by the owner and approved by the Board of County Commissioners. If the owner has any questions regarding this information, he/she is encouraged to contact NRM prior to submittal of any development or construction plans.

Natural Resource	Preliminary Assessment	Natural Resource	Preliminary Assessment
Hydric Soils/Wetlands	Mapped	Coastal Protection	N/A
Aquifer Recharge Soils	Mapped	Surface Waters	N/A
Floodplains	Mapped	Wildlife	Potential

Comments:

**This review relates to the following property: Twp. 24, Rng. 35, Sec. 02;
 Tax ID No. 2401213**

The subject parcel contains mapped NWI wetlands and hydric soils (Valkaria sand and Basinger sand), indicators that wetlands may be present on the property. Section 62-3694 states that agricultural and forestry operations utilizing best management practices shall be permitted in wetlands provided they do not result in permanent degradation or destruction of 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 applicant is encouraged to contact NRM at 321-633-2016 prior to any land clearing activities, site plan or permit submittal. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) and 62-3696 of the Wetland Protection ordinance.

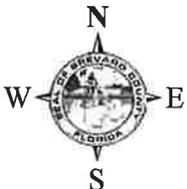
Valkaria sand may also function as an aquifer recharge soil. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

A portion of the property is mapped as being within the floodplain as identified by the Federal Emergency Management Agency; and is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance.

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.

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

LOCATION MAP
ATWELL, JEFFREY D. AND KARIN
18PZ00004



1:24,000 or 1 inch = 2,000 feet
 Buffer Distance: 500 feet

— Buffer
 ■ Subject Property

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

ZONING MAP

ATWELL, JEFFREY D. AND KARIN

18PZ00004



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels
-  Zoning

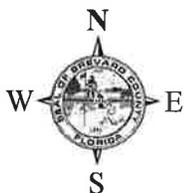
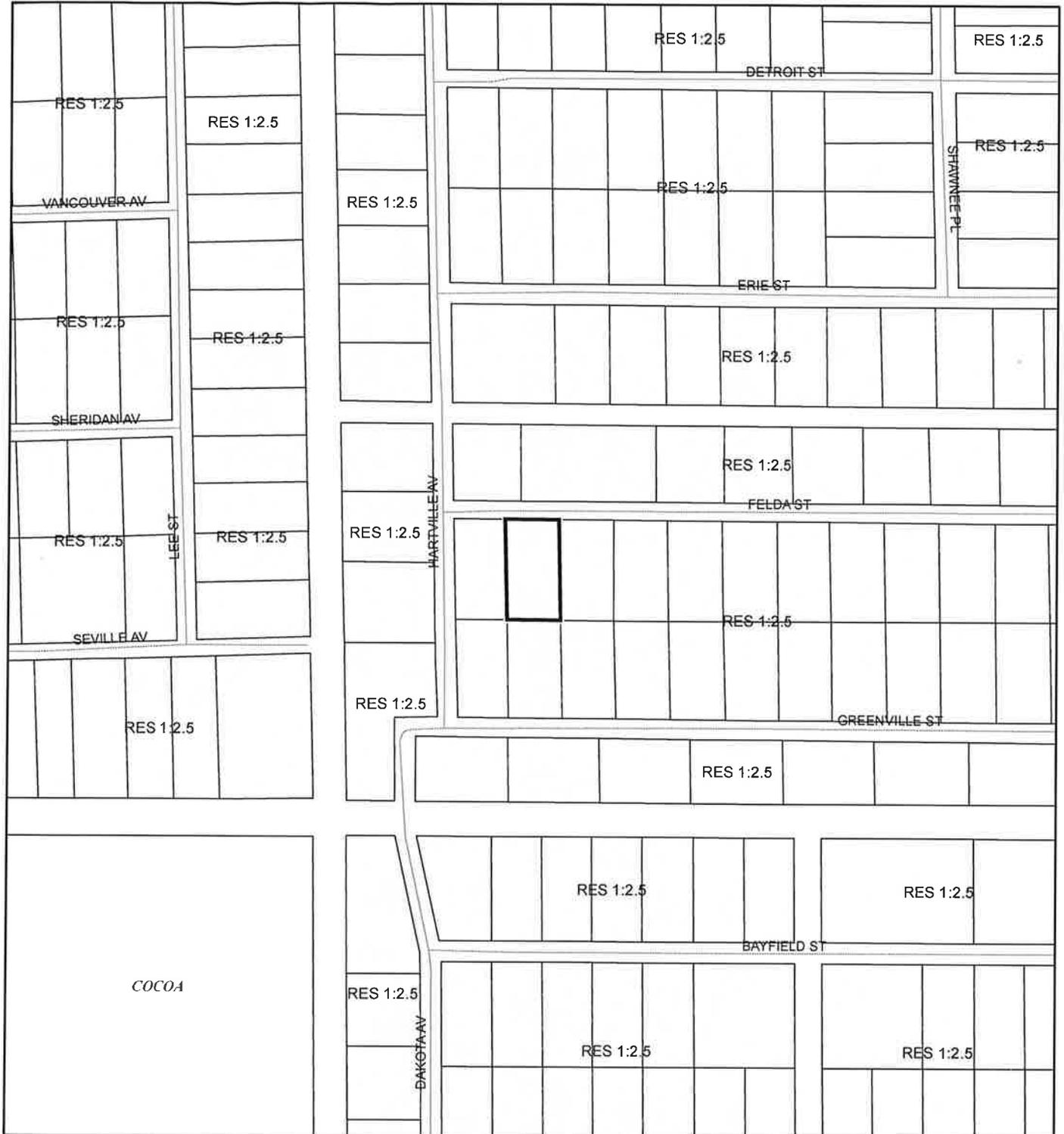
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Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 1/29/2018

FUTURE LAND USE MAP

ATWELL, JEFFREY D. AND KARIN

18PZ00004



1:4,800 or 1 inch = 400 feet

— Subject Property
□ Parcels

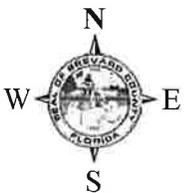
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Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 2/8/2018

AERIAL MAP

ATWELL, JEFFREY D. AND KARIN

18PZ00004



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2017

— Subject Property
□ Parcels

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Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 1/26/2018