



AGENDA REPORT
May 2, 2019

**Christopher Channell (Bruce Moia) requests a change of zoning
classification from RR-1 to AU. (19PZ00019) (District 1)**

SUBJECT:

Christopher Channell (Bruce Moia) requests a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential). The property is 9.15 acres, located on the south side of Junedale Drive, approximately 0.15 mile west of Dalehurst Drive. (5050 Junedale Drive, Cocoa) (19PZ00019) (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 a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential).

SUMMARY EXPLANATION and BACKGROUND:

The applicant is seeking a change of Zoning classification from Rural Residential (RR-1) to Agricultural Residential (AU) on a 9.5 acre undeveloped portion of a larger 14.27 acre, single-family, residential parcel in order to utilize the property for more agricultural uses than allowed by the present zoning. The subject property is located in an area north of State Road 524 between Friday Road to the east and I-95 to the west.

The current RR-1 classification permits single-family residential land uses on minimum one acre lots, 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.

The requested 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.

The 9.5 acre portion of the property for which the change of Zoning classification is

requested is located entirely south of a private parcel used for access and known as Junedale Drive. Since access to the property is via easement, building permits will be issued pursuant to meeting the access requirements of Section 62-102.

The subject property retains a Future Land Use (FLU) designation of Residential 1 (RES 1). Both current and proposed zoning are consistent with the RES 1 FLU. Rezoning to AU would expand the permitted uses and permissible accessory structures in accordance with AU Zoning. The current RR-1 zoning requires a minimum lot size of one acre, while the proposed AU zoning requires a minimum lot size of 2.5 acres, which would reduce development potential on the subject property from seven (7) to three (3) dwelling units. Development potential could be further restricted by limitations on access by easement.

The Board may wish to consider whether requested AU zoning classification, the allowance for additional uses and accessory structures and the reduction in development potential is consistent and compatible with the surrounding development.

On April 8, 2019, the Planning and Zoning Board heard the request and unanimously recommended approval.

ATTACHMENTS:

Description

- ▢ **Administrative Policies**
- ▢ **Staff Comments**
- ▢ **GIS Maps**
- ▢ **Planning and Zoning Board Minutes**
- ▢ **Public Comment**

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

Administrative Policies in the Future Land Use Element establish the expertise of staff with regard to zoning land use issues and set forth criteria when considering a rezoning action or request for Conditional Use Permit, as follows:

Administrative Policy 1

The Brevard County zoning official, planners and the director of the Planning and Development staff, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

Upon Board request, members of the Brevard County Planning and Development staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for development approval that come before the Board of County Commissioners for quasi-judicial review and action. The Board may table an item if additional time is required to obtain the analysis requested or to hire an expert witness if the Board deems such action appropriate. Staff input may include the following:

Criteria:

- A. Staff shall analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.
- B. Staff shall conduct site visits of property which are the subject of analysis and recommendation. As part of the site visit, the staff shall take a videotape or photographs where helpful to the analysis and conduct an inventory of surrounding existing uses. Aerial photographs shall also be used where they would aid in an understanding of the issues of the case.
- C. In cases where staff analysis is required, both the applicant and the staff shall present proposed findings of fact for consideration by the Board.
- D. For re-zoning applications where a specific use has not been proposed, the worst case adverse impacts of potential uses available under the applicable land use classification shall be evaluated by the staff.

Administrative Policy 3

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered. Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.
- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:

1. historical land use patterns;
 2. actual development over the immediately preceding three years; and
 3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Administrative Policy 4

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types of intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, et cetera), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.
- B. In determining whether an established residential neighborhood exists, the following factors must be present:
 1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.
 2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.
 3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

Administrative Policy 5

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following criteria:

Criteria:

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

- C. Whether the surrounding existing road system is of sufficient width and construction quality to serve the proposed use(s) without the need for substantial public improvements;
- D. Whether the surrounding existing road system is of such width and construction quality that the proposed use(s) would realistically pose a potential for material danger to public safety in the surrounding area;
- E. Whether the proposed use(s) would be likely to result in such a material and adverse change in traffic capacity of a road or roads in the surrounding area such that either design capacities would be significantly exceeded or a de facto change in functional classification would result;
- F. Whether the proposed use(s) would cause such material and adverse changes in the types of traffic that would be generated on the surrounding road system, that physical deterioration of the surrounding road system would be likely;
- G. Whether projected traffic impacts of the proposed use(s) would materially and adversely impact the safety or welfare of residents in existing residential neighborhoods.

Administrative Policy 6

The use(s) proposed under the rezoning, conditional use or other application for development approval must be consistent with, (a), all written land development policies set forth in these administrative policies; and (b), the future land use element, coastal management element, conservation element, potable water element, sanitary sewer element, solid waste management element, capital improvements element, recreation and open space element, surface water element, and transportation elements of the comprehensive plan.

Administrative Policy 7

Proposed use(s) shall not cause or substantially aggravate any, (a), substantial drainage problem on surrounding properties; or (b), significant, adverse and unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.

Administrative Policy 8

These policies, the staff analysis based upon these policies, and the applicant's written analysis, if any, shall be incorporated into the record of every quasi-judicial review application for development approval presented to the Board including rezoning, conditional use permits, and vested rights determinations.

Section 62-1151(c) of the Code of Ordinances of Brevard County directs, "The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.

- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.

The minutes of the planning and zoning board shall specify the reasons for the recommendation of approval or denial of each application.”

CONDITIONAL USE PERMITS (CUPs)

In addition to the specific requirements for each Conditional Use Permit (CUP), Section 62-1901 provides that the following approval procedure and general standards of review are to be applied to all CUP requests, as applicable.

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

- (c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
 - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
 - c. Noise levels for a conditional use are governed by Section 62-2271.

- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

Section 62-1151(c) sets forth factors to consider in connection with a rezoning request, as follows:

"The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.

- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare."

These staff comments contain references to zoning classifications found in the Brevard County Zoning Regulations, Chapter 62, Article VI, Code of Ordinances of Brevard County. These references include brief summaries of some of the characteristics of that zoning classification. Reference to each zoning classification shall be deemed to incorporate the full text of the section or sections defining and regulating that classification into the Zoning file and Public Record for that item.

These staff comments contain references to sections of the Code of Ordinances of Brevard County. Reference to each code section shall be deemed to incorporate this section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County Comprehensive Plan. Reference to each Policy shall be deemed to incorporate the entire Policy into the Zoning file and Public Record for that item.

These staff comments refer to previous zoning actions which are part of the Public Records of Brevard County, Florida. These records will be referred to by reference to the file number. Reference to zoning files are intended to make the entire contents of the cited file a part of the Zoning file and Public Record for that item.

DEFINITIONS OF CONCURRENCY TERMS

Maximum Acceptable Volume (MAV): Maximum acceptable daily volume that a roadway can carry at the adopted Level of Service (LOS).

Current Volume: Building permit related trips added to the latest TPO (Transportation Planning Organization) traffic counts.

Volume with Development (VOL W/DEV): Equals Current Volume plus trip generation projected for the proposed development.

Volume/Maximum Acceptable Volume (VOL/MAV): Equals the ratio of current traffic volume to the maximum acceptable roadway volume.

Volume/Maximum Acceptable Volume with Development (VOL/MAV W/DEV): Ratio of volume with development to the Maximum Acceptable Volume.

Acceptable Level of Service (CURRENT LOS): The Level of Service at which a roadway is currently operating.

Level of Service with Development (LOS W/DEV): The Level of Service that a proposed development may generate on a roadway.

Resolution 19PZ00019

On motion by Commissioner Pritchett, seconded by Commissioner Lober, the following resolution was adopted by a unanimous vote:

WHEREAS, Christopher P. Channell has requested a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential), on property described as: See attached legal description.

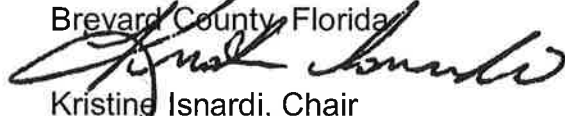
WHEREAS, a public hearing of the Brevard County Planning and Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning and Zoning Board recommended that the application be approved; and

WHEREAS, the Board, after considering said application and Brevard County Planning and 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 zoning classification from RR-1 to AU, be approved. The Planning and 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 2, 2019.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida




Kristine Isnardi, Chair

Brevard County Commission

As approved by the Board on May 2, 2019.

ATTEST:



SCOTT ELLIS, CLERK

(SEAL)

Planning and Zoning Board Hearing – April 8, 2019

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 year of approval or if construction does not commence within two years of approval. A Planned Unit Development 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.**

A parcel of land lying in **Section 15, Township 24S, Range 35E**, Brevard County, Florida, being more particularly described as follows: Commence at the SE corner of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 15, Township 24S, Range 35E, Brevard County, Florida, said point also being the SW corner of the plat of Dalehurst Pines, as recorded in Plat Book 23, Page 3, Public Records of Brevard County, Florida, and run S89deg55'35"W along the south line of Section 15, a distance of 523.49 ft. to the point of beginning; thence continue along said south line S89deg35'55"W, a distance of 639.75 ft. to the SE corner of ORB 6671, Page 185, Public Records of Brevard County, Florida; thence departing said south line, run N00deg02'49"W along the east line of said ORB 6671, Page 185, Public Records of Brevard County, Florida, a distance of 643.28 ft. to the NE corner of said ORB 6671, Page 185, Public Records of Brevard County, Florida, said point also being on the centerline of Junedale Drive, a non-exclusive ingress/egress and utility easement 50 ft. in width, as recorded in ORB 4382, Page 1860, Public Records of Brevard County, Florida; thence departing said east line, run N89deg40'49"E along said centerline of Junedale Drive, a distance of 640.79 ft. to the NW corner of ORB 4627, Page 3468, Public Records of Brevard County, Florida; thence departing said centerline of Junedale Drive, run S00deg02'48"W along the west line of said ORB 4727, Page 3468, Public Records of Brevard County, Florida, a distance of 642.36 ft. to the point of beginning. Together with a non-exclusive ingress, egress, and utility easement 50 ft. in width as recorded in ORB 4382, Page 1860, Public Records of Brevard County, Florida, and together with an ingress and egress easement 50 ft. in width as recorded in ORB 1120, Page 820, Public Records of Brevard County, Florida.(9.5 acres) Located on the south side of Junedale Dr., approx. 0.15 miles west of Dalehurst Dr. (5050 Junedale Dr., Cocoa)

REZONING REVIEW WORKSHEET

19PZ00019

Commission District # 1

Hearing Dates:

P&Z 04/08/19

BCC 05/02/19

Owner Name: Christopher P. Channell

Request: RR-1 to AU

Subject Property:

Parcel ID# 24-35-15-00-768

Tax Acct.# 2405416

Location: South side of Junedale Drive, approximately 0.15 mile west of Dalehurst Drive

Address: 5050 Junedale Drive, Cocoa.

Acreage: 9.5 acres

Consistency with Land Use Regulations

YES

Current zoning can be considered under the Future Land Use Designation. Sec. 62-1255

YES

Proposal can be considered under the Future Land Use Designation. Sec. 62-1255

YES

Would proposal maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

USE STATUS CATEGORY	CURRENT	PROPOSED
Zoning	Rural Residential (RR-1)	Agricultural Residential (AU)
Potential*	7 Units	3 Units
Can be Considered under FLU MAP	YES Residential 1	YES Residential 1

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

CONCURRENCY STATISTIC NAME	ADT	PM PEAK		
Trips from Existing Zoning	67	7	Segment Number	139B
Trips from Proposed Zoning	29	3	Segment Name	Friday Road SR 524 - James Road
Maximum Acceptable Volume (MAV)	17,700	1,593	Acceptable LOS	D
Current Volume	3,239	292	Directional Split	0
Volume With Proposed Development	3,268	295	ITE CODE	
Current Volume / MAV	18.30%	18.30%	210	
Volume / MAV with Proposal	18.46%	18.49%		
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 applicant is seeking a change of Zoning classification from Rural Residential (RR-1) to Agricultural Residential (AU) on a 9.5 acre undeveloped portion of a larger 14.27 acre, single-family residential parcel for the purpose of utilizing the property for more agricultural uses than is allowed by the present zoning. The subject property is located in an area north of State Road 524 between Friday Road to the east and I-95 to the west.

The 9.5 acre portion of the property for which the change of Zoning classification is requested is located entirely south of Junedale Drive. The subject property retains a Future Land Use (FLU) designation of Residential 1 (RES 1). Both current and proposed zoning are consistent with the RES 1 FLU. The current zoning of RR-1 requires a minimum lot size of one acre with an estimated lot yield for the parcel of 7 units and the proposed zoning requires a minimum lot size of 2.5 acres with an estimated lot yield of 3 units. The request, if granted, would expand the permitted uses and permissible accessory structures in accordance with AU Zoning, while reducing the development potential from seven (7) to three (3) dwelling units. Development potential could be further restricted by limitations on access by easement.

The current RR-1 classification permits single-family residential land uses on minimum one acre lots, 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.

The requested 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.

Land Use Compatibility

The subject property retains the RES 1 FLU designation. Section 62-1255 (2) of the Brevard County Zoning Regulations outlines the Zoning classifications that can be considered in each of the FLU designations. The current zoning of RR-1 and the proposed zoning of AU on the subject property are both consistent with the RES 1 FLU designation per Section 62-1255 (2).

FLUE 1.9 outlines the role of the Comprehensive Plan in the designation of RES 1 FLU designation. This policy sets forth the following criteria:

- A. Areas adjacent to existing Residential 1 land use designation; or
- B. Areas which serve as a transition between existing land uses or land use designations with density greater than one (1) unit per acre and areas with lesser density; or
- C. Unincorporated areas which are adjacent to incorporated areas and may be considered a logical transition for Residential 1
- D. Up to a 25% density bonus to permit up to 1.25 dwelling units per acre may be considered with a Planned Unit Development where deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from perimeters, to enhance blending with adjacent areas and to maximize connectivity with surrounding uses. This density bonus shall not be utilized by properties within the CHHA.

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of the Administrative Policies.

Environmental Constraints

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

Please refer to comments provided by the Natural Resources Management Department for additional details.

Applicable Land Use Policies

The applicant requests to change the Zoning classification on the subject property from RR-1 to AU. The two (2) properties to the north are both developed. The westernmost property to the north abuts the subject property directly, retains the RR-1 Zoning classification and is developed with a single-family dwelling unit on 5 acres of land. The easternmost property to the north is separated from the subject property by a 25-foot-wide parcel used for access named Junedale Drive. That piece of the greater subject parcel is currently under the same ownership and the same tax account number as the subject property, is developed as a 1,280 square-foot single-family residence with a 3,200 square-foot, detached garage on just less than 5 acres of land that retains AU Zoning classification.

The abutting property to the east is an approximately 7.7 acre undeveloped portion of a 14.89 acre lot, the balance of which is north of Junedale Drive and retains RR-1 Zoning. The two (2) properties abutting to the south are both Zoned and developed as AU, with each having one (1) residence and majority of the land being utilized for agricultural purposes. The 2.5 acre parcel property to the west is developed with one (1) single-family residence and retains RR-1 Zoning.

The original Zoning of the subject property was General Use (GU). Resolution **Z-1582**, a blanket resolution requiring minimum floor area in various locations and districts including "All of Section 15...min. living area of 1050 sq.ft....Township 24 Range 35," was approved as a Binding Site Plan (BSP) on 11/30/64. The BSP was removed when **Z-3037** approved a change of Zoning classification from GU to RR-1 on 07/31/72. The required minimum living area in RR-1 is 1,200 square feet. **Z-3389** approved a Conditional Use Permit (CUP) for Temporary Trailer during construction of a residence on 09/05/73, which was constructed on the northern portion of this parcel, not included within this rezoning request.

The GU classification is a holding category which permits 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.

A note regarding access: The Board and applicant should be aware that this portion of the greater parcel proposed for rezoning does not have County-approved access. Junedale Drive is a privately owned parcel that is under separate ownership than the subject property and any parcels adjacent to the subject parcel. The privately owned 25' wide parcel named as Junedale Drive appears to be utilized as access to the portion of the greater parcel not proposed for rezoning and parcels to the west of the entire greater parcel that are developed with single-family dwelling units.

Old easements for access across the private Junedale Drive parcel and across the northern 25' of the area within this rezoning request exist. Privately recorded access easements contained in the legal description of deeds do not in and of themselves establish access to a county owned and maintained road in accordance with Section 62-102. The subject property cannot be developed with a residential dwelling unit until it the access meets the requirements of Section 62-102.

The following two (2) Zoning actions were the most recent zoning actions approved within one-half mile of the subject property:

- **14PZ-00001** adopted 04/03/14 changed the Zoning classification from General Use (GU) to Rural Residential (RR-1) on a 1.05 acre property located on the north side of Scott Road approximately 225 feet west of Friday Road.
- **15PZ-00037** adopted 09/03/15 changed the Zoning classification from RR-1 to AU on a 3.93 acre property located on the south side of Sorrel Drive approximately 400 feet east of Adamson Road.

For Board Consideration

The applicant is seeking a change of Zoning classification from Rural Residential (RR-1) to Agricultural Residential (AU) on a 9.5 acre undeveloped portion of a larger 14.27 acre, single-family, residential parcel in order to utilize the property for more agricultural uses than allowed by the present zoning. The subject property is located in an area north of State Road 524 between Friday Road to the east and I-95 to the west.

The current RR-1 classification permits single-family residential land uses on minimum one acre lots, 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.

The requested 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.

The 9.5 acre portion of the property for which the change of Zoning classification is requested is located entirely south of a private parcel used for access and known as Junedale Drive. Since access to the property is via easement, building permits will be issued pursuant to meeting the access requirements of Section 62-102.

The subject property retains a Future Land Use (FLU) designation of Residential 1 (RES 1). Both current and proposed zoning are consistent with the RES 1 FLU. Rezoning to AU would expand the permitted uses and permissible accessory structures in accordance with AU Zoning. The current RR-1 zoning requires a minimum lot size of one acre, while the proposed AU zoning requires a minimum lot size of 2.5 acres, which would reduce development potential on the subject property from seven (7) to three (3) dwelling units. Development potential could be further restricted by limitations on access by easement.

The Board may wish to consider whether requested AU zoning classification, the allowance for additional uses and accessory structures and the reduction in development potential is consistent and compatible with the surrounding development.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Rezoning Review & Summary

Item # 19PZ00019

Applicant: Christopher Channell

Zoning Request: RR-1 to AU

Note: Applicant wants to allow for agricultural uses of the property

P&Z Hearing Date: 04/08/19; **BCC Hearing Date:** 05/02/19

Tax ID No: 2405416

- 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.**
- The applicant is encouraged to contact NRM at 321-633-2016 prior to any land clearing activities, site planning or permit submittal.

Notable Natural Resources Land Use Issues:

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

Summary of Mapped Natural Resources Present on the Subject Property:

- Hydric Soils/Wetland Potential
- Protected Species Potential

Land Use Comments:

Hydric Soils/Wetland Potential

The subject parcel contains mapped Myakka sand - depressional as shown on the USDA Soil Conservation Service Soils Survey maps; an indicator that hydric soils and 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 Brevard County Property Appraiser's Office establishes Bona Fide Agricultural land classification.

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 renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. 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 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) and 62-3696 of the Wetland Protection ordinance. Accessory structures are not permitted in wetlands.

Protected Species Potential

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

Staff Comments: Page 6

(19PZ00019)

04/08/19 PZ // 05/02/19 BCC

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.

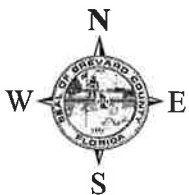
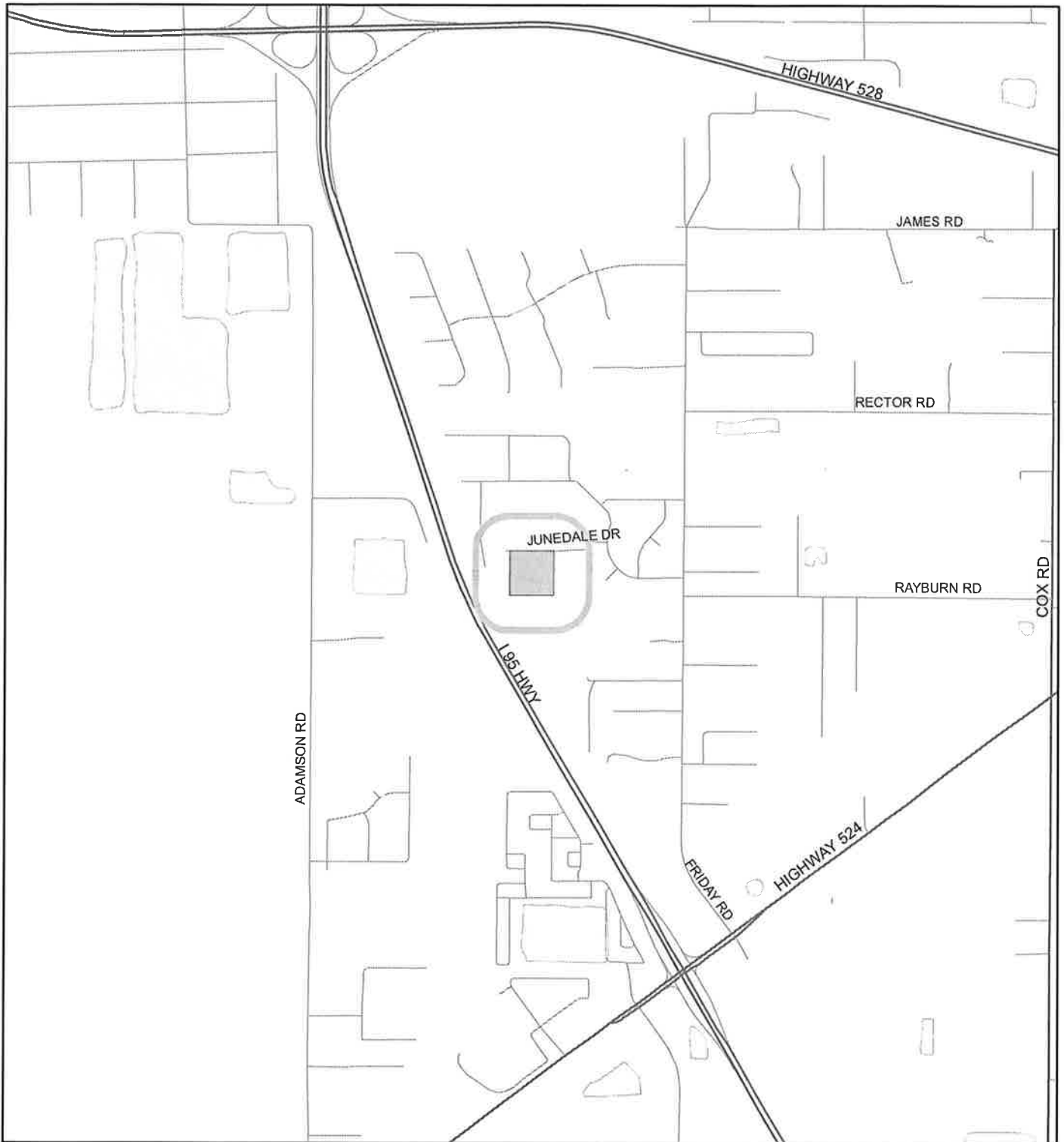
Landscape Requirements

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

CHANNELL, CHRISTOPHER P.

19PZ00019



1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 500 feet

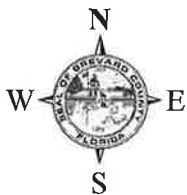
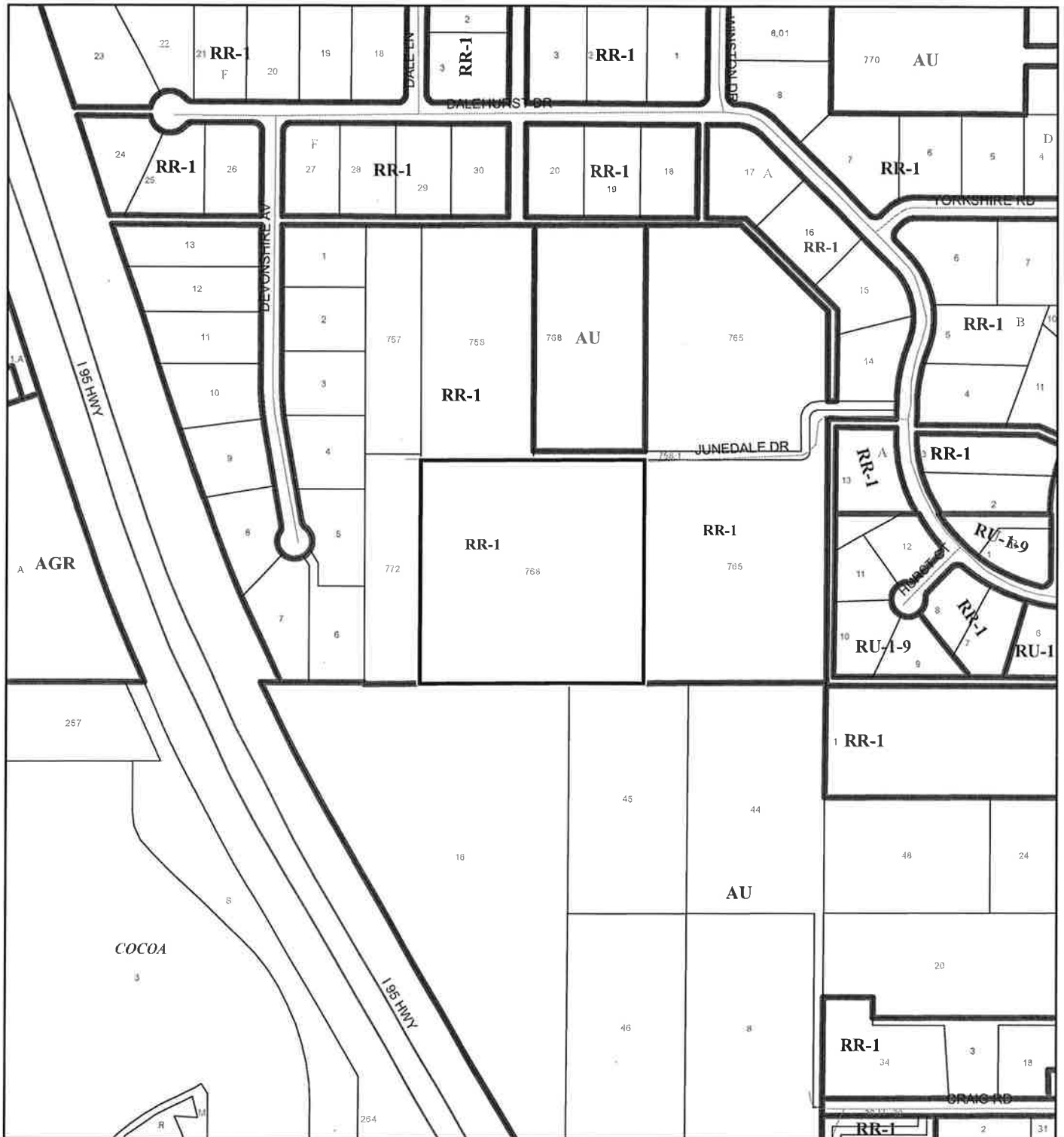
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 2/7/2019

Buffer
Subject Property

ZONING MAP

CHANNELL, CHRISTOPHER P.
19PZ00019



1:4,800 or 1 inch = 400 feet

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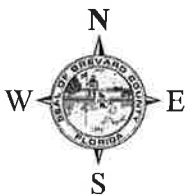
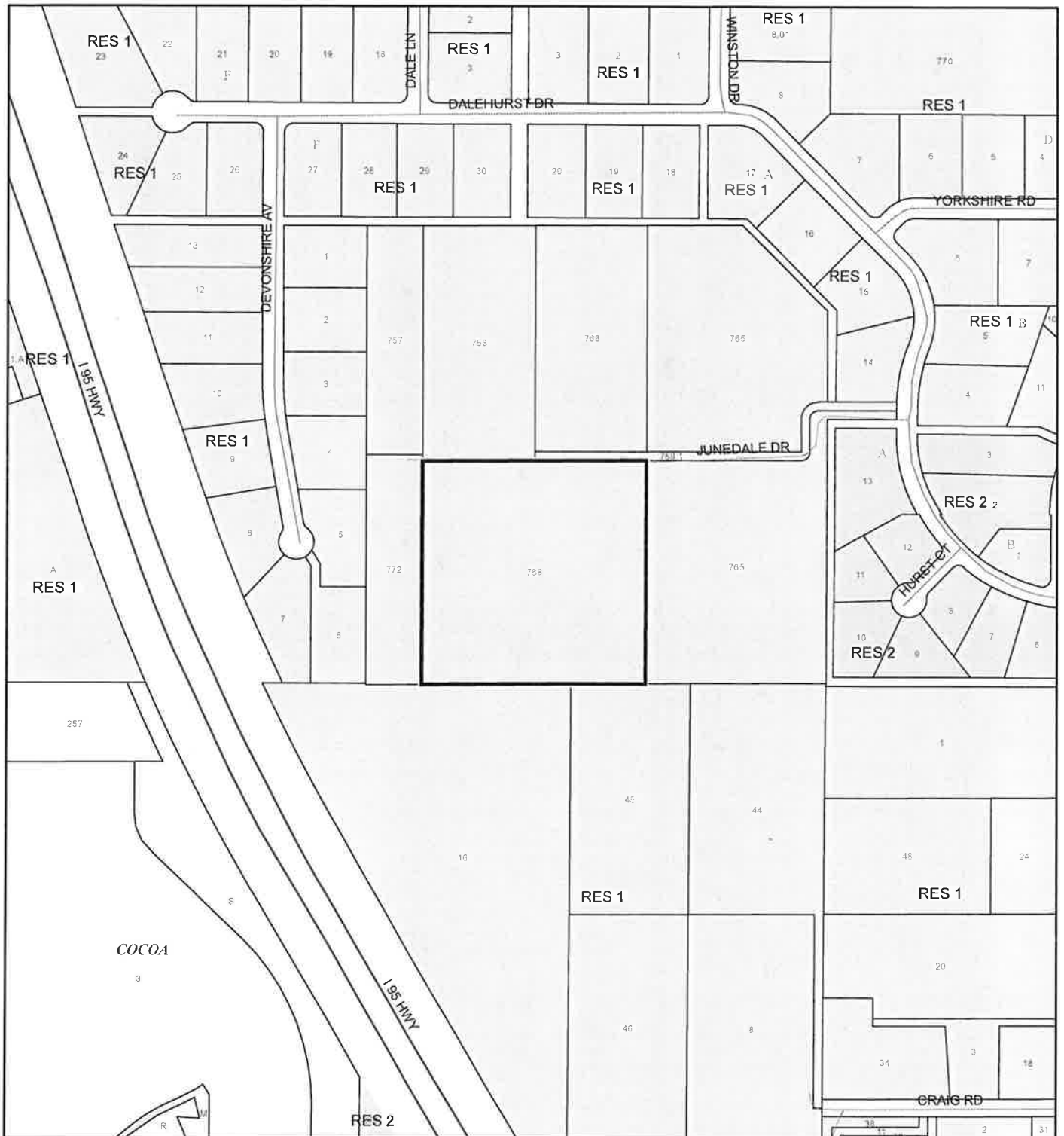
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- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

CHANNELL, CHRISTOPHER P.

19PZ00019



1:4,800 or 1 inch = 400 feet

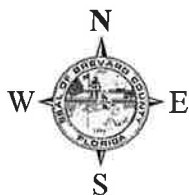
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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Subject Property

Parcels

AERIAL MAP
CHANNELL, CHRISTOPHER P.
19PZ00019



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2018

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— Subject Property
□ Parcels

NWI WETLANDS MAP

CHANNELL, CHRISTOPHER P.

19PZ00019



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/7/2019

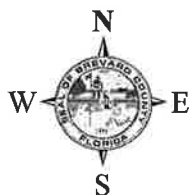
National Wetlands Inventory (NWI)

- | | |
|-----------------------------------|-----------------|
| Estuarine and Marine Deepwater | Freshwater Pond |
| Estuarine and Marine Wetland | Lake |
| Freshwater Emergent Wetland | Other |
| Freshwater Forested/Shrub Wetland | Riverine |
| Subject Property | Parcels |

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

CHANNELL, CHRISTOPHER P.

19PZ00019



1:4,800 or 1 inch = 400 feet

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SJRWMD FLUCCS WETLANDS

- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

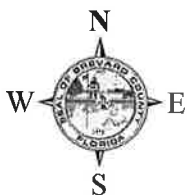
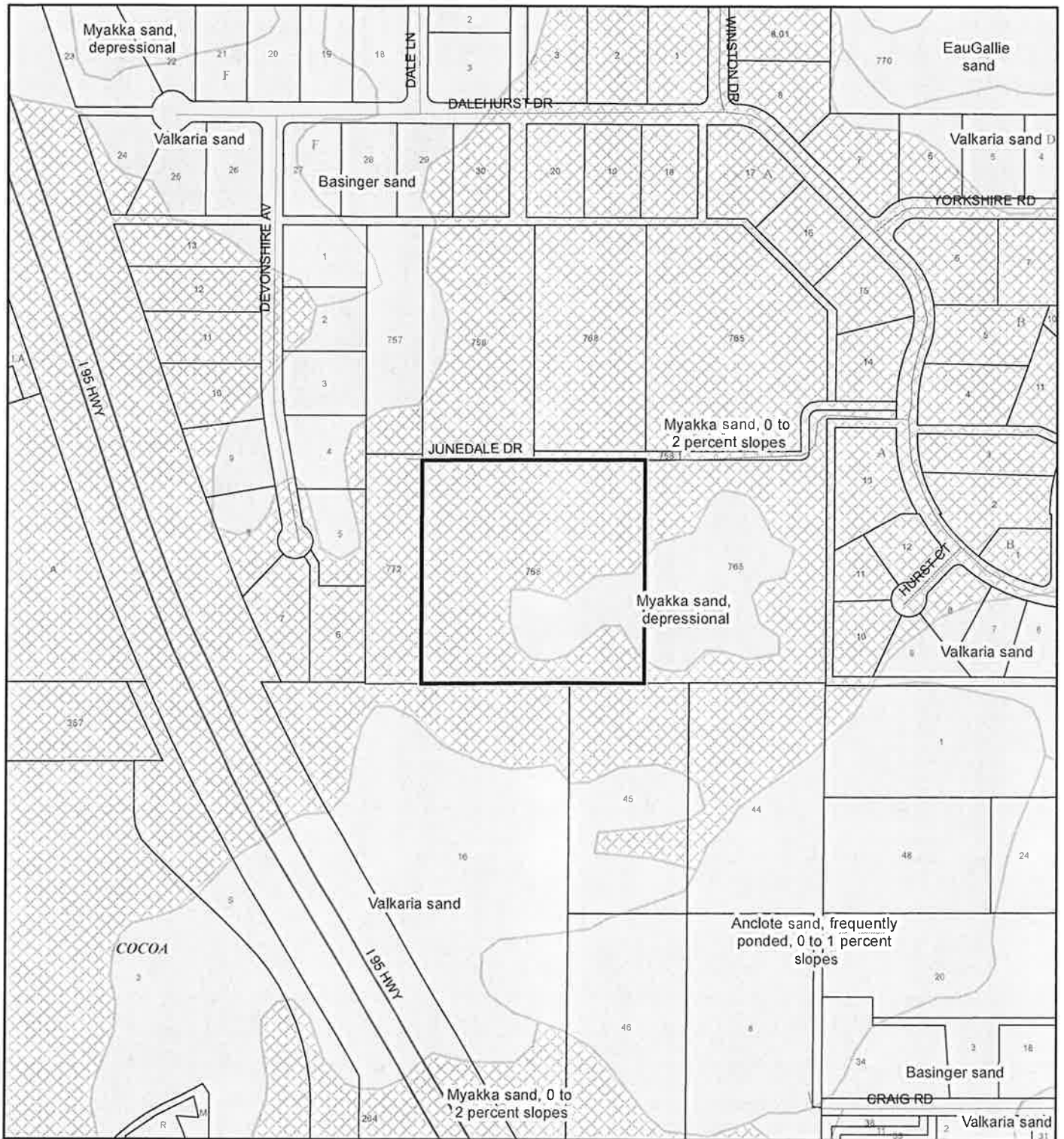
Subject Property

Parcels

USDA SCSSS SOILS MAP

CHANNELL, CHRISTOPHER P.

19PZ00019



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/7/2019

USDA SCSSS Soils

	Aquifer and Hydric
	Aquifer
	Hydric
	None

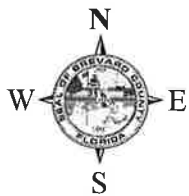
Subject Property

Parcels

FEMA FLOOD ZONES MAP

CHANNELL, CHRISTOPHER P.

19PZ00019



1:4,800 or 1 inch = 400 feet

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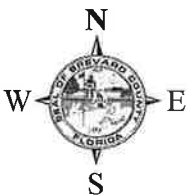
FEMA Flood Zones

- | | | |
|---|------------|----------------------|
| A | AO | X |
| AE | Open Water | X Protected By Levee |
| AH | VE | |
| 0.2 Percent Annual Chance Flood Hazard | | |
| 0.2 Percent Annual Chance Flood Hazard Contained in Channel | | |
| Subject Property | Parcels | |

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

CHANNELL, CHRISTOPHER P.


19PZ00019



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

Septic Overlay

 40 Meters

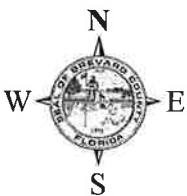
 60 Meters

 All Distances

EAGLE NESTS MAP

CHANNELL, CHRISTOPHER P.

19PZ00019



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/7/2019

 Subject Property

 Parcels

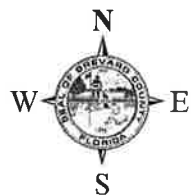


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

CHANNELL, CHRISTOPHER P.




19PZ00019



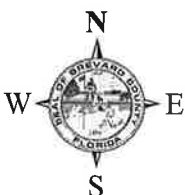
1:4,800 or 1 inch = 400 feet

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.

Produced by BoCC - GIS Date: 2/7/2019

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

19PZ00019



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— Subject Property Parcels

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, April 8, 2019**, at **3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order by the Chair, Henry Minneboo, at 3:00 p.m.

Board members present were: Henry Minneboo, Chair; Ron Bartcher, Brian Hodggers, Ron McLellan; Peter Filiberto; Mark Wadsworth; and Dane Theodore.

Staff members present were: Rebecca Ragain, Planning and Development Assistant Director; Jad Brewer, Assistant County Attorney; George Ritchie, Planner III; and Jennifer Jones, Special Projects Coordinator II.

Henry Minneboo, Chair, announced that the Board of County Commissioners will have the final vote on the recommendations made by the Planning and Zoning Board on Thursday, May 2, 2019, at 5:00 p.m.

Excerpt of Complete Agenda

Christopher Channell (Bruce Moia)

Requests a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential). The property is 9.5 acres, located on the south side of Junedale Drive, approximately 0.15 mile west of Dalehurst Drive. (5050 Junedale Drive, Cocoa) (19PZ00019) (District 1)

Bruce Moia – Bruce Moia, MBV Engineering, 1250 West Eau Gallie Boulevard, Melbourne. We are requesting to down-zone from residential zoning to agricultural zoning. The agricultural zoning is more consistent with the existing zoning of the area so they can use it for horses and animals, and to build a house. I'm here to answer any questions.

Henry Minneboo – He's ultimately going to build a house here?

Bruce Moia – Yes, that's the plan.

Lynn Hansel – Lynn Hansel, 50 Plantation Drive, Titusville. I'm here because the owner of the property, Mrs. Fleckinger, is not a public speaker and she asked me to come and ask a couple of questions, and to make a couple of comments. She is the adjacent property owner immediately to the west of the subject property. She is not opposed to the concept of horses and agricultural uses, but she would inquire as to whether or not the applicant would be willing to accept AU(L) (Agricultural Residential Low-Intensity), which is somewhat less restrictive in the animals you can have there. AU allows bees and fowl, and presumably hogs. They have no objection to typical horses that are found in the AU(L) category, and wonders if that would be an acceptable alternative.

Henry Minneboo – What do we have in AU(L) now? Do we categorize pigs?

George Ritchie – We do, and that requires a CUP (Conditional Use Permit) for the keeping of more than three pigs or hogs, so four or more would need a CUP and 10 acres of land. Under AU(L), we have agricultural pursuits of a personal, non-commercial, nature, but the code does not state which animals would be allowed or not. It is still the same range of animals that you could have on a farm.

Henry Minneboo – Lynn, is it the amount that's disturbing, like peacocks or whatever? Is it a number or a specific animal?

Lynn Hansel – Horses are not a problem; there are horses in the neighborhood, so that is not a problem whatsoever. As Mr. Ritchie indicated, hogs are specifically enumerated as a conditional use. I don't know about peafowl or other fowl, and I don't know about a ton of beehives out there. The zoning application and the staff analysis indicated that the applicant wishes to expand the permitted uses under the AU category. Without knowing exactly the character and nature of that expansion, that's why we're here to ask the questions.

Rebecca Ragain – One of the major differences between the AU and AU(L) is that AU allows commercial activities, and AU(L) does not.

Bruce Moia – If there's no limitations on the AU that's directly to the north of us, which is about 4.5 acres, and there's no limitation on the AU that's to the south of us and the neighboring property, to put a limitation on this property would seem out of character. The intent for this is to be a personal house with what you would normally see on an agricultural piece of property, such as a couple of horses, and a couple of chickens, and it will be whatever the typical person would have on a property that had a personal use for a house and some agricultural purposes. This would be the only property in that area that would have such a limitation, or that zoning, so it would be inconsistent.

Henry Minneboo – In the documents I read, aren't there some access issues with the property?

Bruce Moia – Yes, but that's not part of this.

Henry Minneboo – It has nothing to do with this?

Rebecca Ragain – Staff is working with the applicant to resolve those issues.

Ron McLellan – In the long run, Mrs. Fleckinger just doesn't want a hog pen out there.

Bruce Moia – We can't do a hog pen, and we're not going to ask for a conditional use for one unit.

Mark Wadsworth – I'll make a motion to approve.

Ron McLellan – I'll second it.

Henry Minneboo – I think we've answered your question.

Lynn Hansel – I think in part you have. I have copy from the Brevard County website showing the zoning in the surrounding neighborhood. Mr. Moia has indicated that the zoning of the property to the north is AU (Agricultural Residential), and that part is correct, but the property to the north of the subject property is owned by the applicant. The only other property to the north, west, and east, is zoned RR-1 (Rural Residential). I apologize for not bringing copies with me. I should note that all the applicant wishes to do is put a house on there and do some agricultural activity, but you can put three houses on there, which is not a problem at all and nothing of Mrs. Fleckinger's concern.

Henry Minneboo – Wouldn't that come back to us, if they went to three or four houses?

Rebecca Ragain – The way the code stands right now they are not allowed to divide the property, and the only way to get there is through an easement, which is another issue we're working on with the applicant.

Lynn Hansel – The Fleckinger's and Mr. Channell have been good neighbors for 10 or more years, but we don't know, and cannot know, who might acquire the property in the future and not be as good natured as Mr. Channell purports to be. If you'd keep that in mind we'd appreciate it. I think AU(L) (Agricultural Residential – Low-Intensity) provides satisfactory use of the property, and we'd ask that you consider changing it to AU(L).

Bruce Moia – I certainly can understand what he's saying. No one knows when zoning is changed what will actually happen because it opens up every permittable use in that zoning category. I just think that AU(L) would be inconsistent. There is a lot of RR-1 in the area as well.

Henry Minneboo – You've had no inclination that he will do something greater than what we've discussed?

Bruce Moia – I wouldn't imagine, and that's not the plan as far as I have heard.

Henry Minneboo – This wasn't done under the original platting of that subdivision, was it?

Bruce Moia – This property has never been platted; it was broken into parcels, but there was no plat.

Henry Minneboo – There was a ditch line that divided one side from the other, right?

Bruce Moia – There's something there.

Ron Bartcher – Does the owner intend to do commercial activities?

Bruce Moia – Not that I know of.

Ron Bartcher – It seems to me that that's the primary difference between AU (Agricultural Residential) and AU(L) (Agricultural Residential – Low-Intensity), is the ability to do commercial.

Bruce Moia – Yes, just like they could now on his other property, and also the property to the south as well. I don't believe the requirement is necessary and I don't think it's consistent. I think we have a motion and a second on the floor, so I'll see how that goes.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.

From: [Michael Palmatter](#)
To: [Jones, Jennifer](#)
Subject: RE: Staff Comments
Date: Thursday, April 4, 2019 12:18:30 PM
Attachments: [3. 19PZ00019 Staff Comments\[16968\].pdf](#)
[prescriptive easement sketch.pdf](#)

Good morning ma'am, as discussed on the phone it looks like Mr. Channel is attempting to block / disrupt our prescriptive easement located on Junedale drive (All properties on Junedale drive have openly used the road to access the main water shutoff, mailboxes, and trash collection pickup area located at the end of Junedale since 1995 (20+ years) drive which meets the automatic prescription easement requirements under Florida Statute 704.01) Mr. Channel has continuously threatened to close the road as well as charged the residents on this road \$300 for use which violates our housing bundle of rights to quiet enjoyment. If my vote is in consideration I vote no the rezoning. If additional information is needed feel free to ask.

Michael Palmatter
5070 Junedale drive
Cocoa Florida 32926
(321) 503-9477

Sent from [Mail](#) for Windows 10

From: [Jones, Jennifer](#)
Sent: Thursday, April 4, 2019 8:17 AM
To: michaelpalmatter123@gmail.com
Subject: Staff Comments

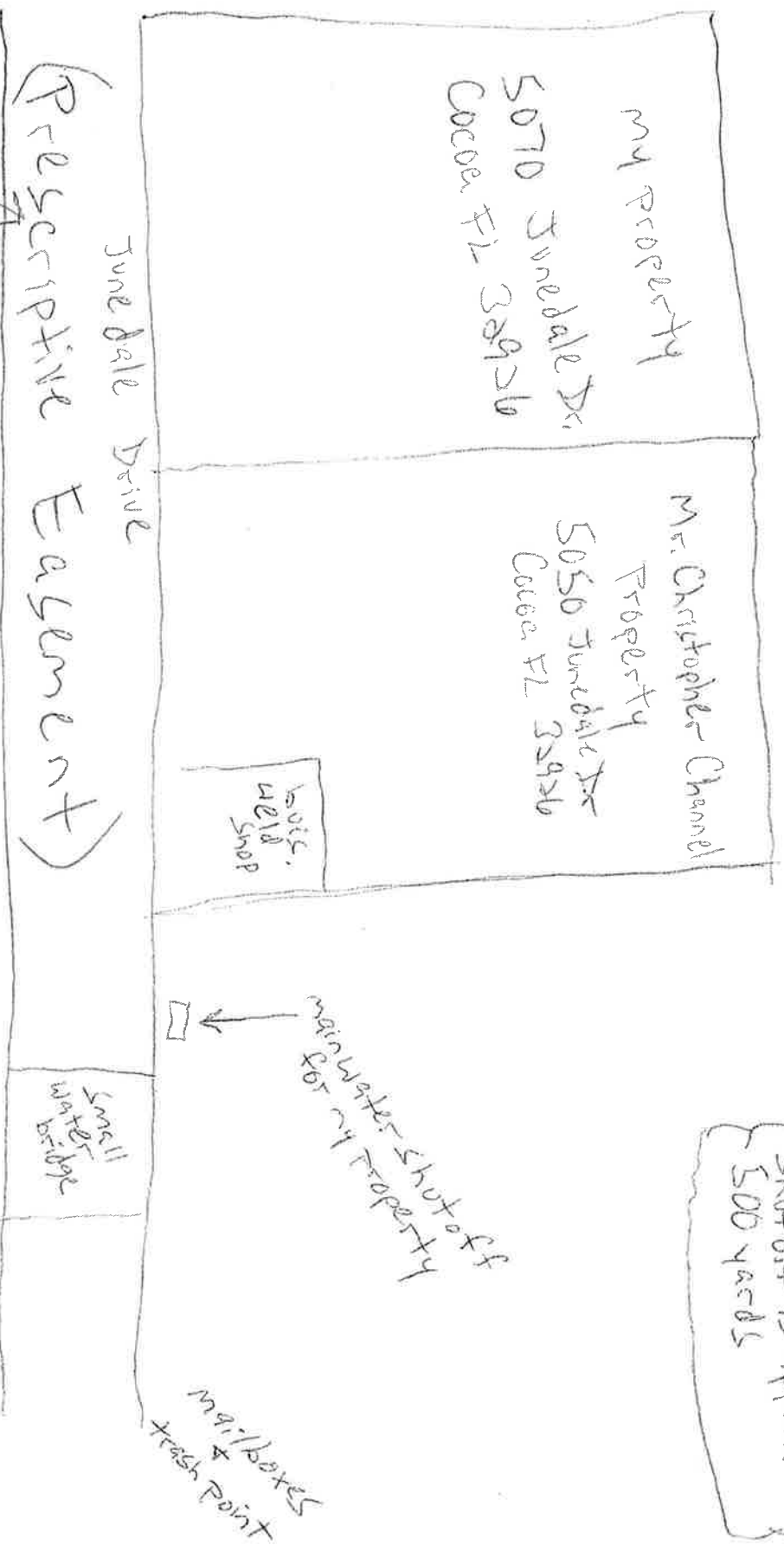
Mr. Palmatter, attached are the staff comments for the rezoning request by Christopher Channell, of which your property is within 500 feet.

If you have any concerns, you can send them to me and I will see to it that the P&Z Board as well as the County Commission receives it.

Jennifer Jones
Special Projects Coordinator II
Brevard County
Planning and Development

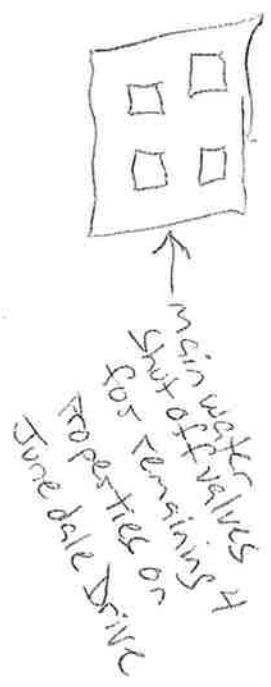
"Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."

Michael Palmaster 5070 June Dale Drive
4 Apr. 19



(Prescriptive Easement)

Easement by prescription - The neighborhood has openly used this road for over 20 years (my house built 1995)



(Not drawn to scale)
Distance from my property to the main water shutoff is approx 500 yards