



MARTIN COUNTY, FLORIDA DEVELOPMENT REVIEW FINAL STAFF REPORT

A. Application Information

MAUREEN T. AITKEN L/E REZONING

Property Owner/Applicant:	Maureen T. Aitken L/E Rezoning
Agent:	Tyson Waters, Fox McCluskey Bush Robinson, PLLC
County Project Coordinator:	Allison Rozek, Principal Planner
Growth Management Director:	Paul Schilling
Project Number:	A084-001
Record Number:	DEV2023040010
Report Number:	2023_0522_A084-001_Final_Staff_Report
Application Received:	04/28/2023
Transmitted:	04/30/2023
Staff Report:	05/22/2023
LPA Meeting:	06/15/2023
BOCC Meeting:	06/20/2023

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B. Project Description

This is a request by Fox McCluskey Bush Robinson, PLLC, on behalf of Maureen T. Aitken, L/E, for a proposed amendment to the County Zoning Atlas for a mandatory rezoning of a 19.73-acre site located at 11301 SW Fox Brown Road, just east of SW Brown Road, in Indiantown. The property has an Agricultural Ranchette Future Land Use (FLU) designation and is currently zoned Category “C” A-2 (Agricultural) which is inconsistent with the FLU designation, making this a mandatory rezoning. The request is to rezone to Category “A” AR-5A (Agricultural Ranchette), or the most appropriate, zoning district. Included is a request for a **Certificate of Public Facilities Exemption**.

C. Staff Analysis, Factors Considered, and Conclusions

Item #1: Requirements for Property's Current Zoning - A-2 (Agricultural District)

The following identifies the permitted uses and the development standards for subject properties current zoning - Category "C" A-2 (Agricultural District).

Uses Permitted. In this district, a building or structure or land shall be used for only the following purposes, subject to any additional limitations pursuant to section 3.402:

- ♦ Any use permitted in the A-1 and A-1A Districts.
- ♦ Airports and landing fields. Airplane landing fields and accessory facilities for private or public use, including flight strips, provided runways and flight patterns are so oriented as not to constitute a nuisance to any established or planned residential areas as delineated in the comprehensive plan of the County.
- ♦ Cemeteries, crematories, and mausoleums. Graves shall not be closer than 25 feet from the property line.
- ♦ Stock raising, stables and dog kennels; provided stables, kennels and dog runways are not less than 50 feet to the property line.
- ♦ Agricultural packinghouses, sawmills and planing mills, turpentine stills and other operations utilizing the natural resources of the region; provided, however, no such operation shall be established or conducted within 600 feet of the nearest highway right-of-way or within 50 feet of the property line.
- ♦ Public works projects, public stormwater management projects, and public utility facilities and service facilities, and any ancillary uses associated with the foregoing, including excavations; rock, stone, or gravel crushing facilities; and ready-mix concrete plants.
- ♦ Fishing camps.
- ♦ Hunting camps subject to the following requirements:
 - Any licensee with a Hunting Preserve License issued by the Florida Fish and Wildlife Conservation Commission, which is valid as of November 17, 2009, located on land zoned A-2 within Martin County may establish one hunting camp.
 - The minimum lot size shall be 20 acres.
 - Kennels for hunting dogs kept at the hunting camp shall not be located within 200 feet of any property line unless completely enclosed and soundproofed and shall be designed and maintained for secure, humane confinement. Animal wastes from the kennels shall be managed in such a manner as to prevent odors from being carried beyond the property boundary.
 - Overnight accommodations shall be limited to no more than six guest rooms. The length of stay for any guest shall not exceed 14 consecutive nights.
 - Meals may be served only to customers of the hunting camp. Freestanding restaurants open to the general public are not permitted.
 - Overnight camping of a duration not to exceed five nights is permitted. No permanent structures shall be constructed for the purpose of overnight camping.

- Shooting ranges as defined in section 3.3 are not permitted within a hunting camp.
- The sale and/or rental of hunting accessories to customers of a hunting camp are permitted. Retail sales of hunting accessories to the general public are not permitted.
- ◆ Public structures owned and operated by governmental agencies and used for public purposes.
- ◆ Trailers. The minimum lot size for a trailer shall be 20 acres and there shall be no more than one trailer on any lot. The trailer shall not be located within 100 feet of any property line. The trailer shall be permitted to remain only so long as the principal use of the property is agricultural. The trailer shall only be used as a residence. The trailer shall be screened from view of abutting lots and public streets to a height of six feet, for example, by means of an opaque fence or landscape buffer.
- ◆ Farmer's markets, as defined in division 2 and pursuant to the requirements set forth in section 3.71.1 of the Land Development Regulations.
- ◆ Solar energy facilities, provided however, such operations shall be conducted in accordance with section 3.100.1.

Required Lot Area. The required lot area shall not be less than five acres.

Minimum Yards Required.

- ◆ Front: 25 feet.
- ◆ Rear and side: 25 feet.
- ◆ No structure shall be built within 50 feet of the center line of any public platted right-of-way not a designated through-traffic highway.
- ◆ No structure shall be built within 65 feet of the center line of a designated through-traffic highway.
- ◆ No setback or yard shall be required adjacent to water frontage.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2003; Ord. No. 669, pt. 1, 6-28-2005; Ord. No. 833, pt. 4, 11-17-2009; Ord. No. 1043, pt. 1, 12-12-2017; Ord. No. 1067, pt. 5, 5-22-2018)

Item #2: Requirements for Property's Proposed Zoning– AR-5A (Agricultural Ranchette District)

COMPREHENSIVE GROWTH MANAGEMENT PLAN (CGMP)

- ❖ The property's Future Land Use (FLU) designation is Agricultural Ranchette, which is a classification that recognizes the primary value of these lands for small agricultural operations and open space, and, therefore, assigns reasonable development options consistent with the existing and anticipated agricultural character in the area. A density of one unit per five gross acres shall be permitted within the areas designated with an agricultural ranchette future land use. However, residential development on these lands should be related to agricultural uses. These areas are situated in locations removed from urban services, have developed at very sparse densities, and maintain their original agricultural and rural character.

LAND DEVELOPMENT REGULATIONS (Article 3. Division 2. Section 3.10.B.)

- ❖ There are two Category “A” zoning districts that are available to implement the Agricultural Ranchette FLU policies of the Comprehensive Growth Management Plan (CGMP). The two categories are AR-5A and AR-10A.
- ❖ In addition to consideration of the above standard zoning districts, the Planned Unit Development (PUD) District offers a third option that provides more design flexibility for proposed projects in exchange for additional public benefits and more county controls.
- ❖ According to the CGMP, the AR-10A is the Category “A” zoning district more suitable for land that has not been subdivided into parcels smaller than ten acres. And the surrounding zoning to the north, south and west remains A-2 (Agricultural) and to the east remains AG-20A (General Agricultural District)
- ❖ On the flip side, the AR-10A district has rarely been used in Martin County and the subject property lies just outside the Urban Service Boundary, near Indiantown. In addition, the CGMP specifically calls out that a density of one unit per five gross acres shall be permitted within the areas designated with an agricultural ranchette future land use.
- ❖ **The above factors demonstrate that either Category A zoning district (AR-5A or AR-10A) is suitable for a rezoning of this property.**
- ❖ The following tables further compare the permitted uses and the development requirements for the Agricultural Ranchette standard zoning districts (AR-5A and AR-10A).

PERMITTED USES (CGMP. Section 3.423.A.)

- ❖ For permitted uses, the only difference between the AR-5A and AR-10A agricultural ranchette zoning districts is that Fishing and Hunting camps are a permitted use in AR-5A and are not permitted in AR-10A. Fishing and Hunting camps are currently permitted in the current A-2 zoning classification so this would not be a change if rezoned to AR-5A.

TABLE 3.11.2 (EXCERPT)
PERMITTED USES – CATEGORY “A” NONRESIDENTIAL DISTRICTS
(Applicable to property with an Agricultural Ranchette FLU)

USE CATEGORY	AR5A	AR10A
<i>Residential Uses</i>		
Modular homes	P	P
Single-family detached dwellings	P	P
Agricultural veterinary medical services	P	P
Aquaculture	P	P
Crop farms	P	P
Exotic wildlife sanctuaries	P	P

Farmer's markets	P	P
Fishing and hunting camps	P	
Orchards and groves	P	P
Plant nurseries and landscape services	P	P
Ranches	P	P
Silviculture	P	P
Stables, commercial	P	P
Wildlife rehabilitation facilities	P	P
<i>Public and Institutional Uses</i>		
Administrative services, not-for-profit	P	P
Cemeteries, crematory operations, and columbaria	P	P
Community centers	P	P
Neighborhood assisted residences with six or fewer residents	P	P
Nonsecure residential drug and alcohol rehabilitation and treatment facilities, on lots where such use was lawfully established prior to the effective date of this ordinance	P	P
Places of worship	P	P
Protective and emergency services	P	P
Public parks and recreation areas, active	P	P
Public parks and recreation areas, passive	P	P
Recycling drop-off centers	P	P
Residential care facilities, where such use was lawfully established prior to the effective date of this ordinance	P	P
Utilities	P	P
<i>Commercial and Business Uses</i>		
Bed and breakfast inns	P	P
Commercial day care	P	P
Family day care	P	P
Golf courses	P	P
Kennels, commercial	P	P
Airstrips	P	P
Mining	P	P

DEVELOPMENT STANDARDS

- ❖ The only difference in development standards between AR-5A and AR-10A is the minimum lot area (5 acres vs. 10 acres) and maximum residential density (1 unit/5 acres and 1 unit/10 acres).
- ❖ Minimum lot width, maximum height, minimum open space, and setbacks are the same for both Category “A” districts.

DEVELOPMENT STANDARDS

TABLE 3.12.1 (excerpted)

Zoning District	Min. Lot Area (sq. ft.)	Min. Lot Width (ft)	Max. Res. Density (upa)	Max. Hotel Density (upa)	Max. Building Coverage (%)	Max. Height (ft)/(stories)	Min. Open Space (%)	Other Req. (footnote)
AR-5A	5 ac.	300	0.20	—	—	30	50	—
AR-10A	10 ac.	300	0.10	—	—	30	50	—

STRUCTURE SETBACKS

TABLE 3.12.2 (excerpted)

	Front/by story (ft.)				Rear/by story (ft.)				Side/by story (ft.)			
	1	2	3	4	1	2	3	4	1	2	3	4
AR-5A	40	40	40	40	40	40	40	40	40	40	40	40
AR-10A	40	40	40	40	40	40	40	40	40	40	40	40

Item #3: Standards for Amendments to the Zoning Atlas

1. ***Comprehensive Growth Management Plan (CGMP)*** Chapter 4, Section 4.4: “Goal 4.4 To eliminate or reduce uses of land that are inconsistent with community character or desired future land uses.” And in Objective 4.4A. “To eliminate inconsistencies between the FLU map and the zoning maps and regulations.” This goal is what creates the mandatory rezoning requirement for those properties that have an inconsistent future land use and zoning.
2. ***Land Development Regulations (LDR)***, Article 3, Section 3.2 E.1. provide the Standards for Amendments to the Zoning Atlas.

The Future Land Use Map of the CGMP establishes the optimum overall distribution of land uses. The CGMP also establishes a series of land use categories which provide, among other things, overall density, and intensity limits. The Future Land Use Map shall not be construed to mean that every parcel is guaranteed the maximum density and intensity possible pursuant to the CGMP and these Land Development Regulations. All goals, objectives, and policies of the CGMP shall be considered when a proposed rezoning is considered.

The County shall have the discretion to decide that the development allowed on any given parcel of land shall be more limited than the maximum allowable under the assigned Future Land Use Category; provided, however, that the County shall approve some development that is consistent with the CGMP, and the decision is debatable or is supported by substantial, competent evidence depending on the fundamental nature of the proceeding.

If upon reviewing a proposed rezoning request the County determines that the Future Land Use designation of the CGMP is inappropriate, the County may deny such rezoning request and initiate an appropriate amendment to the CGMP.

3. Land Development Regulations (LDR), in Section 3.2.E.2., provides the following “Standards for amendments to the Zoning Atlas.” In the review of a proposed amendment to the Zoning Atlas, the Board of County Commissioners shall consider the following:

A. Whether the proposed amendment is consistent with all applicable provisions of the Comprehensive Plan.

- Policy 4.13A.8.(1) of Chapter 4, Future Land Use (FLU), of the CGMP addresses the Agricultural Ranchette FLU Designation. It states: The plan recognizes the primary value of these lands for small agricultural operations and open space, and, therefore, assigns reasonable development options consistent with the existing and anticipated agricultural character in the area. A density of one unit per five gross acres shall be permitted within the areas designated for agricultural ranchettes. However, residential development on these lands should be related to agricultural uses. These areas are situated in locations removed from urban services, have developed at very sparse densities, and maintain their original agricultural and rural character.
- This application requests to rezone the property to the AR-5A zoning district, which of the 2 districts preserves less contiguous land parcels yet complies with the future land use density allowance of one unit per 5 acres. The site lies in close proximity to the Primary Urban Service District and to Indiantown, just off of SW Fox Brown Road, a major arterial; therefore, providing justification for the smaller lots of the 2 districts.
- The site will be required to demonstrate compliance with all applicable development and facilities standards for the Agricultural Ranchette FLU designation in the CGMP during any future site planning and development process.

B. Whether the proposed amendment is consistent with all applicable provisions the LDR.

- The subject property is consistent with the minimum development and setback standards governing the AR-5A and the AR-10A zoning districts.
- With respect to Land Development Regulation requirements related to roads, drainage, environmental protection, utilities, emergency services, landscaping, etc., full compliance cannot be assessed until a development application, including a site

plan, has been submitted for county review.

- A zoning change approval does not exempt the applicant from the Land Development Regulations. This application is solely for a zoning change and does not contain any proposed development on the property. The applicant must demonstrate **full compliance with all regulations prior to any development order** approval action taken by the County.

C. Whether the proposed district amendment is compatible with the character of the existing land uses in the adjacent and surrounding area and the peculiar suitability of the property for the proposed zoning use.

- The adjacent parcels to the north, south, and west have the same Agricultural Ranchette FLU Designation.
- Either zoning district is compatible with the surrounding parcels small scale agricultural operations. Existing development in the area consists primarily of small farms and single-family homes, consistent with the location and future land use designation. Either zoning district is suitable to the site and is compatible with the character of the existing land uses in the adjacent and surrounding area.

D. Whether and to what extent there are documented changed conditions in the area.

- Either zoning district is consistent with the FLU Designation of the existing development to the north and south, and within proximity of, the subject site.
- This site is not located within the Primary Urban Service District lending itself to single family homes related to small scale agricultural uses.
- Either zoning district is shown to be compatible with the existing historical uses, and the current development pattern surrounding Indiantown and is appropriate for this property.
- A review of historical aerials and a comparison of the original FLU map to the current parcel configurations and development of the area indicate that conditions have not substantially changed in the area since the adoption of the County's FLU Map in 1982.

E. Whether and to what extent the proposed amendment would result in demands on public facilities.

- The subject property is not located within the Primary Urban Services District. As such, the full range of urban services at service levels established by the CGMP is not available for future uses on this property. Maintaining these lands for small agricultural operations and open space, while assigning reasonable development options consistent with the existing and anticipated agricultural character in the area will not overburden the utility system outside the urban service district. Residential development on these lands is required be related to agricultural uses.

F. Whether and to what extent the proposed amendment would result in a logical, timely and orderly development pattern which conserves the value of existing development and is an appropriate use of the County's resources.

- The land use pattern that has been established and recognized on the FLU map for development contains 2 land uses within proximity to the subject parcel. The rezoning to either AR-5A or AR-10A would be consistent with the Agricultural Ranchette FLU provisions, **specifically AR-5A would implement the CGMP's policy that Agricultural Ranchette FLU should be able to develop at 1 unit per 5 acres.**

G. Consideration of the facts presented at the public hearings.

- This application for rezoning requires a public hearing before both the Local Planning Agency (LPA) who will make a recommendation on the request; and the Board of County Commissioners (BOCC) who will take final action on the request. The two public hearings will provide opportunities for the public to participate in the review and decision-making process of their local governing body.

D. Reviewing Agency Findings

Development applications must demonstrate compliance with the Comprehensive Plan, LDR(s) and the Code prior to approval by the decision maker.

Various county departments/division participate in the development review process to ensure the applicable requirements and development review procedures have been met.

Department findings of compliance are identified in Sections F, G, H, and I of this report. The current department review status of the various sections is as follows:

Section	Division or Department	Reviewer	Phone	Assessment
F	Comprehensive Plan	Allison Rozek	288-5931	Comply
G	Development Review	Allison Rozek	288-5931	Comply
H	County Attorney	Elysse Elder	288-5925	Review On-Going
I	Adequate Public Facilities	Allison Rozek	288-5931	Exempt

Staff has reviewed this petition for a rezoning to an appropriate zoning district and has determined that the requested Zoning Change Application to the AR-5A standard zoning district is consistent with the procedural requirements of Article 10 and complies with the substantive provisions of Article 3. Therefore, **staff recommends approval.**

E. Action Required for Approval

Classification and Approval Action

This application is classified as an **Amendment to the Official Zoning Map.**

Pursuant to Section 10.3.B., Land Development Regulations (LDR), Martin County, Fla. (2019), a review of this application, at a public hearing, is required by the Local Planning Agency (LPA), which shall provide a recommendation for Board of County Commission (BOCC) consideration.

Pursuant to Section 10.5.F., LDR, Martin County, Fla. (2019), final action on this request for an amendment to the official zoning map is required by the BOCC, at a second public hearing on the matter.

Additional Information

Information #1: Notice of a Public Hearing

The notice of a public hearing regarding development applications shall be mailed at least 14 calendar days (seven calendar days if the application is being expedited pursuant to section 10.12) prior to the public hearing by the applicant to all owners of real property located within a distance of 500 feet of the boundaries of the affected property. **For development parcels which lie outside of or border the primary urban service district, the notification distance shall be increased to 1,000 feet.** In addition, notice shall be mailed to all homeowner associations, condominium associations and the owners of each condominium unit within the notice area. MARTIN COUNTY, FLA., LDR SECTION 10.6.E.1. (2016)

Information #2: Notice Publication

Notice(s) of public hearings regarding development applications shall be published by the County at least 14 days prior to the date of the public hearing (seven calendar days if the application is being expedited pursuant to section 10.12) in the legal advertisement section of a newspaper of general circulation in Martin County. The applicant shall reimburse the County for the cost(s) of the newspaper ad(s) as a post approval requirement for the application. MARTIN COUNTY, FLA., LDR SECTION 10.6.D. (2016)

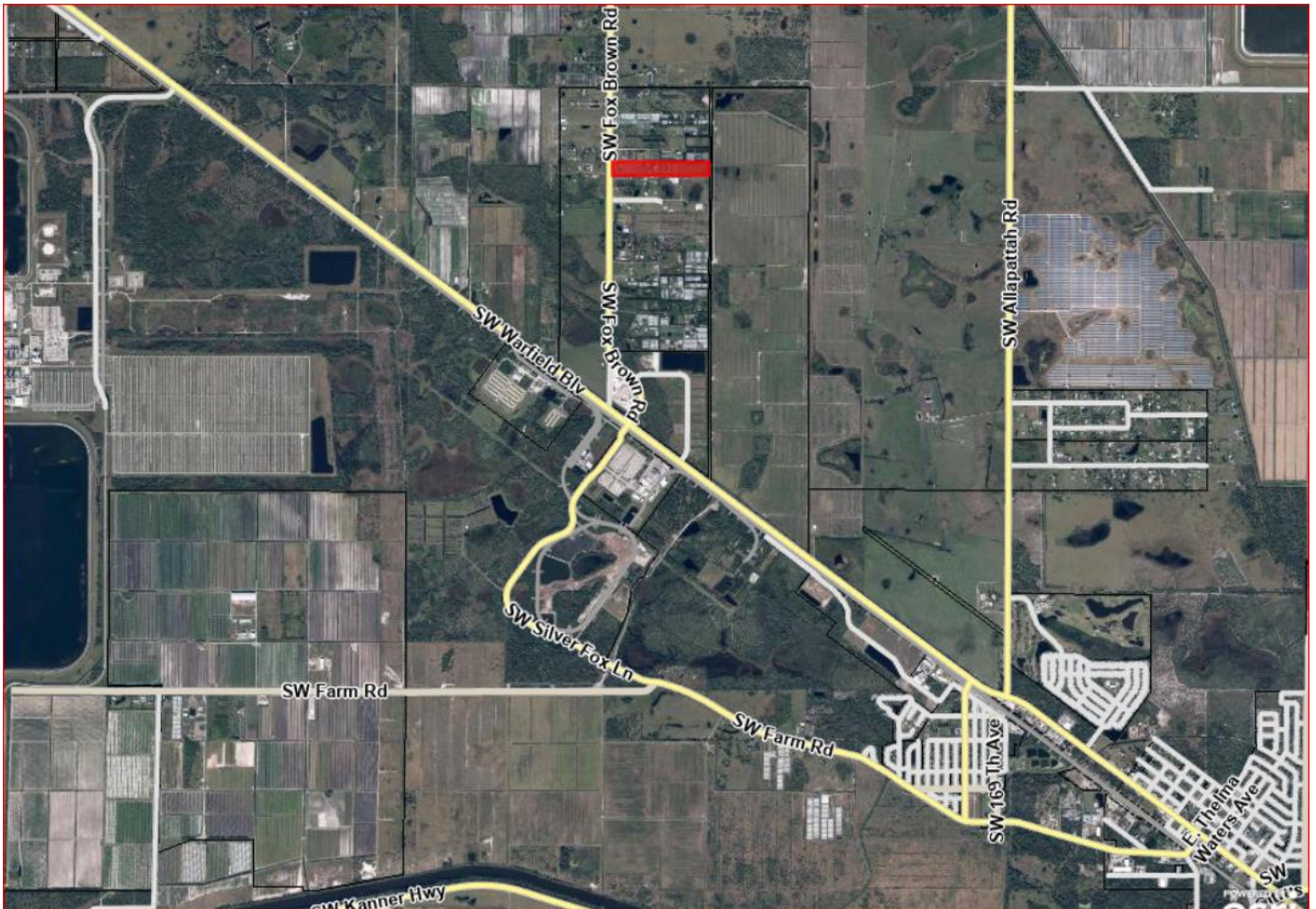
Information #3: Local Planning Agency and Board of County Commissioners Meetings

Based upon the staff findings of compliance, this application has been scheduled for an upcoming LPA meeting, and the following Board meeting, dependent upon the County's scheduling policy.

F. Location and Site Information

Parcel number(s):	22-39-38-001-002-00270-0
Gross Area of Site:	19.73 Acres
Exiting Land Use:	Agricultural Ranchette
Existing Zoning:	Category "C" A-2 (Agricultural)
Proposed Zoning:	Category "A" AR-5R (Agricultural Ranchette)

Figure #1: Location Map



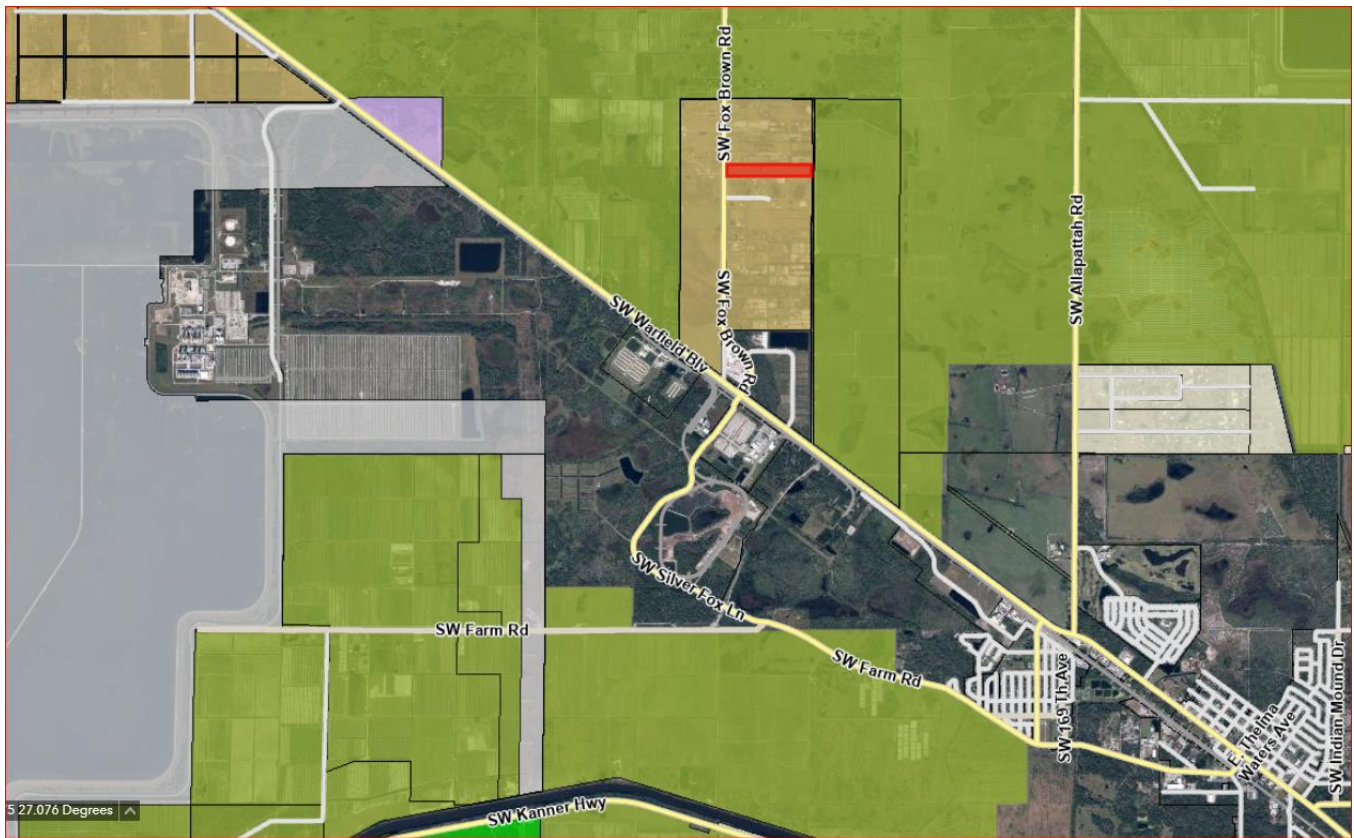
Location:

To the North:
To the South:
To the East:
To the West:

Indiantown

Martin Highway
SW Warfield Boulevard
SW Allapattah Road
SW Fox Brown Road

Figure # 2: Land Use Map



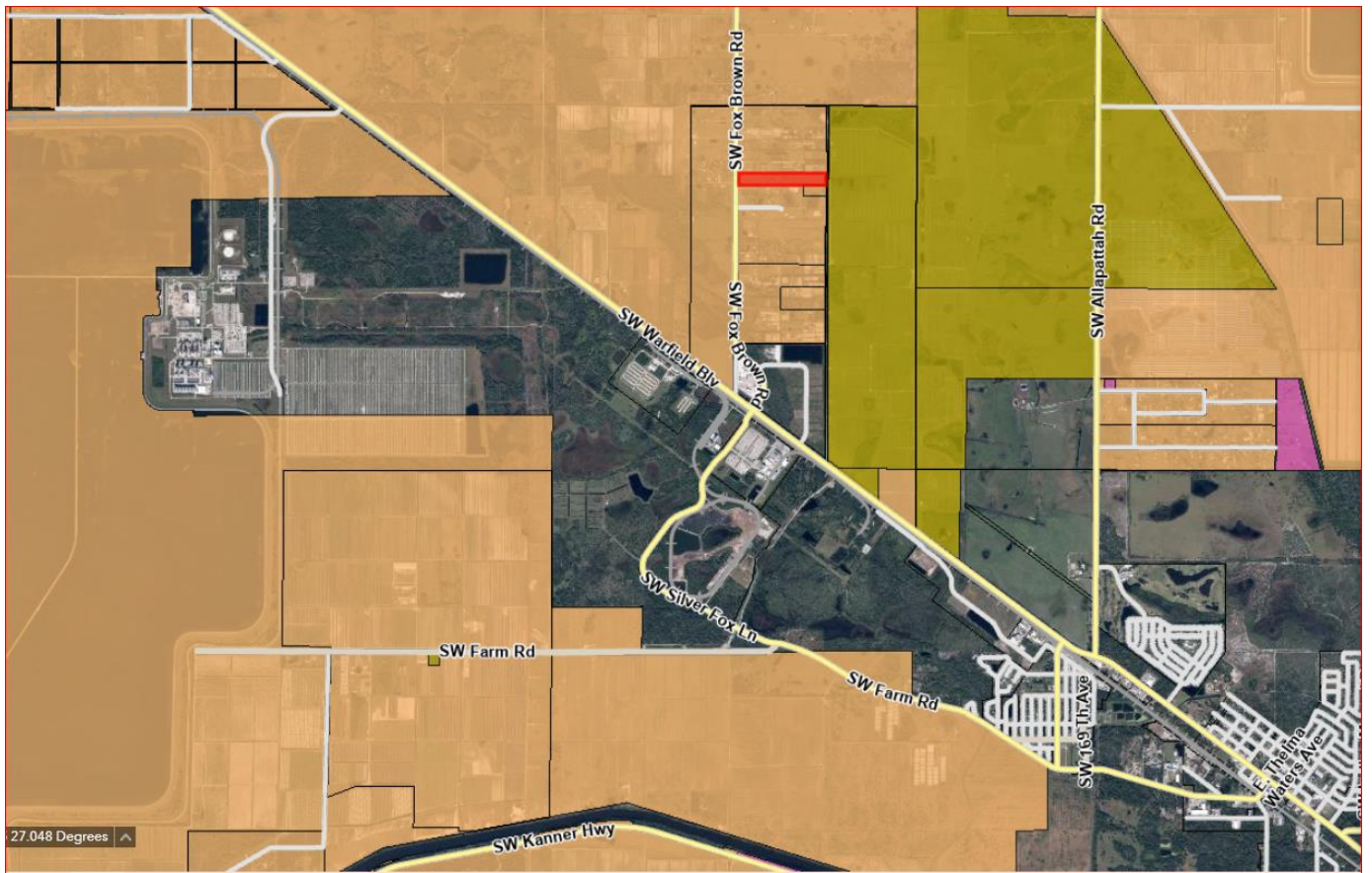
Land Use:

To the North:
To the South:
To the East:
To the West:

Agricultural Ranchette

Agricultural Ranchette
Agricultural Ranchette
Agricultural
Agricultural Ranchette

Figure #3: Zoning Map



Zoning:

A-2 (Agricultural)

To the North:

A-2 (Agricultural)

To the South:

A-2 (Agricultural)

To the East:

AG-20A (General Agricultural District)

To the West:

A-2 (Agricultural)

G. Compliance with Comprehensive Plan Requirements - Growth Management

Findings of Compliance:

The Growth Management Department, Development Review Division has reviewed the application and **finds it in compliance** with the Comprehensive Growth Management Plan and all relevant Land Development Regulations.

H. Compliance with Land Use, Site Design, Zoning, and Procedure - Growth Management

Findings of Compliance:

Pursuant to Section 3.2.E.2., LDR, Martin County, Fla. (2002), in the review of a proposed amendment to the Zoning Atlas, the Board of County Commissioners shall consider the following:

- a. Whether the proposed amendment is consistent with all applicable provisions of the Comprehensive Plan; and
- b. Whether the proposed amendment is consistent with all applicable provisions of the LDR; and
- c. Whether the proposed district amendment is compatible with the character of the existing land uses in the adjacent and surrounding area and the peculiar suitability of the property for the proposed zoning use; and
- d. Whether and to what extent there are documented changed conditions in the area; and
- e. Whether and to what extent the proposed amendment would result in demands on public facilities; and
- f. Whether and to what extent the proposed amendment would result in a logical, timely and orderly development pattern which conserves the value of existing development and is an appropriate use of the County's resources; and
- g. Consideration of the facts presented at the public hearings.

Staff has reviewed the application and, pursuant to the analysis provided in Section B of this report, finds this application in compliance with the land use, zoning, site design and procedural requirements.

I. Compliance with Legal Requirements - County Attorney's Office

Review Ongoing

J. Compliance with the Adequate Public Facilities and Timeline – Growth Management

Determination of Adequate Public Facilities - Exempt

Per Article 5.32.B., any development that does not create additional impacts on public facilities qualifies for a Certificate of Public Facilities Exception. Because a rezoning does not authorize any vertical development, no additional impacts on public facilities will occur; therefore, it is exempt from reserving public facility capacity.

A full analysis and determination of adequate public facilities will occur during review of Final Site Plan application(s) and for any proposed amendment.

The review for compliance with the standards for a Certificate of Adequate Public Facilities Exemption for development demonstrates that no additional impacts on public facilities were created in accordance with Section 5.32.B., LDR. and therefore, this project qualifies for a Certificate of Public Exemption.

K. Post-Approval Requirements

The applicant will receive a letter transmitting a list of post approval items that need to be submitted. The list will include the documents and fee amounts specific to the approved development order. Approval of the development order is conditioned upon submittal of all required documents and unpaid fees to the Growth Management Department within 60 days of the final action granting project approval. All documents shall be submitted in a single paper copy packet and arranged in the order listed below, AND in pdf format saved to a flash drive. Large format plans (24” x 36”) must be rolled, not folded, and submitted digitally on a flash drive in the original .dwg/CAD format.

Post Approval Submittal Requirements

- ☐ **Post Approval Submittal List.** One 8” X 11” copy of the list you receive from Growth Management, along with any comments provided to explain document exclusions or adjustments included in your submittal, if applicable.

- ☐ **Post Approval Fees including Recording Costs.** The applicant is responsible for all recording costs. The Growth Management Department will calculate the recording costs and contact the applicant with the payment amount required. Checks should be made payable to the Martin County Clerk of Court and remitted to the Growth Management Department.

- ☐ **Digital Application.** One digital pdf copy of the submitted and approved Development Application, without bookmarks, including all exhibits and attachment.

L. Local, State, and Federal Permits

There are no applicable Local, State and Federal Permits associated with a Zoning Atlas Amendment.

M. Fees

Fees for this application are calculated as follows:

<i>Fee type:</i>	<i>Fee amount:</i>	<i>Fee payment:</i>	<i>Balance:</i>
Application review fees:	\$1,000	\$1,000	\$0
Advertising fees:	TBD	TBD	TBD
Recording fees:	TBD	TBD	TBD

- * Advertising fees will be determined once the ads have been placed and billed to the County.
- * **Recording fees will be identified on the Post Approval Checklist.**

N. General Application – Development Team

Owner/Applicant

Maureen Aitken
11301 SW Fox Brown Road
Indiantown, FL 34956

Agent

Tyson Waters
Fox McCluskey Bush Robison, PLLC
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O. Acronyms

ADA..... Americans with Disability Act
AHJ Authority Having Jurisdiction
ARDP..... Active Residential Development Preference
BCC..... Board of County Commissioners
CGMP Comprehensive Growth Management Plan
CIE Capital Improvements Element
CIP Capital Improvements Plan
FACBC Florida Accessibility Code for Building Construction
FDEP..... Florida Department of Environmental Protection
FDOT Florida Department of Transportation
LDR..... Land Development Regulations
LPA..... Local Planning Agency
MCC..... Martin County Code
MCHD..... Martin County Health Department
NFPA National Fire Protection Association
SFWMD..... South Florida Water Management District
W/WWSA Water/Wastewater Service Agreement

P. Attachments

N/A