



## Office of the Planning Commission

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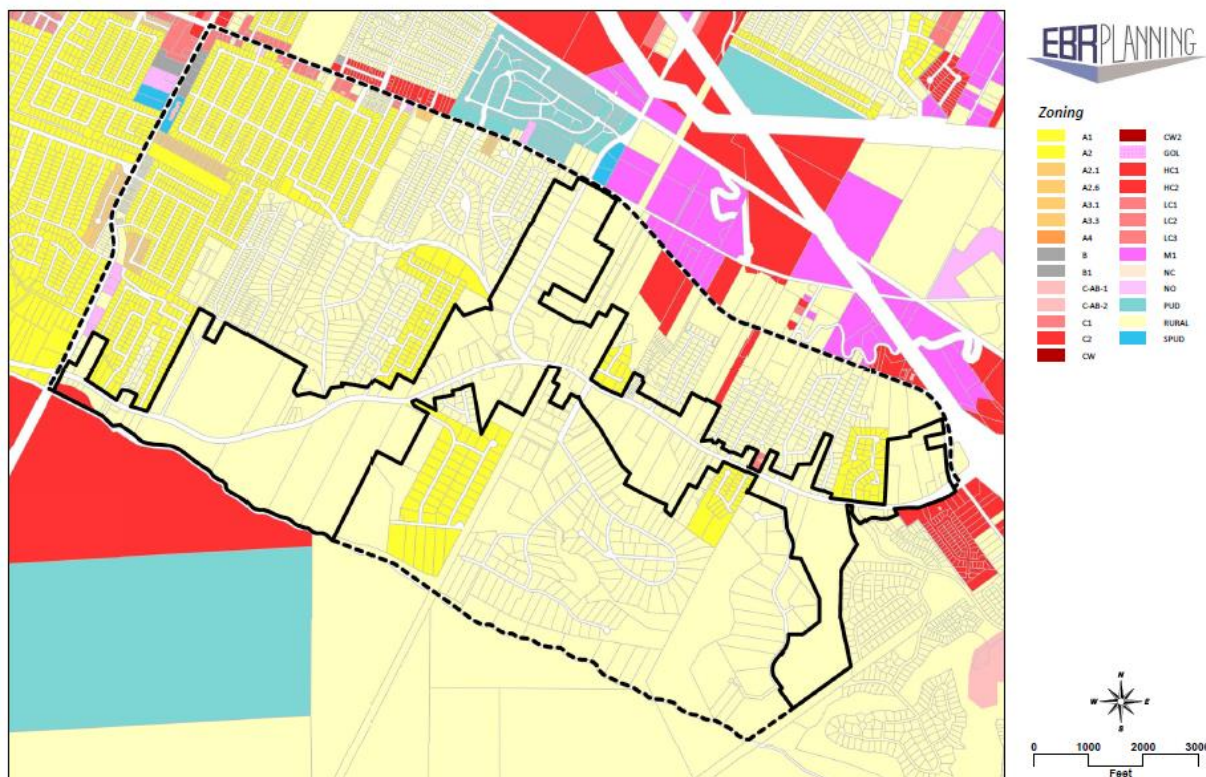
**November 20, 2015**

**TO:** Metropolitan Council Members

**FROM:** Frank M. Duke, FAICP, Planning Director

**SUBJECT:** Study of Potential Rezoning of Highland Road Area to Residential Estate/Agriculture One (RE/A 1)

**RECOMMENDATION:** Based on the information available to me at this time, I cannot recommend that the Metropolitan Council initiate a rezoning of the properties currently zoned Rural (and shown in the graphic below in a pale yellow) in the area shown within the dashed lines that generally follow Bayou Fountain, Siegen Lane, Perkins Road and I-10. It is possible that a smaller portion of the area might justify a change in zoning, but neither the broader area nor a smaller area consisting of the properties fronting on either Highland Road or Pecue Lane (shown in the solid line) would appear to be suited for a Council-initiated change of zoning at this time.



**ZONING OF THE HIGHLAND PECUE AREA**

The evaluation described on the following pages looks at all of the properties in the vicinity of Highland Road and Pecue Lane that are currently zoned Rural to ascertain the appropriateness of rezoning them to RE/A 1 in order to reduce the number of lots that could be created in the area. Since no specific area was defined for this evaluation, I have looked at the property in the general area as well as only the properties that directly front on Highland Road between Siegen Lane and I-10 or Pecue Lane between Highland Road and Perkins Road.

**BACKGROUND:** Earlier this year, residents of the Highland Road area approached the Planning Commission office requesting that the Planning Commission not support subdivision applications in the corridor. This request followed the Planning Commission's denial of a second application for a development near the intersection of Highland Road and Pecue Lane; staff had recommended approval of both applications since they each met the technical requirements of the Unified Development Code.

The graphic on the previous page illustrates the areas that are the subject of this analysis, with the pale yellow color representing the 1,286 properties currently zoned Rural in the area. The agenda item that was the subject of the Council discussion on November 10 referred to properties "on Highland Road . . . and Pecue Lane", suggesting that only those properties with frontage on one of those roads (outlined in the solid line on the graphic) should be evaluated; however, the area that residents have discussed with Planning Commission staff is much larger, encompassing properties that do not have frontage on one of those roads (outlined in the dashed line). Accordingly, each of these areas is evaluated in this analysis.

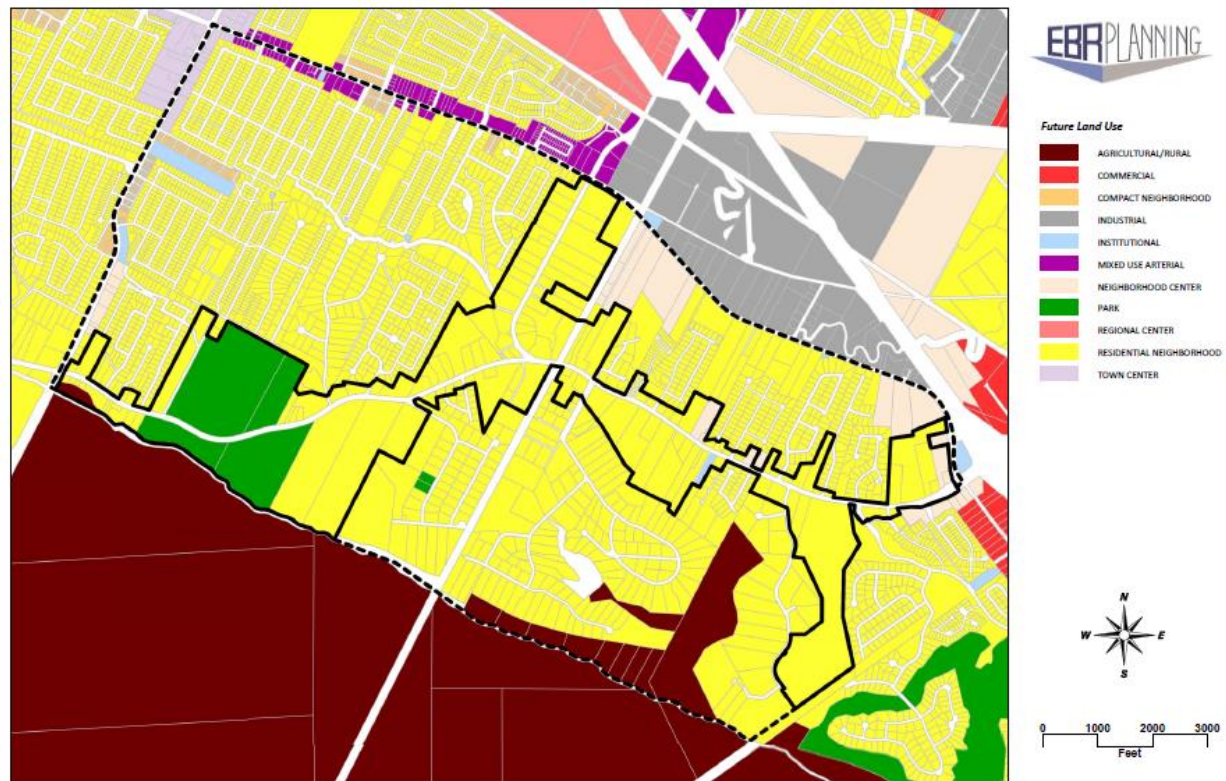
**THE ISSUE:** Area residents have opposed efforts to develop properties in this area consistent with the existing Rural zoning. The current zoning permits up to 7.3 dwelling units per acre since it is within the suburban area of the parish as defined in the Comprehensive Plan; residents have said that the authority to develop as many as 7.3 units per acre on properties zoned Rural is not consistent with the intent of the Rural zoning and have asked that the parish rezone the property to RE/A1 (Residential Estate Agriculture One), which would require lots at least one acre in size.

**ANALYSIS:** In order to evaluate the appropriateness of the change in zoning that area residents have proposed, the same criteria used for evaluating any rezoning request have been applied; namely, (1) is the change consistent with the Comprehensive Plan, (2) do the affected properties conform to existing regulations regarding their development under the proposed zoning designation, and (3) is the proposed change compatible with the existing development pattern of the area.

Given that area residents have asked that the Metropolitan Council rezone the property rather than have the actual owners seek the rezoning, two additional criteria have been considered in this situation. Considering this, I believe that it is appropriate to consider the extent to which the owners of the property that would be affected have indicated support for the change since the request, if approved, will reduce the development potential of the property and, effectively, the property rights of the owners. I have previously indicated to the citizens that I could not recommend this change unless they meet the criteria for a rezoning and either demonstrated the support of the overwhelming majority of the landowners affected by the change or could point to a readily identifiable public purpose that would be served by such a rezoning.

**A. Consistency with the Comprehensive Plan** As indicated in the portion of the Future Land Use Map taken from *FUTUREBR*, the parish's comprehensive plan, the area in question is designated

Residential Neighborhood (as indicated by the yellow on the graphic below). Residential Neighborhoods are defined in *FUTUREBR* as consisting of single family homes in a “spacious residential environment” along with accessory dwellings, townhomes, and garden apartments. This designation simply carried forward the designation given the area in the Horizon Plan in 1992.



**FUTUREBR LAND USE MAP OF THE HIGHLAND/PECUE AREA**

By ordinance, the parish has considered up to eight dwelling units per acre as being “low density,” meaning that both the existing Rural designation and the proposed RE/A 1 designation are consistent with the designation of the area on FUTUREBR’s future Land Use Map.

**CONCLUSION:** The comprehensive plan does not give clear guidance as to which of these designations is most appropriate. Either zoning district may be considered to be consistent with the comprehensive plan.

- B. Conformance with Zoning Regulations** Assurance that any change in zoning does not create nonconformities is a critical aspect of the evaluation of any proposal to rezone property. Nonconformities create problems for property owners making it difficult to obtain insurance as well as financing for development or home purchase. For this reason, §7.3 of the Unified Development Code expressly prohibits the creation of new nonconformities.



While nonconformities can result from any number of things, the most common one to consider in this case is the potential creation of nonconforming lots. The difference in the lot requirements of Rural and RE/A 1 zoning are shown below:

**Table One:**  
**Zoning Requirements Rural and RE/A 1**

Zoning District	Lot Area	Lot Width	Required Front Yard
Rural (in Residential Neighborhood)	6,000 sq. ft.	50 feet	15 feet
RE/A 1	43,560 sq. ft.	100 feet	100 feet

Examination of the Rural zoned properties shown on the earlier graphic illustrating the current zoning of the area indicates that the vast majority of the lots in the area do not meet the requirements of RE/A 1 zoning, as indicated in the table below. The distribution of these lots is shown on the following graphic, with the nonconforming lots shown in red and the conforming lots in white; lots in gray are not zoned Rural so are not part of this analysis. These results indicate that the overwhelming majority of the Rural zoned properties in the area cannot legally be rezoned to RE/A 1.



**RURAL ZONED PROPERTIES NOT CONFORMING TO RE/A 1 REQUIREMENTS**

**Table Two:**  
**RE/A 1 Nonconforming Properties in the Area**

	Total Lots	% of Total
Rural zoned lots conforming to RE/A 1 requirements	259	17.4%
Rural zoned lots not conforming to RE/A 1 requirements	1,228	82.6%

Examination of the smaller area, considering only the properties that front directly on Highland Road or Pecue Lane yields different results. Along these corridors, a majority of the properties do conform to RE/A 1 and potentially could be rezoned to RE/A 1 as shown in the table below.

**Table Three:**  
**RE/A 1 Nonconforming Properties Fronting Highland Road and Pecue Lane**

	Total Lots	% of Total
Rural zoned lots conforming to RE/A 1 requirements	81	57.4%
Rural zoned lots not conforming to RE/A 1 requirements	60	42.6%

**CONCLUSION:** No action should be taken to rezone either the entirety of the area that was originally discussed with the residents or was the subject of the November 10 Council item. Only if a smaller contiguous area within which no nonconformities would be created is identified should consideration be given to the requested rezoning of that smaller, defined area.

- C. Compatibility with the Area Development** Compatibility with nearby development is the third typical criterion used in the evaluation of proposed rezonings. While it is typically used, few jurisdictions have developed a standard definition for what is meant by “compatibility.” The only jurisdiction with which I am aware that has established a legal definition of “compatibility” is the State of Florida, which defines it in §163.3164(9), Florida Statutes, as “a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted by another use or condition.”

This concept of compatibility is contained in Baton Rouge’s regulations, which require that land uses be “the same as, or similar to that existing on properties next to, or across the street from the site under consideration” and prohibits zoning changes that would result in “land or building usage which is, or may become incompatible with existing character or usage of the neighborhood.” (§19.7A, Baton Rouge Unified Development Code).

In evaluating compatibility, §19.7 of the Unified Development Code requires “consideration of changes in land value . . . that might limit the usefulness of vacant land.” A review of development approvals of subdivisions in suburban East Baton Rouge Parish with lots that were one acre or more was undertaken to ascertain the potential market demand for such lots. This review found that, over the past five years, only one subdivision with lots of this size has been approved in the suburban area of the parish and it was in an area with no sanitary sewer service.

With this information, the issue is whether a change in zoning in this area to require larger lots for single family development would create compatibility issues with the existing development. The conclusion is that it would not – both the current Rural zoning and the suggested RE/A 1 zoning would be compatible with the development in the area, but consideration should be given to the impact of the change in zoning to land values.

**CONCLUSION:** Both the existing Rural zoning and the suggested RE/A 1 zoning would be compatible with the existing development in the area

**D. Additional Factors for Consideration** Given that citizens have requested that the Metropolitan Council initiate this rezoning rather than the individual property owners, two additional criteria have been considered, at least one of which I believe should be met. These are: (1) do the overwhelming majority of the owners of the property that would be affected by the change in zoning support; or (2) has a readily identifiable public purpose that serves as the basis for the requested change been identified. Each of these factors is evaluated below.

**1. Property Owners Support** In previous meetings with the residents seeking the change in zoning, they were advised that they needed to provide evidence that an overwhelming majority of the affected property owners supported the change before I could recommend that Metropolitan Council consider a request to initiate the change in zoning. Accordingly, residents have undertaken to obtain signatures of property owners on petitions indicating their willingness to have their property rezoned.

Petitions signed by more than 200 property owners indicating support for the change were obtained by citizens in this process, with copies of those petitions provided to the Planning Commission staff so that we could verify the signatures and independently determine the extent to which those signatures represented the owners of property that would be affected by the proposed change in zoning.

In undertaking this evaluation, the signatures on the petitions were confirmed against the property owners shown in the assessor's database; our typical source of this information. Evidence of support for the rezoning was considered if at least one owner of record signed it or, if the property was held by a corporation, if an individual purporting to be an officer of the corporation authorized to sign the form did so. Petitions submitted on properties that could not be rezoned or that were outside of the areas being evaluated were not considered.

The geographic distribution of signatures is shown on the graphic below, with owners of properties shown in green having provided signatures supporting the change in zoning, those shown in blue having provided at least partial signatures supporting the change, and those in white having submitted no signatures. The owner of one property, shown in pink on the graphic, submitted a form objecting to the rezoning. Properties shown in red cannot be considered for rezoning due to ordinance requirements and those shown in gray are not zoned Rural at present so would not be subject to the proposed change.

**DISTRIBUTION OF SIGNATURES SUPPORTING RE/A 1 ZONING**

**CONCLUSION:** There does not appear to be the “overwhelming support” for the proposed change in zoning among affected property owners that was suggested was needed. Fewer than half of the property owners who would be affected indicated support for the change. I cannot recommend initiating a change in zoning of the area given this level of support.

**Table Four:**  
**Property Owner Support for Rezoning the Area**

	Affected Properties in Entire Area		Affected Properties Fronting on Highland Road or Pecue Lane	
	#	%	#	%
<b>Property Owner Support</b>	71	27.4%	25	30.9%
<b>Partial Property Owner Support</b>	25	9.7%	6	7.4%
<b>Property Owner Opposition</b>	1	0.4%		
<b>No Signatures</b>	162	62.5%	50	61.7%
<b>Total Affected Properties</b>	259		81	

- 2. Readily Identifiable Public Purpose** Absent clear evidence of overwhelming support, I would not recommend that Metropolitan Council initiate zoning changes unless there is a clearly defined public purpose for the change. Residents of the area who are seeking to have Council initiate rezoning of the area have suggested two potential public purposes: (a) restoration of the zoning of the area to what they enjoyed prior to 1994;

and (b) protection of the historic character of Highland Road. Each of these issues is evaluated below.

- a. Restoration of the Pre-1994 Development Potential** Residents have stated in various public settings that their goal is simply to return to the densities permitted in Rural zoning prior to 1994, when the current regulations were adopted. They have said that they were not properly notified of the changes made to the development regulations at the time that they were changed.

While I cannot say how property owners were notified of the changes in 1994, I have examined the development regulations affecting Rural zoning that were in effect prior to that date. Before the current provisions were adopted, the Unified Development Code permitted up to 29.3 dwelling units per acre as well as a wide range of non-residential uses in the Rural zoning district. Amendments in that year eliminated many of the non-residential uses and eliminated the option for multi-family dwellings, reducing the allowable density to 7.3 units per acre in single family dwellings within the suburban and urban areas of the parish and one dwelling unit per acre in the areas of the parish designated as rural in the Comprehensive Plan. Rezoning the property as proposed would substantially reduce the development potential below what was allowed prior to 1994.

**CONCLUSION:** Based upon this review, there is no basis for suggesting that the requested RE/A 1 zoning is intended to simply return the property to its pre-1994 development potential. The change in zoning would not serve the purpose proponents have stated as the basis for their request.

- b. Protection of the Historic Character of Highland Road** Proponents have stated that a secondary goal of the request is to preserve the historic character of Highland Road. In order to evaluate the impact of the change in zoning regulations on the character of the road, the provisions of the Unified Development Code governing development in both Rural and RE/A 1 zoning along major arterials such as Highland Road were examined.

The requirements governing subdivisions of property zoned either Rural or RE/A that abut a major arterial such as Highland Road are identical. All such subdivisions are required to install either (1) a 20 foot wide landscape buffer planted with four Class A trees every 100 linear feet; or, (2) a ten foot wide landscape buffer planted with four class A trees every 100 linear feet and backed with a six foot tall opaque fence or wall pursuant to §4.104 of the Unified Development Code.

**CONCLUSION:** Given that the Code requirement governing subdivisions on major arterials is the same under both the existing Rural zoning and as well the proposed RE/A 1 zoning, this does not appear to be a basis for initiating the change in zoning.

**FINAL CONCLUSION:** This evaluation has looked at all of the properties in the vicinity of Highland Road and Pecue Lane that are currently zoned Rural to ascertain the appropriateness of rezoning them to



RE/A 1 in order to reduce the number of lots that could be created in the area. Since no specific area was defined for this evaluation, it has looked at the property in the general area as well as only the properties that directly front on Highland Road between Siegen Lane and I-10 or Pecue Lane between Highland Road and Perkins Road.

Examining just the criteria applied as part of a typical zoning request, consistency with the comprehensive plan, conformance with zoning regulations, and compatibility with the area, I cannot recommend that Metropolitan Council initiate a rezoning. While the request would be consistent with the comprehensive plan (especially if the area between Highland Road and Perkins Road that is east of the servitude that lies just east of Pecue Lane were removed) and would be generally compatible with existing development patterns (if Metropolitan Council believes that a market exists for one acre single family lots in suburban Baton Rouge), it would create too many nonconformities in violation of the Unified Development Code as a result of small lots and inadequate yards to meet code requirements.

Further, there does not appear to be adequate public support for the proposed rezoning among the owners of properties that would be directly affected by the proposed change and I am unable to identify a public purpose that would be served by the suggested change.

Based on the information available to me at this time, I cannot recommend that Metropolitan Council initiate a rezoning of the properties in this area. It is possible that a smaller portion of the area might justify a change in zoning, but neither the broader area nor the smaller area consisting of the properties fronting on either Highland Road or Pecue Lane would appear to be suited for a Council-initiated change of zoning.