



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

22Z00059

Robert J Woodhouse V

GU (General Use) to AU(L) (Agricultural Residential (Low Intensity))

Tax Account Number: 2441057
Parcel I.D.: 24-35-02-01-33-7
Location: South side of Detroit Street, approximately 310 feet east of Hartville Avenue (District 1)
Acreage: 1.00 acres

Planning and Zoning Board: 1/09/2023
Board of County Commissioners: 2/02/2023

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	GU	AU(L)
Potential*	1 unit**	1 unit
Can be Considered under the Future Land Use Map	YES RES 1:2.5	YES RES 1:2.5

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

** Lot is a nonconforming lot recorded in the Canaveral Groves Subdivision Book 2 Page 62.

Background and Purpose of Request

The applicant is requesting to change the zoning classification from GU (General Use) to AU(L) (Agricultural Residential – Low Intensity) to allow agricultural uses and to construct an accessory building that would be exempted from size limitations for accessory buildings. Section 62-2100.5(g) states that accessory buildings in the agricultural zoning classification are exempted from this size limitation. The applicant is applying for a rezoning rather than applying for a variance to allow for a larger accessory structure.

The property is developed with a 2,186 sq. ft. single-family home and two accessory buildings. This request is to permit the applicant to construct an additional accessory building.

The site has the original 1958 zoning. A variance request submitted under **22PZ00006** was approved

by the Board of Adjustment on October 19, 2022. This request was to reduce the 2.5-acre minimum lot size required in the AU(L) zoning classification to 1.00 acres (a reduction of 1.5 acres).

The AU(L) zoning classification is a less intense classification than AU which does not allow for commercial agricultural uses such as the packing processing, and sales of commodities raised on the premises, plant nurseries, or private camps.

Land Use

The subject property is currently designated as Residential 1:2.5 (RES 1:2.5) FLU. Both the GU and AU(L) zoning classifications can be considered consistent with the Residential 1:2.5 FLU designation.

Applicable Land Use Policies

Policy 1.10 –The Residential 1:2.5 Future land use designation permits lower density residential development with a maximum density of up to one (1) dwelling unit per 2.5 acres, except as otherwise may be provided for within the Future Land Use Element.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 of the Future Land Use Element.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.

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;

AU(L) zoning classification permits non-commercial agricultural uses that are already present in the area. Development would need to meet performance standards set forth in code sections 62-2251 through 62-2272 for hours of operation, lighting, odor, noise levels, traffic, or site activity.

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.

Only a certified MAI appraisal can determine if material reduction has or will occur due to the proposed request.

- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:

- 1. historical land use patterns;

The historic land use pattern has been single-family homes built on lots of approximately one acre in size.

2. actual development over the immediately preceding three years; and

It appears no changes to the immediate area have occurred within the last three years.

3. development approved within the past three years but not yet constructed.

It appears there has been no development approved within the last three years.

D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

The proposed uses would not result in a material violation in any elements of the Comprehensive Plan.

The property is within the area known as Canaveral Groves. All parcels within this area of Canaveral Groves retained a FLU designation of RES 1:2.5.

Analysis of Administrative Policy #4 - Character of a neighborhood or area.

The developed character of the surrounding area is a mixture single-family homes with zoning classifications of GU, AU and AU(L). A majority of lots in the area are approximately one-acre in size. While GU is the original zoning of the area and is still the prominent zoning on most of the lots in the neighborhood, there is a history of parcels being rezoned to AU or AU(L). This rezoning could be considered consistent with the character of the area. The closest AU(L) parcel to the subject property is approximately 162 feet northeast on the north side of Detroit Street. This is the only parcel with AU(L) zoning in a 500-ft. radius, and it does not have an agricultural exemption.

The 500-ft. notification radius includes 28 properties, of which 28 are homesteaded.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Right-of-Way with Single-Family residences north of ROW	GU	RES 1:2.5
South	Single-Family residence	GU	RES 1:2.5
East	Single-Family residence	GU	RES 1:2.5
West	Single-Family Residence	GU	RES 1:2.5

The subject property is bounded by Detroit Street to the north. The parcels to the east, south and west of this site are currently zoned GU with a RES 1:2.5 FLU designation. These properties are developed with single-family homes. To the north across Detroit Street are more parcels zoned GU, AU and AU(L) all with a RES 1:2.5 FLU designation.

The existing GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet. Section 62-1188(8) permits consideration of rezoning of non-conforming lots of record to classifications that are consistent with the density allowances of the Comprehensive Plan. Accessory building or structure in GU zoning when secondary to single family residential uses, is limited as follows: Each detached accessory building or structure shall not exceed 600 square feet or 50 percent of the living area of the principal building, whichever is greater. Accessory buildings in the agricultural zoning classification, and barns, where permitted, are exempt from accessory size standards. On GU parcels over 5.0 acres in area, agricultural pursuits are permitted with conditions found in Section 62-1904 of Brevard County Code. Properties less than 5.0 acres in area could request a conditional use permit and would still be zoned GU. The applicant has decided to rezone the parcel.

AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot of width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU zoning classification also permits all agricultural pursuits, including the raising/grazing of animals, plants nurseries, and the packing and processing of commodities raised on site.

The proposed AU(L) zoning classification permits single-family residences and non-commercial agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU(L) is 750 square feet.

There have been two zoning actions within a half-mile radius of the subject property within the last three years.

19PZ00014, approved by the Board on May 02, 2019, was a request to rezone from GU (General Use) to AU(L) (Agricultural Residential– Low Intensity) on 1.01 acres located approximately 1,642 feet northeast of the subject property on the south side of Bryce Street.

22Z00019, approved by the Board on August 04, 2022, was a request to rezone from AU (Agricultural Residential) to RR-1 (Rural Residential) on 2.5 acres located approximately 1,348 feet northeast of the subject property on south side of Canton Street.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Canaveral Groves Boulevard between Lee Street and Grissom Parkway, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 48.27% of capacity daily. The maximum development potential from the proposed rezoning does not increase the percentage of MAV utilization. The corridor is anticipated to operate at 48.27% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development potential of this site falls below the minimum number of new residential lots that would require a formal review.

The parcel is connected to City of Cocoa water. The parcel is not connected to sanitary sewer and utilizes septic.

Environmental Constraints

- Floodplain
- Wetlands/Hydric Soils
- Aquifer Recharge Soils
- Protected Species Scrub Jays
- Protected and Specimen Trees

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #22Z00059

Applicant: Robert Woodhouse V

Zoning Request: GU to AU(L) for Ag use and to have accessory structure greater than GU allows.

Zoning Hearing Date: 01/09/23; **BCC Hearing Date:** 02/02/2023

Tax ID Nos: 2441057

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Floodplain
- Wetlands/Hydric Soils
- Aquifer Recharge Soils
- Protected Species Scrub Jays
- Protected and Specimen Trees

A portion of the project area is mapped within the isolated floodplain as identified by the Federal Emergency Management Agency and as shown on the FEMA Flood Map. The property may be subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Per Section 62-3724(3)(d), compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within the isolated floodplain greater than one third (1/3) acre in size. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Land Use Comments:

Floodplain

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subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Per Section 62-3724(3)(d), compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within the isolated floodplain greater than one third (1/3) acre in size. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Wetlands/Hydric Soils

The southwest corner of subject property contains a small area mapped as shrub swamp (FLUCCS 6153). The subject property also contains mapped hydric soils (Basinger sand and Valkaria sand), an indicator that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design, or building permit submittal.

Per Section 62 3694(c)(1), 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. For multi-family parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65 3694(c)(6). Any permitted wetland impacts must meet the requirements of Section 62 3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696.

Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands. 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.

The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

Aquifer Recharge Soils

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

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. The entire property is mapped within a Florida Scrub Jay occupancy area, and there is potential for existence of Gopher Tortoises on site. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or

clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

Protected and Specimen Trees

Protected and Specimen Trees may exist on the parcel. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), encourages the protection of Specimen Trees. 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. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

Other

Information available to NRM indicates that unpermitted land clearing and land alteration activities may have occurred in 2017 or 2018. A private lake was created, which does not appear to meet the setback criteria in Chapter 62, Article 13, Division 5, entitled Private Lakes. The discovery of unpermitted land alteration activities may result in code enforcement action.