



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS
23Z00005**

Louise Goloversic

GU (General Use) and ARR (Agricultural Rural Residential) to AU (Agricultural Residential)

Tax Account Number: 2406379
Parcel I.D.: 24-35-20-01-7.A-2
Location: North side of Soggy Bottom Ave approximately 1780 feet west of Satellite Blvd (District 1)
Acreage: 3 acre

Planning & Zoning Board: 3/13/2023
Board of County Commissioners: 4/06/2023

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/ARR	AU
Potential*	0	1 SFR unit
Can be Considered under the Future Land Use Map	YES RES 1	YES RES 1

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

Background and Purpose of Request

The applicants are requesting a change of zoning classification from GU (General Use) and ARR (Agricultural Rural Residential) to AU (Agricultural Residential) for the purpose of allowing the applicants to replace dilapidated barn, add carport and shop. The current zoning classification does not meet the requirements of the GU zoning classification. The parcel is 3-acres in size and the GU zoning classification requires a minimum of 5-acres. GU went from 1-acre to 5-acres on May 20, 1975. The ARR zoning classification requires a minimum 1-acre lot size. AU (Agricultural residential) requires a minimum of 2.5-acres of land. The requested AU zoning classification could be considered an introduction to the west of Satellite Blvd area. However, AU is consistent with the development trends in the area and would require a lot size of 2.5 acres.

Previously approved zoning actions on the subject property include administrative action A-0495, change of zoning classification from IU to GU on all of Section 20 Township 24 Range 35 East on

May 31, 1961; Z-9908 administrative change in zoning classification from GU to ARR on Lot 2 block 7.A on June 26, 1997.

The subject parcel was recorded into the current configuration per ORB 9599, Page 466, on August 29, 2022 merging Tract 1, 2, and 3. The two-thirds of the parcel has frontage on Soggy Bottom Ave which is an unpaved road not maintained by the county. Pursuant to Sec. 62-102(c)7a. – Unpaved road agreements and Sec. 62-510. – West Canaveral Groves, existing parcel with existing permanent structures that have been identified to be in existence as of December 9, 1994 and certified on or before January 30, 1995 from the growth management director shall be authorized and accepted as permitted single-family residential structures provided the owner complies with the conditions of said ordinances, including, but not limited to dedication of road rights-of-way. The subject property was identified and certified during the aforementioned time period. A Certificate of Occupancy (existing home for compliance) was issued on April 17, 2003 under Permit # C0081747.

Land Use

The subject property is currently designated as Residential 1 (RES 1) FLU. The proposed AU zoning is consistent with the existing RES 1 FLU designation.

Applicable Land Use Policies

FLUE Policy 1.9 –The Residential 1 land use designation permits low density residential development with a maximum density of up to one (1) dwelling unit per acre, except as otherwise may be provided for within the Future Land Use Element.

The applicant’s request could be considered consistent with the existing Future Land Use.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 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;

The subject property, based on BCPAO aerial map and details, appears to have several building structures including a Pole Barn. The proposed replacement of the existing dilapidated horse barn and accessory structures with a new carport/shop for their personal enjoyment is not anticipated to have hours of operation, lighting, odor, noise levels, traffic or site activity that would diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area. There have not been any commercial or residential developments over the past three (3) years.

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 (Member Appraisal Institute) 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;

Land use patterns for this property has not changed since the adoption of the RES 1 FLU designation. There are two (2) FLU designations (RES 1 and PUB-CONS) within 500-feet of this site. There have been no FLU changes over the past 3 years.

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

There has not been any actual development within this area in the preceding three (3) years.

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

There has not been any approved development within 500-feet in the preceding three (3) years.

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

No material violation of relevant policies has been identified.

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

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:

West Canaveral Groves is an area of the County that is sparsely developed with single-family residences. Sec. 62-102. – Criteria for issuance of a residential building permit and Sec. 62-510. – West Canaveral Groves area, must be met prior to issuance of a residential building permit. Pursuant to Sec. 62-510, existing permanent structures identified to be in existence as of December 9, 1994 and dedicated road right-of-way to the County were authorized and accepted as permitted single-family residential structures. Which may be replaced provided the owner complies with the requirements of the applicable zoning classification.

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

The surrounding area is a mixture of undeveloped land and agricultural rural residential ranging from 1-acre to 3-acres. Approximately, 475 feet to the west of the subject are environmental areas owned by St. Johns River Water Management District and others. The closest AU zoned parcel is 1021-feet to the south off Breckinridge Ave.

Parcels in the immediate surrounding area are approximately 1.0-acre in size. To the north are single-family residence and undeveloped zoned GU (General Use) and ARR approximately 1-acre sized parcels separated by a stormwater canal approximately 59 feet in width. There are 2 undeveloped parcels approximately 1-acre in size to the west of the subject property with GU (General Use) zoning. The properties to the west are separated from the subject properties by Albert Ln (an undeveloped roadway). To the south is an undeveloped lot and a single-family residence, both 1-acre in size. East of the subject property is a undeveloped lot zoned GU (General Use) on approximately 1-acre.

A preliminary concurrency analysis does not indicate that the proposed request would materially or adversely impact the surrounding established 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.

The parcel has frontage on Soggy Bottom Av which is an unpaved road.

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.

The subject property is not requesting to be rezoned for commercial uses.

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.

The subject parcel is not requesting to be rezoned for commercial, industrial or other non-residential uses.

No zoning action has been approved within one-half mile within the last three years.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Canal	N/A	N/A
South	Undeveloped	ARR	RES 1
East	Undeveloped	GU	RES 1
West	Undeveloped	GU	RES 1

The GU zoning classification is a holding category allowing single-family residences on five-acre lots with a minimum width and depth of 300-feet. The minimum house size in GU is 750 square feet.

The ARR agricultural rural residential zoning classification incorporates lands devoted to a mixture of agricultural pursuits and single-family residential land uses on minimum one acre lots, with a minimum width of 125 feet and depth of 200 feet. The minimum house size is 700 square feet.

The AU agricultural residential zoning classification encompasses land devoted to agricultural pursuits and single-family residential development of spacious character on a lot not less than 2.5-acres having a width of not less than 150-feet and depth of not less than 150-feet. The minimum floor area in AU is 750 square feet of living area.

Preliminary Concurrency

The closest concurrency management segment to the subject property is SR 520, between Orange C/L and SR 524, which has a Maximum Acceptable Volume (MAV) of 40,300 trips per day, a Level of Service (LOS) of C, and currently operates at 43.37% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.0%. The corridor is anticipated to operate at 43.37% 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.

Environmental Constraints

- Wetlands/Hydric Soils
- Floodplain Protection
- Protected and Specimen Trees
- Potential Unpermitted Activities

Wetlands/Hydric Soils

The entire subject parcel is mapped as National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands. Additionally, the entire parcel is mapped with hydric soils as shown on the USDA Soil Conservation Service Soils Survey map. These are indicators 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.

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.

Floodplain Protection

The middle portion of the parcel is mapped within the Riverine floodplain as identified by the Federal Emergency Management Agency (FEMA) and as shown on the FEMA Flood Zones 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."

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees may exist on the parcel. A tree survey will be required at time of a site plan submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees

shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. 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.

Potential Unpermitted Activities

It appears that a number of potential unpermitted activities may have occurred over the past 25 years, and as recently as 2021/2022. These activities may include:

- Clearing and filling of wetlands
- Land clearing, including tree removal
- Filling of riverine floodplain

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 (PAO) establishes Bona Fide Agricultural land classification. The PAO lists the use of this property as "0110 - SINGLE FAMILY RESIDENCE."

The discovery of unpermitted activities may result in code enforcement action.

NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

For Board Consideration

The Board may wish to consider if the request is consistent and compatible with the surrounding area recognizing existing development trends.

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary**

Item #23Z00005

Applicant: Louise Julia Goloversic

Zoning Request: GU & ARR to AU

Note: Wants to replace barn and add carport and shop.

P&Z Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID No: 2406379

- 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:

- Wetlands/Hydric Soils
- Floodplain Protection
- Protected and Specimen Trees
- Potential Unpermitted Activities

Wetlands/Hydric Soils

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Land Use Comments:

Wetlands/Hydric Soils

The entire subject parcel is mapped as NWI and SJRWMD wetlands. Additionally, the entire parcel is mapped with hydric soils (Holopaw sand, 0 to 2 percent slopes) as shown on the USDA Soil Conservation Service Soils Survey map. These are indicators 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.

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Protected Species

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.