



Planning and Development Department

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BOARD OF COUNTY COMMISSIONERS

**STAFF COMMENTS
 21Z00045**

Howard L. Gasman

GU (General Use) to AU (Agricultural Residential)

Tax Account Number: 2402174
 Parcel I.D.: 24-35-05-01-3-10
 Location: 5640 Cangro Street Cocoa, FL 32926 (District 1)
 Acreage: 1.72 acres

Planning and Zoning Board: 1/10/2022
 Board of County Commissioners: 2/03/2022

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
Potential*	1-unit**	1-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. ** Lot is a nonconforming lot of record recorded on May 1, 1975 prior to May 20, 1975 (the cutoff date) noted for lots zoned GU in Section 62-1188 (5) of Brevard County Code.

Background and Purpose of Request

The applicant requests to change the zoning classification from GU (General Use) to AU (Agricultural Residential) in order to add agricultural pursuits to the property and to allow larger accessory buildings than the size limit allows in the GU zoning classification. The lot is currently developed with a residence and a 200 square foot outbuilding.

The site contains the original 1958 zoning. The applicant has a variance request submitted under **21PZ00085** was heard and approved by the Board of Adjustment on December 15, 2021. The variance approval reduced the required 2.5-acre minimum lot size required in the AU zoning classification to 1.72-acres (a reduction of 0.78-acres in lot area). The applicant states that the property was purchased on September 09, 2004 in this configuration and that the parcel was subdivided in Survey Book 2, Page 60 on December 01, 1960.

Although Cangro Street was conveyed to the property owners an ingress and egress easement was retained by the County in ORB 1646/130 as noted in Survey Book 2 Page 60. The County is maintaining this portion of the existing dirt roadway.

Land Use

The subject property is currently designated as Residential 1 FLU. Both the GU and AU zoning classifications are consistent with the Residential 1 FLU designations.

Applicable Land Use Policies

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

Policy 1.9 –The Residential 1 Future land use designation. 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.

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

The subject 1.72-acre property lies within the Residential 1 FLU designation. The property is completely surrounded by Residential 1. The lots within this area are all in excess of the one-acre limitation of the Future Land Use Map designation.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The developed character of the surrounding area is rural residential. Most lots are developed and exceed one-acre lot requirements. This parcel lies on the north side of Cangro Street abutting other large lots zoned GU or AU. To the south is a large 80+ acre lake.

Surrounding Area

The property is within the area known as Canaveral Groves Subdivision. This property is surrounded by GU zoned properties; however, in the larger area the following additional zonings are identified: AU, AU(L) or RR-1 (Rural Residential). Lot sizes range from 1.0-acres to over 2.0-acres on average. Uses range from mostly single-family residential lots with limited agricultural activities; however, some lots are developed with horticultural uses or types of farm husbandry or other agricultural pursuits.

AU zoning classification permits single-family residences and agricultural uses on 2.5-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.

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. On 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 will still zoned GU.

RR-1 classification permits single-family residential land uses on a minimum one-acre lot, 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. Keeping of horses and agricultural uses are accessory to a principle residence within the RR-1 zoning district.

There has been one zoning action within a half-mile radius of the subject property within the last three years. The action, **18PZ00145**, was for a change of zoning from GU to AU adopted on March 7, 2019. This location lies 2,140 feet in a northeasterly direction from this parcel and is located on the east side of Florida Palm Avenue.

Based upon the trend to convert parcels in the general area from GU to AU, the Board may wish to determine if the zoning request be limited to AU(L) zoning in order to limit the potential commercial impacts that the AU zoning classification may otherwise allow. There are seven (7) AU zoning actions within a 1,000-foot radius from this site. All of those sites are developed residentially except for the one site under **12PZ-00056** which when approved (1/10/2013) had a Binding Development Plan (BDP) which limited the property to non-commercial agricultural pursuits.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Citrus Boulevard, between Pine street to Lee Street, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 28.85% 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 28.85% 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 and on-site septic.

Environmental Constraints

- Hydric Soils/Wetlands
- Aquifer Recharge Soils
- Land Clearing and Landscape Requirements
- Protected Species

The subject parcel contains mapped hydric soils. A wetland delineation will be required prior to any land clearing activities or site plan application. 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 would render 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 65-694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 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 land clearing, site plan design or permit submittal.

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 DEPARTMENT
Rezoning Review & Summary

Item # 21Z00045

Applicant: Howard Gasman

Zoning Request: GU to AU

Note: Applicant wants agricultural pursuits and large accessory structure.

P&Z Hearing Date: 01/10/21; **BCC Hearing Date:** 02/03/21

Tax ID No: 2402174

- 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:

- Hydric Soils/Wetlands
- Aquifer Recharge Soils
- Land Clearing and Landscape Requirements
- Protected Species

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Land Use Comments:

Hydric Soils/Wetlands

The subject parcel contains mapped hydric soils (Basinger sand) as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities or site plan application. 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 would render 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 65-694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any land clearing, site plan design or permit submittal.

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Aquifer Recharge Solis

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

Land Clearing and Landscape Requirements

Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), a purpose and intent of the ordinance is to encourage the protection of Heritage Specimen Trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for Protected and Specimen tree preservation, and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

Protected Species

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 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.