



**Planning and Development Department**

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BOARD OF COUNTY COMMISSIONERS

**STAFF COMMENTS**

**20PZ00022**

**Michael Richard and Carina Emma Hugoboom**

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

Tax Account Number: 2404041  
 Parcel I.D.: 24-35-11-01-14-10  
 Location: 3656 Oneida St., Cocoa (District 1)  
 Acreage: 1 acre

Planning and Zoning Board: 04/06/20  
 Board of County Commissioners: 05/07/20

**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)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	GU	AU(L)
<b>Potential*</b>	One Single Family Unit	One Single Family Unit
<b>Can be Considered under the Future Land Use Map</b>	YES Residential 1:2.5	YES Residential 1:2.5

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

**Background and Purpose of Request**

The applicant is seeking a change of zoning classification from General Use (GU) to Agricultural Residential Low Intensity (AU(L)) for the purpose of having a guesthouse without a kitchen for family members and temporary guests. Parcels of one acre or greater are allowed a guesthouse without a conditional use permit. AU(L) allows single-family detached residential dwellings, parks and public recreational facilities, foster homes, and agricultural pursuits of a personal non-commercial nature.

GU zoning is original to the lot adopted May 22, 1958; no previous zoning actions have been applied for. The lot is a non-conforming lot of record located in the Canaveral Groves area. The lot was recorded in ORB 1164, Page 0613 in August 1960.

The subject parcel is one acre, which makes the parcel nonconforming to the GU five-acre standard required after May 20, 1975. Pursuant to section 62-1188(8), any nonconforming lot of record may be considered for rezoning to another zoning classification consistent with the Comprehensive Plan.

## Land Use

The subject property retains the Residential 1:2.5 (RES 1:2.5) Future Land Use (FLU) designation. Both GU and AU zoning classifications are consistent with the Residential 1:2.5 (RES 1:2.5) Future Land Use (FLU) designation.

*FLUE Policy 1.10, The Residential 1:2.5 land use designation, which establishes the lowest density of all the residential future land use designations, permits a maximum density of up to one (1) unit per 2.5 acres, except as otherwise may be provided for within this element. Development in the Residential 1:2.5 land use designation should seek to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses.*

The parcel is nonconforming to the density required by the RES 1:2.5 FLU. The parcel contains 1 unit on one acre.

*FLUE Policy 15.5, The following provisions for the development of non-conforming lots to allow for the reasonable use of such properties shall apply. At a minimum, the following criteria shall apply:*

*Criteria:*

*A. Non-conforming lots of record are those properties which meet the nonconforming provisions of the Brevard County Zoning Code but which are non-conforming to this Comprehensive Plan and/or Zoning regulations.*

*B. Non-conforming lots of record may be developed to a use permitted by Chapter 62, Article VI, Division 2, Subdivision II, "Non Conforming Uses" of the Brevard County Land Development Regulations, provided that it is also a use permitted by the Future Land Use Map of this Comprehensive Plan.*

*C. The Land Development Regulations should continue to include provisions for minimum lot dimensions and setbacks for non-conforming lots of record to ensure that these uses will be compatible with surrounding land uses.*

*D. If an existing non-conforming lot does not meet the minimum lot size established by this element, relief may be obtained in accordance with the Zoning Code of Brevard County.*

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

## Administrative Policy 3

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered. 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 foresee ably be affected by the proposed use;

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.

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; 2. actual development over the immediately preceding three years; and 3. development approved within the past three years but not yet constructed.

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

#### **Administrative Policy 4**

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:

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.

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.

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.

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.

#### **Administrative Policy 5**

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered.

In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following criteria:

Criteria:

A. Whether adopted levels of service will be compromised;

B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

C. Whether the surrounding existing road system is of sufficient width and construction quality to serve the proposed use(s) without the need for substantial public improvements;

D. Whether the surrounding existing road system is of such width and construction quality that the proposed use(s) would realistically pose a potential for material danger to public safety in the surrounding area;

E. Whether the proposed use(s) would be likely to result in such a material and adverse change in traffic capacity of a road or roads in the surrounding area such that either design capacities would be significantly exceeded or a de facto change in functional classification would result;

F. Whether the proposed use(s) would cause such material and adverse changes in the types of traffic that would be generated on the surrounding road system, that physical deterioration of the surrounding road system would be likely;

G. Whether projected traffic impacts of the proposed use(s) would materially and adversely impact the safety or welfare of residents in existing residential neighborhoods.

### **Environmental Constraints**

- Hydric Soils
- Aquifer Recharge Soils
- Protected Species
- Heritage Specimen Trees

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

### **Preliminary Transportation Concurrency**

The subject property is on the concurrency management segment of 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 D, and currently operates at 49.22% of capacity daily. As the parcel is currently developed with a single-family residence, the trip generation from the proposed rezoning application will not produce additional trips. The current trip generation is 10 trips per day with 1 trip during the PM peak hour and 1 trip during the AM peak hour. The corridor is anticipated to operate at the same 49.22% 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 subject property is connected to potable water through the City of Cocoa. The subject property is not served by sewer. County sewer is over 9,500 feet away in a SW direction on the west side of Adamson Road.

### **Applicable Land Use Policies**

The abutting parcel to the north is a single family residence zoned both AU and GU; to the south across the street is a single family residence zoned GU; to the west is a single family residence zoned GU; to the east is a vacant parcel zoned GU. The FLU classification in the entire surrounding area is RES 1:2.5. Nearby properties are zoned AU or GU on lots slightly smaller than 2.5 acres. The surrounding area is composed of primarily one acre lots containing single family residences variously zoned GU, AU, and RR-1.

There have been two zoning actions within a half-mile of the subject property within the last six years. On May 3, 2018, application **18PZ00004** changed the zoning from GU to AU on one parcel totaling 1 acre located approximately 2,500 feet north of the subject property. On September 4, 2014, application **14PZ-00033** changed the zoning from GU to AU(L) on one parcel totaling 1.01 acres located approximately 2,900 feet east of the subject property.

The subject parcel has one acre which makes the parcel nonconforming to the GU five-acre requirement required after May 20, 1975. Pursuant to section 62-1188(8), any nonconforming lot of record may be considered for rezoning to other zoning classifications consistent with the Comprehensive Plan. If the rezoning were granted, the lot would continue to be nonconforming to today's standards as the AU(L) zoning classification's minimum lot size, is 2.5 acres. The parcel is also nonconforming to the density required by the RES 1:2.5 FLU as it currently contains 1 unit on 2.38 acres.

### **For Board Consideration**

The applicant is seeking a change of zoning classification from General Use (GU) to Agricultural Residential Low Intensity (AU(L)) for the purpose of having a guesthouse without a kitchen for family members and temporary guests.

The subject parcel is 1 acre, which makes the parcel nonconforming to the GU five-acre standard required after May 20, 1975. Pursuant to section 62-1188(8), any nonconforming lot of record may be considered for rezoning to another zoning classification consistent with the Comprehensive Plan. If the rezoning were granted, the lot would continue to be nonconforming to today's standards as the AU(L) zoning classification's minimum lot size, is 2.5 acres.

The Board should consider whether AU(L) zoning is consistent with the adjacent GU and AU parcels. The Board should further consider whether the addition of a guesthouse without a kitchen fits the character of the surrounding residential area.