



**Marion County
Board of County Commissioners**

Growth Services

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**PLANNING & ZONING SECTION
STAFF REPORT**

P&Z Date: 03/25/2024	BCC Date: 04/16/2024
Case Number	240405ZC
CDP-AR	31115
Type of Case	Rezoning from Single-Family Dwelling (R-1) to Mixed Residential (R-4) for a mobile home.
Owner	Wanda Roman-Aviles
Applicant	Wanda Roman-Aviles
Street Address/Site Location	14610 SE 112 th Place, Ocala, FL 32179
Parcel Number(s)	9042-1672-01
Property Size	±0.33 acres
Future Land Use	High Residential (HR)
Existing Zoning Classification	Single-Family Dwelling (R-1)
Overlays Zones/Special Areas	Secondary Springs Protection Zone (SSPZ)
Staff Recommendation	Denial
P&Z Recommendation	Denial
Project Planner	Kathleen Brugnoli, Planner II
Related Cases	Open Code Case: 920015 – Mobile home and deck placed without permits.

I. ITEM SUMMARY

Wanda Roman-Aviles, the property owner, filed a rezoning application to change from Single-Family Dwelling (R-1) to Mixed Residential (R-4) on January 31, 2024 for a ± 0.33 -acre parcel (see Attachment A). The Parcel Identification Number for the property is 9042-1672-01; the site address is 14610 SE 112th Place, Ocala and the legal description and deed are contained within the application. The subject property fronts both SE Hwy 464C and SE 112th Place; generally, in the southeastern portion of the county and north of Lake Weir. The site is located outside the Urban Growth Boundary (UGB), within the Silver Springs Secondary Springs Protection Zone (SSPZ).

The application proposes rezoning the entire ± 0.33 -acre site to Mixed Residential (R-4) for placement of a mobile home and for all uses permitted within the proposed zoning classification.

Figure 1
General Location Map



II. STAFF SUMMARY RECOMMENDATION

Staff recommends **DENIAL** of the rezoning application. The rezoning will establish a zoning classification inconsistent with the surrounding area and create an issue of spot zoning.

III. NOTICE OF PUBLIC HEARING

Consistent with Land Development Code (LDC) Section 2.7.3.C., notice of public hearing was mailed to all property owners (11 owners) within 300 feet of the subject property on March 8, 2024. Consistent with LDC Section 2.7.3.B., public notice was posted on the subject property on March 7, 2024 and consistent with LDC Section 2.7.3.E., due public notice was published in the Ocala Star-Banner on March 11, 2024. Evidence of the above-described public notices are on file with the Growth Services Department and is incorporated herein by reference. As of the date of the initial distribution of this staff report, no letters of opposition or support have been received.

IV. ANALYSIS

LDC Section 2.7.3.E.(2) provides that in making a recommendation to the Board, the Planning and Zoning Commission shall make a written finding that granting the rezoning will not adversely affect the public interest, that the proposed zoning change is consistent with the current Comprehensive Plan, and that it is compatible with land uses in the surrounding area. Staff's analysis of compliance with these three criteria are addressed below.

A. *How is the request compatible with surrounding uses?*

Compatibility is defined 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 directly or indirectly by another use or condition. Figure 1 is a general location aerial displaying existing and surrounding site conditions.

Figure 2 shows the subject property as well as surrounding properties to the south and southeast designated as High Residential (HR), with parcels to the north and northeast being Rural Land (RL)

**Figure 2
FLUMS Designation**

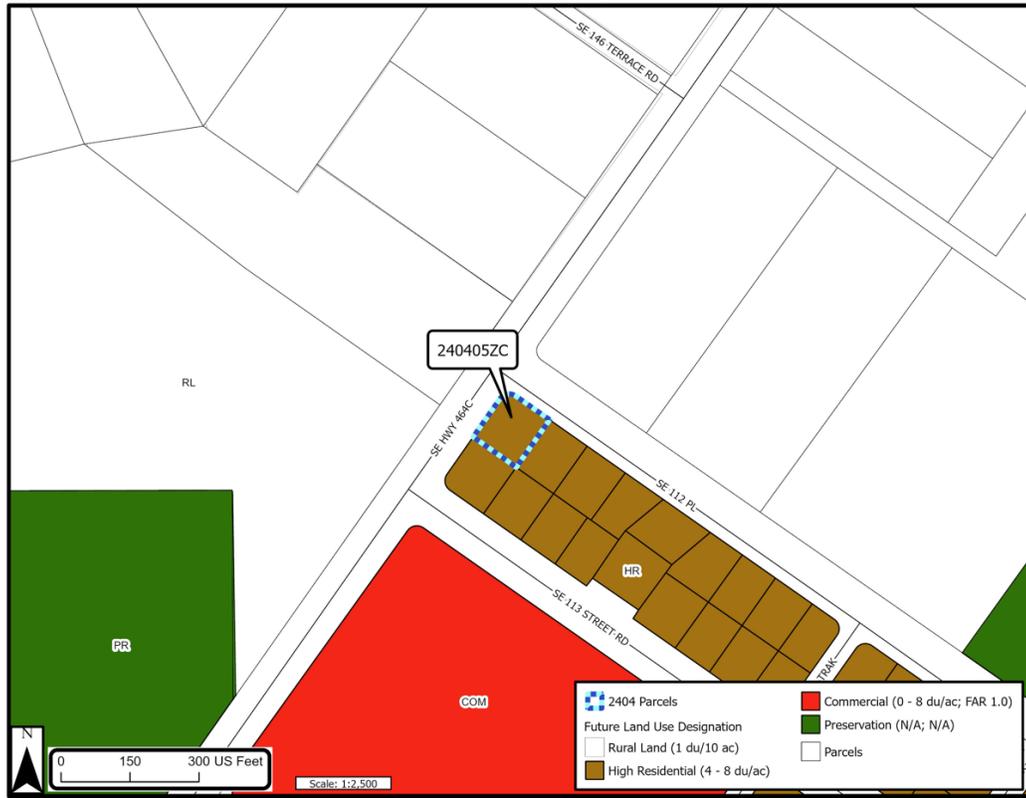


Figure 3 displays the proposed zoning for the subject property in relation to the existing zonings of the surrounding properties. Homes within the same block and unit of Silver Springs Shores have R-1 zoning, to the west and north are General Agriculture (A-1) properties and to the south/southwest is Community Business (B-2) zoning.

The site is located outside the Urban Growth boundary and is within the Secondary Springs Protection Zone (SSPZ). The subject site is within Silver Springs Shores Unit 42, which was platted and recorded in May, 1973. The lots shown in Figure 3 that are zoned R-1 are all similarly located in Unit 42 of Silver Springs Shores and all other zonings shown (A-1, R-3, B-2) fall outside the subdivision limits.

**Figure 3
Proposed Zoning Classification**

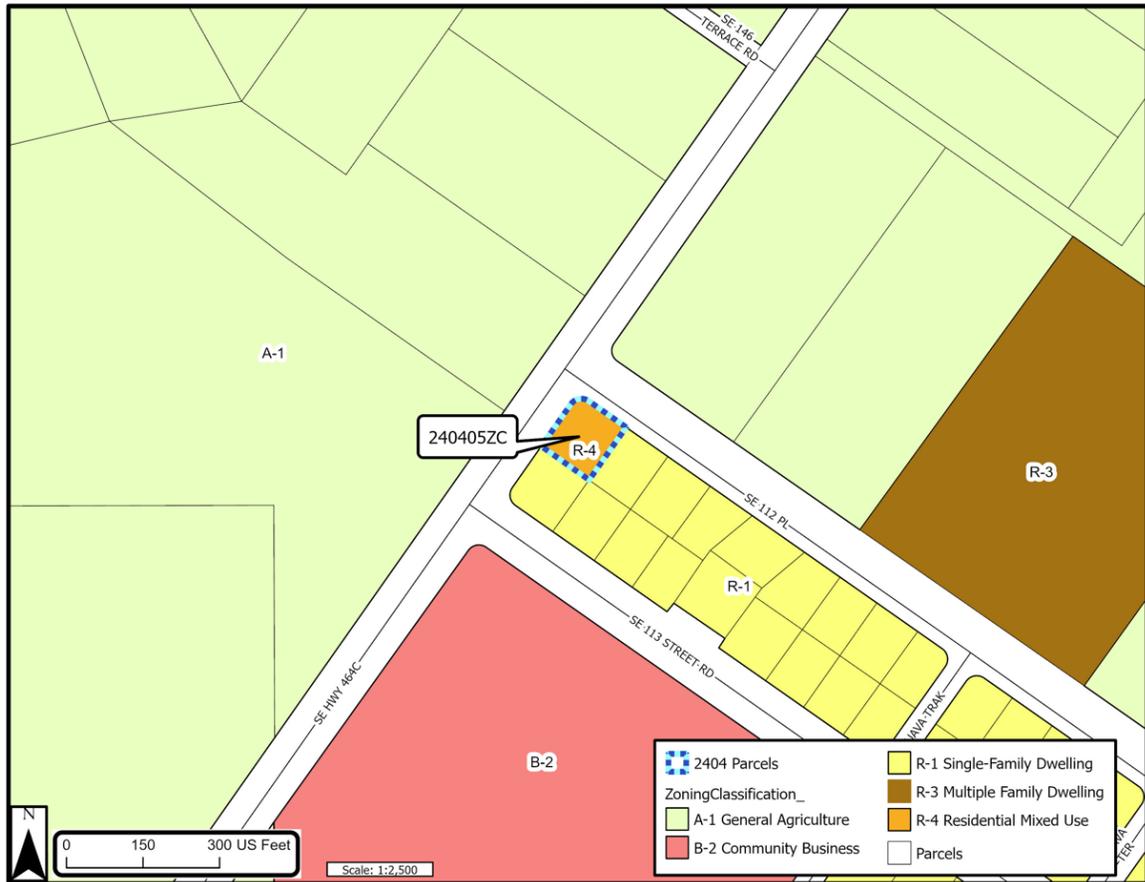


Figure 4 provides an aerial image of the subject property and surrounding area, while Figure 5 displays the subject and surrounding properties' existing uses as established by the Marion County Property Appraiser Office's Property Code (PC).

Table A displays the information of Figures 2, 3, 4 and 5 in tabular form. Consistent with LDC Section 2.7.3.D, staff conducted a site visit and finds the subject property is developed as stated in the code case and has a mobile home as well as a newly constructed deck on the property with fencing around the perimeter of the property and a gate at the driveway. This general area of Silver Springs Shores is largely undeveloped as can be seen in the site photos provided in Attachment B showing SE 112th Place. The parcel is a corner lot on SE HWY 464C with the driveway on SE 112th Place.

Figure 4
Property Aerial



Figure 5
Existing Use per Property Appraiser Property Code

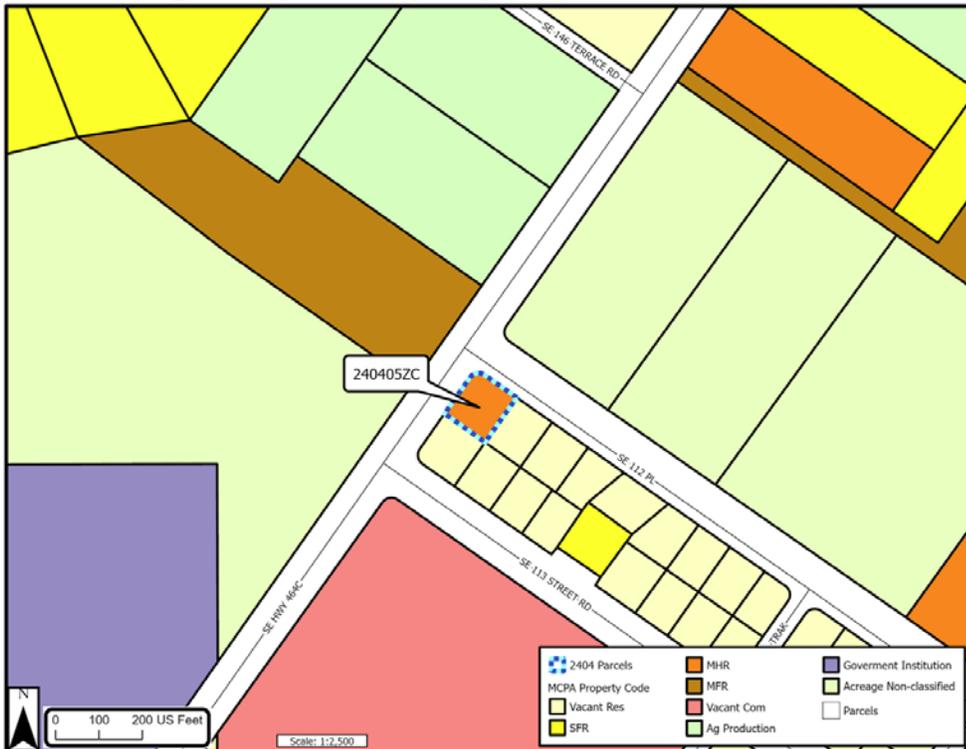


TABLE A. Adjacent Property Characteristics			
Direction	FLUM Designation	Zoning Classification	Existing Use per Property Appraiser Code
North	Rural Land (RL)	General Agriculture (A-1)	Grazing Land
South	High Residential (HR)	Single-Family Dwelling (R-1)	Vacant Residential
East	Rural Land (RL)	General Agriculture (A-1)	Non-Classified
West	Rural Land (RL)	General Agriculture (A-1)	Non-Classified

The rezoning site is currently R-1, a zoning that doesn't permit mobile homes as a dwelling which the owner and applicant state is the intent for this rezoning; site-built homes and modular homes are the only types of construction permitted. Additionally, Unit 42 of Silver Springs Shores has restrictions in place that date back to 1973, stating covenants and restrictions shall be binding until January 1, 1999 and automatically extend every ten (10) years thereafter unless a majority vote of the property owners within the unit agree to change the covenants in whole or in part (Attachment C). There has been no attempt to change or remove these restrictions therefore they remain in place for current construction within Unit 42. With that being said, there's a minimum requirement of 1200 square feet of living space for homes that is not being met by the proposed 672 square feet mobile home.

The Marion County Interactive Map shows no historical rezonings being granted within this unit of Silver Springs Shores. If granted, this rezoning would create a nonconformity within the subdivision.

Based on the above findings, the proposed rezoning application **is not compatible with the existing and future surrounding land uses** because the proposed rezoning would allow for a mobile home in a zoning and subdivision that do not allow for this type of dwelling.

B. *How does the request affect the public interest?*

1. Transportation impacts. These include roadways, public transit, and other mobility features.
 - a. Roadways. SE Hwy 464C and SE 112th Place are both paved county-maintained rights-of-way. SE 112th Place is the local subdivision road interior to Unit 42 and is the roadway the driveway apron is placed on.
 - b. Public transit. The property is not along or within one-quarter mile of existing transit routes. No transit routes are currently projected to extend to the vicinity of the project. Therefore, the application would not adversely affect the public interest.
 - c. Other mobility features. No sidewalks currently exist along this portion of SE Hwy 464C or SE 112th Place. Upon development, sidewalks may be required or the developer may elect to provide for a fee-in-lieu of construction, as permitted by the LDC. Based on the sparse development of the area, a fee-in-lieu will likely be the better option. Therefore, the application would not adversely affect the public interest.

Based on the above findings, the rezoning roadway **impacts would not adversely affect the public interest.**

2. Potable water impacts. Potable Water Element Policy 1.1.1 adopts a level of service (LOS) standard of 150 gallons per person per day for residential demand and approximately 2,750 gallons per acre per day for nonresidential demand. Based on the non-residential calculation, the proposed rezoning would result in a potential demand of 360 gallons per day.

The property is already permitted to develop a primary residence as long as it meets the requirement to be a site built home or modular home and will be served by well & septic as central utility services are not yet within connection distance (Attachment D). The change in zoning doesn't seek to increase this density. Based on the above findings, the rezoning's **potable water impacts would not adversely affect the public interest.**

3. Sanitary sewer impacts. Sanitary Sewer Element Policy 1.1.1 adopts a LOS standard of 110 gallons per person per day for residential demand and approximately 2,000 gallons per acre per day for commercial and industrial demand. Based on the non-residential calculation, the proposed rezoning would result in a potential demand of 264 gallons per day.

As previously stated, there will be no change to density with this rezoning as the intent is to develop a primary residence. Based on the above findings,

the rezoning's **sanitary sewer impacts would not adversely affect the public interest.**

4. Solid waste impacts. Solid Waste Element Policy 1.1.1 adopts a LOS standard of 6.2 pounds of solid waste generation per person per day for residential demand. A commercial/industrial level of service standard is not currently in place for Marion County as such operations are required to provide for individual commercial collection wherein disposal within Marion County is alternatively addressed. Based on the above, the rezoning **solid waste impacts would not adversely affect the public interest.**
5. Recreation. Recreation Element Policy 1.1.1. adopts a level of service standard of two (2) acres per 1,000 persons. A commercial/industrial level of service standard is not currently in place for Marion County. This rezoning proposes one single-family residence. Based on the above, the rezoning **recreation impacts would not adversely affect the public interest.**
6. Stormwater/drainage. Stormwater Element Policy 1.1.1 adopts varying levels of service standards based on the characteristics of the development site. The site does not include any flood plain or flood prone areas. Development of the site will be required to comply with a 100-year frequency 24-hour duration design storm as the site development proceeds through Marion County's site development review processes. Based on the above, the rezoning **stormwater/drainage impacts would not adversely affect the public interest.**
7. Fire rescue/emergency services. The site is officially located in the service district for Marion County's Weirsdale Fire Station #27, located at 16355 S. Hwy 25, roughly 5 miles southwest of the subject property. The Comprehensive Plan does not establish a level of service standard for fire rescue/emergency services but staff has established a 5-mile radius from the subject property as evidence of the availability of such services. Based on the above, the rezoning **fire rescue/emergency impacts would not adversely affect the public interest.**
8. Law enforcement. The nearest Sherriff substation is located approximately 2.5 miles southwest of the subject property at 13985 SE Hwy 25, Ocklawaha. The Comprehensive Plan does not establish a level of service standard for law enforcement services but staff has established a 5-mile radius from the subject property as evidence of the availability of such services. Based on the above, the application's **law enforcement impacts would not adversely affect the public interest.**
9. Public schools. A change in zoning to R-4 for this property will not increase the permitted density of one single-family residence. Therefore, the application's **public-school impacts would not adversely affect the public interest.**

In summation, when weighing the totality of the circumstances, **the public interest is not adversely affected.**

C. *How is this request consistent with the Comprehensive Plan?*

1. FLUE Policy 2.1.5: The County shall identify permitted and special uses for each land use designation and zoning classification, as further defined in the Comprehensive Plan, Zoning, and LDC.

Analysis: The R-1 zoning classification lists single-family dwellings and manufactured buildings as permitted uses. No where in permitted or special uses for this zoning are mobile homes listed. R-4 zoning allows for manufactured homes and states such within the permitted uses. The request being made is **consistent** with FLUE Policy 2.1.5 because it is a listed and permitted use in R-4, but does not meet the pattern of development based on R-1 zoning within this specific area.

2. FLUE Policy 2.1.19 – High Residential: This land use designation is intended to recognize areas suited for a mixture of single-family and multi-family residential units in existing and new development that is located within the UGB or Urban Area. The density range shall be four (4) dwelling units to eight (8) dwelling units per one (1) gross acre, as further defined in the LDC. This land use designation is an Urban Area land use.

Analysis: The proposed rezoning will establish a zoning consistent with the site's HR future land use designation. Therefore, the proposed rezoning is **consistent** with FLUE Policy 2.1.19.

3. FLUE Policy 4.1.1 on Consistency between Comprehensive Plan, Zoning, and LDC provides, "The County shall amend and maintain an official land use and zoning map, appropriate land use designations and classifications, and supporting LDC that shall be consistent with each other.

Analysis: The proposed zoning change as well as the current zoning of this property both would be considered consistent with the Comprehensive plan. Both R-1 and R-4 zoning classifications can take place in High Residential land use. The application is **consistent** with FLUE Policy 4.1.1.

4. FLUE Policy 4.1.2 – Conflicts Between Comprehensive Plan, Zoning, and LDC, states, "The Comprehensive Plan shall be the governing document. In the event of conflict between the Comprehensive Plan, Zoning, and LDC, the more stringent regulation shall apply, unless the County has developed a process to allow a variance or waiver of the regulation where a conflict in regulations occurs in accordance to the Comprehensive Plan, Zoning, or LDC.

Analysis: In this situation, the LDC requirements are more stringent than those put in place by the Comprehensive Plan. The restriction on

construction of homes isn't something regulated by the Comprehensive Plan. The county's process in response to this particular conflict is to rezone to a classification that allows mobile homes. Based on the process to resolve conflict in regulations, the application is **consistent** with FLUE Policy 4.1.2.

5. FLUE Policy 4.1.5 – Review of Development and Building Permits: The County shall review all development and building permits during the development review process to ensure that new development or redevelopment is consistent and complies with all requirements of the Comprehensive Plan, Zoning, and LDC prior to issuing final approval for development within the county.

Analysis: A building permit was applied for in November of 2023 as a result of a code case for a manufactured home and deck placed on the property without proper permitting. Zoning reviewed, and rejected, the permit application for noncompliance and stated, "Mobile homes are not allowed in R-1 zoning. It must be a site-built home or a manufactured building that is DCA or DBPR approved. It must be a minimum of 1,000 square feet of living space." The policy requirements listed above are not being met by the land use/zoning and were correctly flagged in the zoning rejection. FLUE Policy 4.1.5 is **not consistent** with the rezoning application.

Based on the above findings, the proposed rezoning **is consistent with some, but not all, the Comprehensive Plan.**

V. ALTERNATIVE ACTIONS

- A. Enter into the record the Staff Report and all other competent substantial evidence presented at the hearing, adopt the findings and conclusions contained herein, and make a recommendation to **DENY** the rezoning amendment.
- B. Enter into the record the Staff Report and all other competent substantial evidence presented at the hearing, amend the findings and conclusions contained herein so as to support a recommendation for the approval of the Ordinance, and make a recommendation to adopt a proposed Ordinance to **APPROVE** the rezoning amendment.
- C. Enter into the record the Staff Report and all other competent substantial evidence presented at the hearing, identify any additional data and analysis needed to support a recommendation on the proposed Ordinance, and make a recommendation to **TABLE** the application for up to two months in order to provide the identified data and analysis needed to make an informed recommendation on the proposed Ordinance.

VI. STAFF RECOMMENDATION

Staff recommends the Board enter into the record the Staff Report, and all other competent substantial evidence presented at the hearing, adopt the findings and conclusions contained herein, and make a recommendation to **DENY** the proposed rezoning because the application:

- A. Will not adversely affect the public interest because the proposed change does not increase the intensity or density of the subject parcel.
- B. Is consistent with some, but not all, of the Comprehensive Plan provisions because it is in conformance with:
 - 1. FLUE Policies 2.1.5, 2.1.9, 4.1.1, 4.1.2But is not consistent with
 - 1. FLUE Policy 4.1.5
- C. Is not compatible with the surrounding uses because the proposed rezoning would allow within a residential zoned subdivision a residence that does not conform with the zoning or the restrictions set in place by the subdivision.

VII. PLANNING & ZONING COMMISSION RECOMMENDATION

Denial.

VIII. BOARD OF COUNTY COMMISSIONERS ACTION

To be determined.

IX. LIST OF ATTACHMENTS

- A. Rezoning application filed 01/31/2024
- B. Site and Area Photographs
- C. Silver Springs Shores Unit 42 Restrictions
- D. DRC Comments