



**Marion County
Board of County Commissioners**

Growth Services

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Ocala, FL 34470
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**PLANNING & ZONING SECTION
STAFF REPORT**

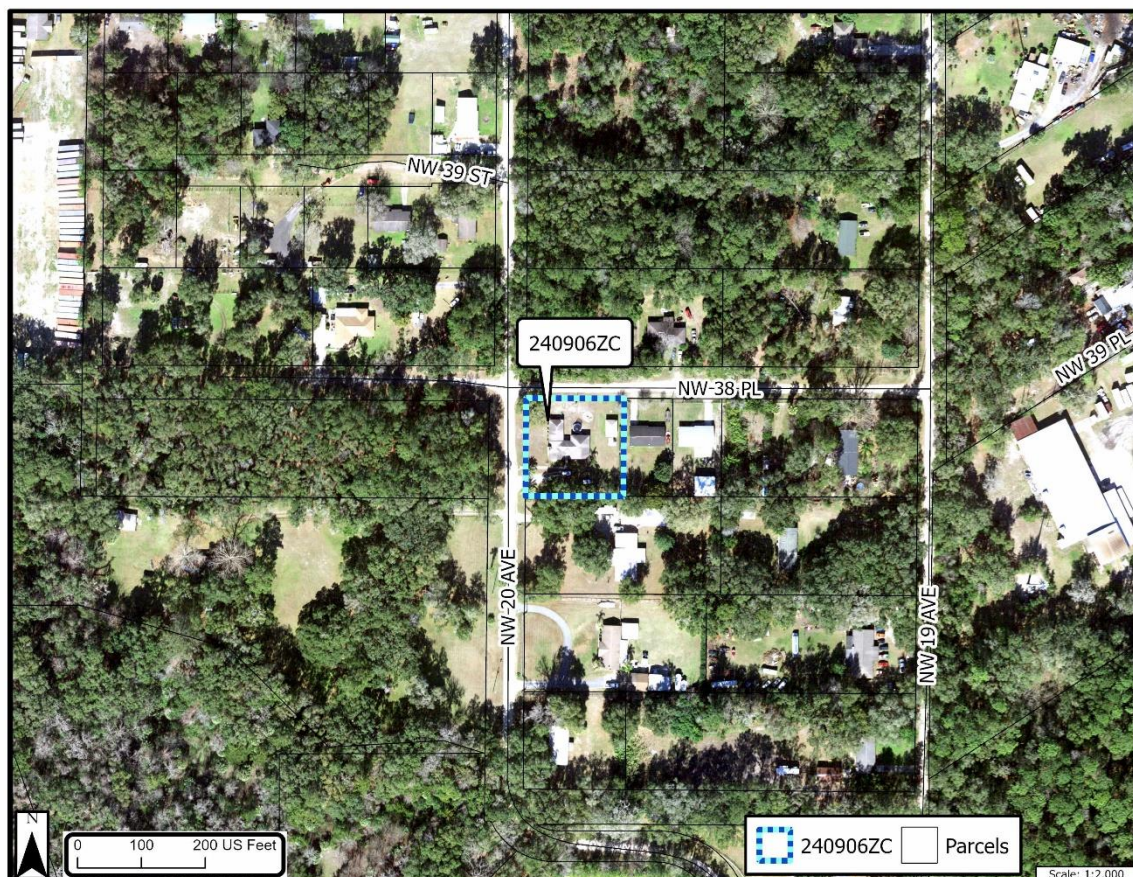
P&Z Date: 08/26/2024	BCC Date: 09/17/2024
Case Number	240906ZC
CDP-AR	31683
Type of Case	Rezoning from Residential Mixed (R-4) to Single-Family Dwelling (R-1) for all permitted.
Owner	Theresa Blue
Applicant	Theresa Blue
Street Address/Site Location	3801 NW 20 th Avenue, Ocala, FL 34475
Parcel Number(s)	13960-001-00
Property Size	±0.53 acres
Future Land Use	Rural Land (RL)
Existing Zoning Classification	Residential Mixed (R-4)
Overlays Zones/Special Areas	Primary Springs Protection Zone (PSPZ), Urban Growth Boundary (UGB)
Staff Recommendation	Approval
P&Z Recommendation	TBD
Project Planner	Eryn Mertens, JD
Related Cases	N/A

I. ITEM SUMMARY

Staff is recommending Approval of the rezoning of this property from R-4 (Mixed Residential) to R-1 (Single-Family Dwelling) on ± 0.53 acres, in accordance with Marion County Land Development Code (LDC), Article 2, Division 7, Zoning Change. (see Attachment A). The Parcel Identification Number for the property is 13960-001-00; the subject property is located north of NW 35th Street, at the southeast corner of NW 20th Avenue and NW 38th Place. The legal description is provided within the application (see Attachment A). The site is located inside the Urban Growth Boundary (UGB), and the Silver Springs Primary Springs Protection Zone (PSPZ). It is located inside the Marion County Utilities service area, but outside connection distance to closest mains at this time.

This application proposes to rezone the entire ± 0.53 -acre site for all uses permitted within the Single-Family Dwelling zoning classification. The intent provided within the rezoning application is the conversion of a garage to a guest home.

Figure 1
General Location Map



II. STAFF SUMMARY RECOMMENDATION

Staff recommends **APPROVAL** of the rezoning application. The rezoning will establish a zoning classification which is consistent with Marion County's intent for the future land use of the property and Marion County's Comprehensive Plan.

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 (13 owners) within 300 feet of the subject property on August 9, 2024. Consistent with LDC Section 2.7.3.B., public notice was posted on the subject property on August 13, 2024, and consistent with LDC Section 2.7.3.E., due public notice was published in the Ocala Star-Banner on August 12, 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.

TABLE A. Adjacent Property Characteristics			
Direction	FLUM Designation	Zoning Classification	Existing Use per Property Appraiser Code
North	High Residential (HR)	Singly-Family Dwelling (R-1)	ROW, Improved Residential (homestead)
South	High Residential (HR)	Singly-Family Dwelling (R-1)	Improved Residential (homestead)
East	High Residential (HR)	Residential Mixed-Use (R-4)	Improved Residential (homestead)
West	High Residential (HR)	Single-Family Dwelling (R-1)	ROW, Vacant Residential

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 has been improved by a home and an enclosed accessory garage structure. There are a few homes in the subdivision, developed on the north, south, and east of the subject property, all of which are homesteads. See Attachment C for site photos.

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. *Compatibility with Surrounding Uses*

“Compatibility” is defined in Chapter 163.3164(9) of the Florida Statutes, under the Community Planning Act, 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 all surrounding properties designated as High Residential (HR).

Figure 2
FLUMS Designation

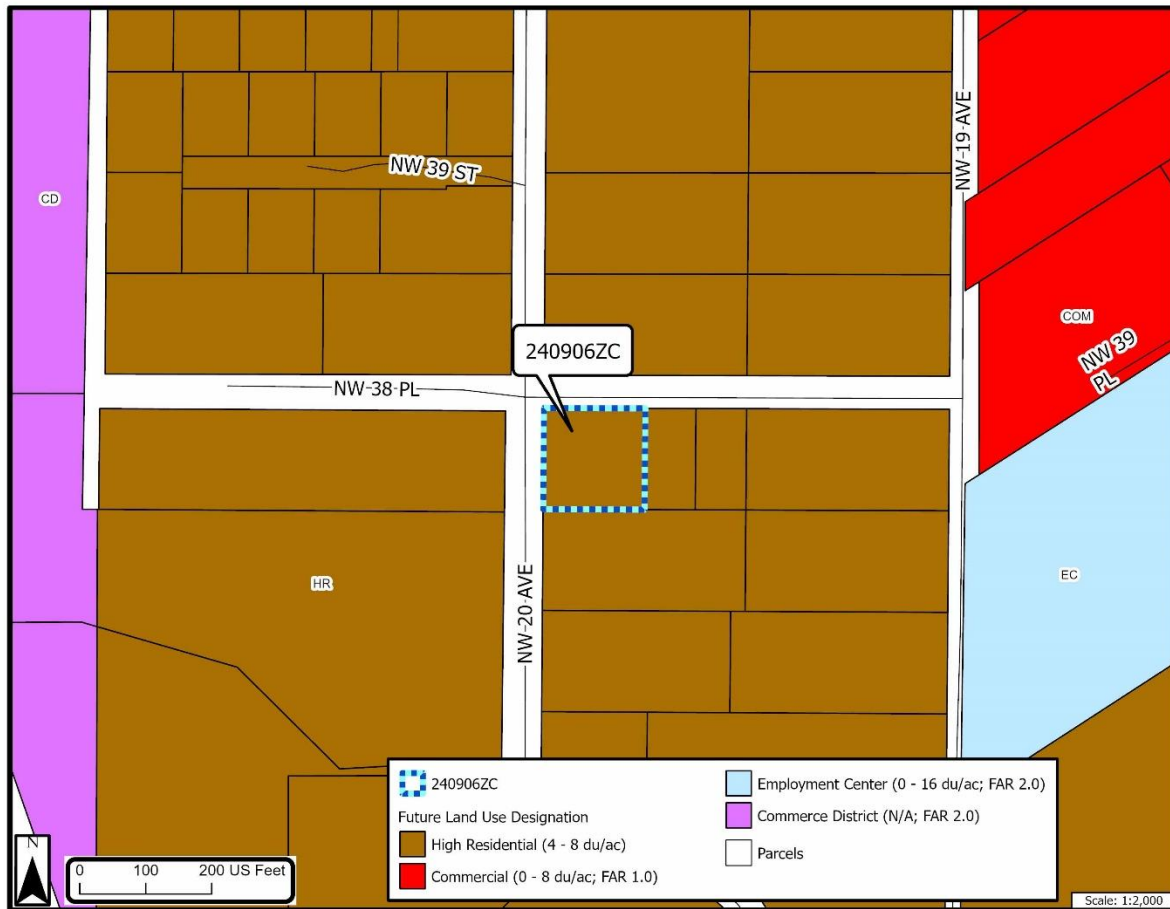


Figure 3 displays the proposed zoning for the subject property in relation to the existing zoning of the surrounding properties. North, south, and west of the subject site is already largely Single-Family Dwelling (R-1), and east and southeast is a small pocket of Residential Mixed-Use (R-4), including the subject property.

The site is located inside the Urban Growth Boundary (UGB) as well as the Primary Springs Protection Zone (PSPZ). Being inside Urban Growth Boundary makes this a parcel where more intense development than what is proposed under this application request would be encouraged. Additionally, the similarly zoned parcels and existing land uses of the surrounding area mean the potential for compatibility issues is less likely.

Figure 3
Proposed Zoning Classification

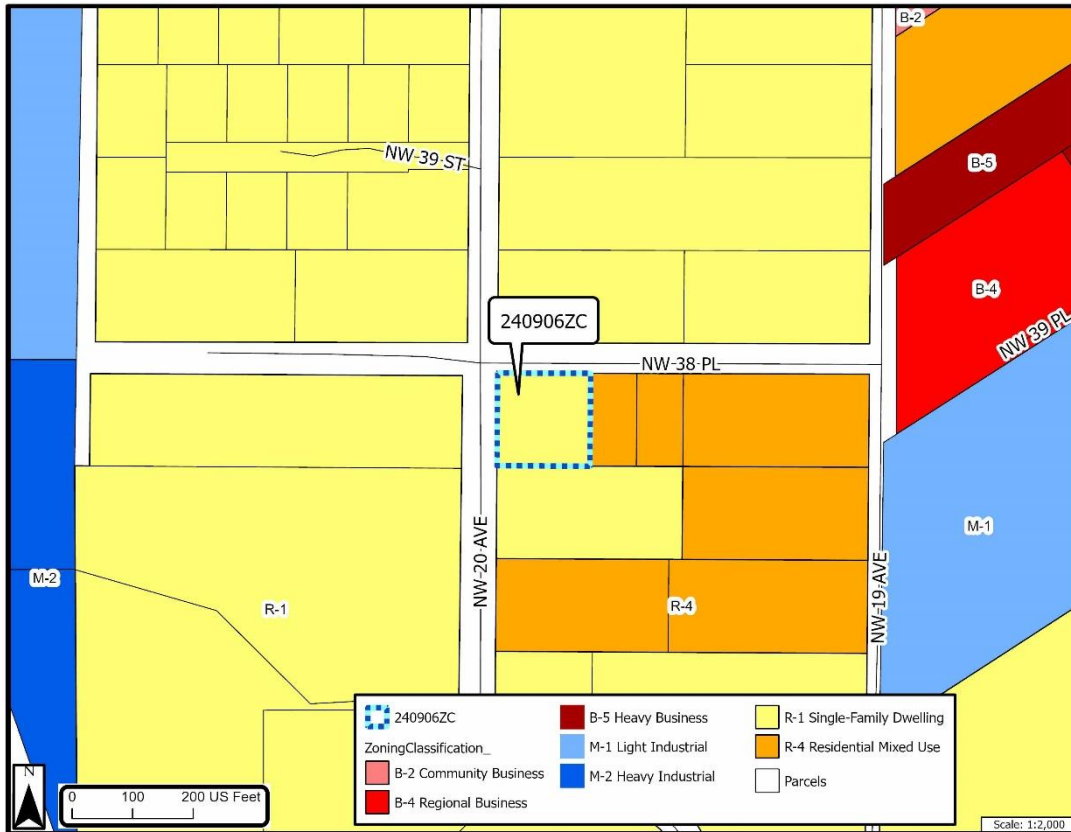
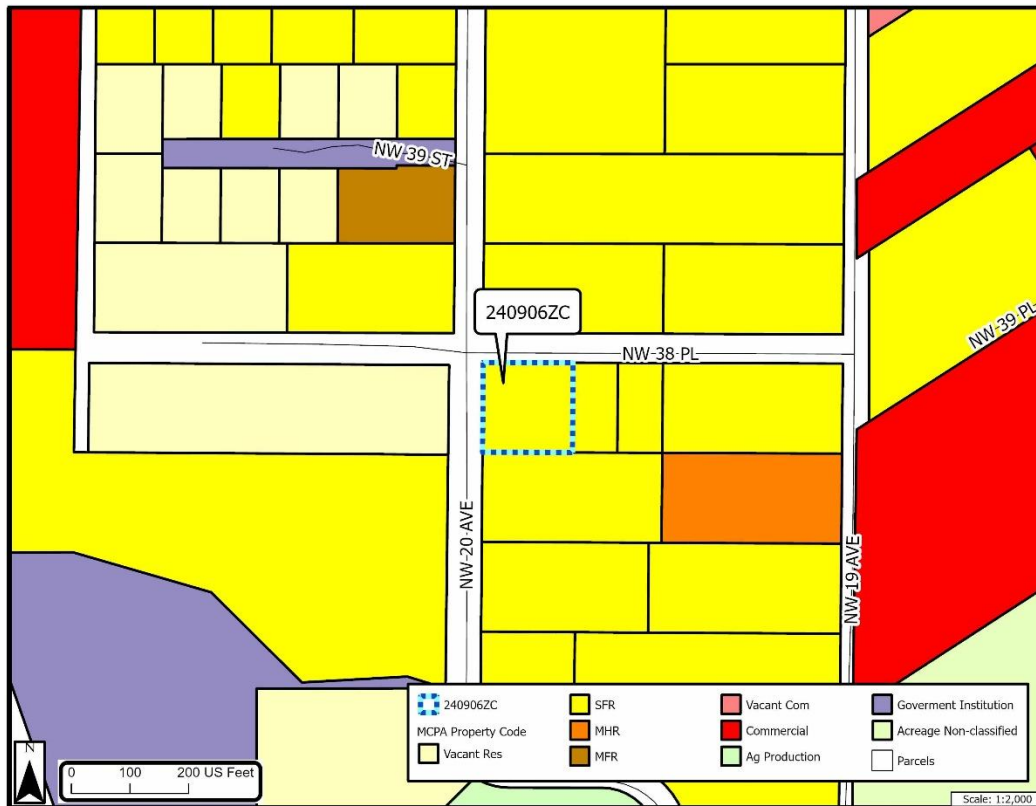


Figure 4
Property Aerial



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).

Figure 5
Existing Use per Property Appraiser Property Code



The applicant is requesting that the property be rezoned from R-4: Residential Mixed-Use to R-1: Single-Family Dwelling. Within vicinity of the subject property, parcel 13961-000-00 was rezoned from R-1 to R-4 (inverse of this request) under request #050403Z in April of 2005 for the purpose of adding a manufactured home as a guest cottage for the owner's *parents*. There was a similar application submitted later in 2005 (request #051202Z) for a rezoning of another property within this same residential node, which is situated a little closer to the commercial zonings flanking that property to the east along NW Gainesville Road. That request was also to rezone from R-1 to R-4 for the addition of a manufactured home for general residential use, and this request was denied.

This residential node in which the subject property is situated is sandwiched in-between some heavier commercial and industrial nodes which expand into the City of Ocala to the west of the subject property, and stretch north and south along both sides of NW Gainesville Road to the east, and then more along both sides of N US Hwy 441 moving further east of the subject property. This area is anticipated to continue to expand on commercial and industrial development, and while this rezoning request is technically taking the subject property to a lesser intense residential zoning, the addition of another dwelling unit on the subject property is moving in the right direction to fit the intent of the high density designation for this

residential node. Further, if granted, the rezoning would make this property consistent with the majority of the surrounding residential zoning classifications.

Based on the above findings, the proposed rezoning application is **compatible** with the existing and future surrounding land uses because the proposed rezoning would allow an additional dwelling unit on the subject parcel, which, although this is alternatively referred to as downzoning, the applicant's plan to add a dwelling unit to this property furthers the future land use and the long-term intent for the area. The property is inside the Urban Growth Boundary (UGB), where the desire is to encourage infill and increase density. Therefore, in this case, proposed R-1 residential zoning is consistent with the High Residential FLU designation as well as the intensity and characteristics of the surrounding area.

B. Effect on the Public Interest

1. Transportation impacts. These include roadways, public transit, and other mobility features.
 - a. Roadways. Both NW 38th Place and NW 20th Avenue front the subject property and are county-maintained unpaved local subdivision roads. NW 20th Ave leads out to NW 35th Avenue, which is a paved collector road. A change from R-4 to R-1 for the development of a guest home **will not adversely affect** the public interest.
 - b. Public transit. The Suntran Silver Route is available in this area, and there is a stop less than a mile from the subject property. The development of single family homes on this parcel **will not adversely affect** the public interest.
 - c. Other mobility features. Sidewalks currently exist on both sides of NW 35th Street. 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. Based on the residential calculation, the current demand of the subject property is estimated to be 360 gallons per day. The property is inside the UGB and Marion County Utilities' Service Area but is outside current connection distance. 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. Based on the residential calculation, the current demand is estimated to be 264

gallons per day. The property is inside the UGB but not within Marion County Utilities' current extension area.

The Department of Health has added a comment on this request (see Attachment B), which states. “[a]ddition will require an existing septic permit if connectin to currect septic system. If a new septic system will be installed a septic permit will be required through the Departmnet of Health in Marion County.”

The applicant has been advised to discuss both well and septic impacts with Department of Health, who does the permitting for her existing systems.

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. Based on the residential calculation, the current potential demand of the subject property is 14.88 pounds of solid waste generation per day. 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. Based on the permitted density of one home on the property, based on the proposed zoning, 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 floodplain areas 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.

Office of the County Engineer – Stormwater Division made the following comment on this request: “Stormwater is not opposed to the rezoning. The applicant proposes to rezone from R-4 to R-1. Parcel# 13960-001-00 is currently zoned B-4 [sic] and is a total of 0.53 acres in size. There are no FEMA Special Flood Hazard Areas or Flood Prone Areas on the property. Per the MCPA, this parcel currently has 3,240 SF of impervious coverage. This site will be subject to a Major Site Plan when its existing and proposed impervious coverage exceeds 35% impervious coverage (8,080 sf).” (See Attachment B.)

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 Anthony Fire Station #1, located at 3199 NE 70th Street Ocala, roughly 6 miles northeast of the subject property. There is an OFR Station just under 4 miles southeast of the subject property just inside the Ocala City limits. 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 Mail Operations Center of the Marion County Sheriff's Office is located at 692 NW 30th Avenue, Ocala, FL 34475, which is 3.3 miles southwest from the subject property. The nearest Sherriff substation is located approximately 4.4 miles northeast of the subject property at 8311 N Hwy 441, Ocala, FL. 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. The proposed rezoning is within the district for the following schools with 2023-2024 enrollment: Evergreen Elementary, Howard Middle, and Vanguard High. While there are localized areas of crowding within schools, the county has overall capacity available. 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. *Consistency with the Comprehensive Plan*

1. **FLUE Policy 1.1.5: Higher Density/Intensity Uses** - The County shall require higher densities and intensities of development to be located within the Urban Growth Boundaries and Planned Service Areas, where public or private facilities and services are required to be available.

Analysis: The subject site is located outside the urban growth boundary and public and/or private facilities and services are unavailable. Based on the subject property's location being within a platted rural residential subdivision and having a current commercial zoning with an incompatible Rural Land future land use, the proposed rezoning for rural residential use would bring the subject property into compliance with its future land use. This change would support the county's desire to encourage development with higher densities and intensities to occur within the urban growth boundary, and leave the Rural Land and lower density development at this time for parcels outside the UGB, especially those in the Primary Springs

Protection Zone, just like this one. The proposed rezoning would be **consistent** with FLUE Policy 1.1.5.

2. **FLUE Policy 2.1.19: High Residential (HR)** - 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 is consistent with the site's Rural Land future land use designation, as the proposed zoning is sought for the purpose of adding a dwelling unit to the property. The subject property is 0.53 ares. With an additional dwelling unit, there would be 2 dwelling units on a half-acre, approximately. This meets the minimum density of the existing future land use designation, thus bringing the property more in line with the intent of the future land use of the property. Therefore, the proposed rezoning is **consistent** with FLUE Policy 2.1.19.

3. **FLUE Policy 4.1.2: Conflicts between Comprehensive Plan, Zoning, and LDC** – 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: Rezoning the parcel to R-1 is necessary to resolve the current conflict created by this parcel's current limited residential zoning and high residential land use. The parcel has an existing single-family residence on it, and the request is required in order to allow this by way of a guest home. This policy states that the governing document is the Comprehensive Plan and therefore, the land use. The proposed rezoning would be the best way to resolve this conflict. Therefore this rezoning request is **consistent** with FLUE Policy 4.1.2.

4. **FLUE Policy 5.1.3 on Planning and Zoning Commission** provides, "The County shall enable applications for CPA, ZC, and SUP requests to be reviewed by the Planning & Zoning Commission, which will act as the County's Local Planning Agency. The advisory board's purpose is to make recommendations on CPA, ZC, and SUP requests to the County Commissioners. The County shall implement and maintain standards to allow for a mix of representatives from the community and set standards for the operation and procedures for this advisory board.

Analysis: The proposed zoning change is scheduled for the August 26, 2024, Planning and Zoning Commission and, therefore, the application is **consistent** with this FLUE Policy 5.1.3.

5. **FLUE Policy 5.1.4 on Notice of Hearing** provides, “The County shall provide notice consistent with Florida Statutes and as further defined in the LDC.”

Analysis: Public notice has been provided as required by the LDC and Florida Statutes and record of same is on file with Growth Services. Therefore, the application is **consistent** with FLUE Policy 5.1.4.

6. **FLUE Policy 7.4.3 on Permitted Uses [within the Springs Protection Overlay Zone (SPOZ)]** provides, “The County shall implement and maintain a LDC to identify permitted and special uses to ensure that the function of a protected nature feature will not be materially impaired, diminished, or harmed by development activities and that the quality of the surface waters or groundwater will not be adversely impacted by the development activities.”

Analysis: The subject property is within the Primary Springs Protection Zone. Therefore, the application is **consistent** with FLUE Policy 7.4.3.

7. **FLUE Policy 7.4.7 on Centralized Utilities [within the Springs Protection Overlay Zone (SPOZ)]** provides, “Central wastewater facilities shall be the preferred method of wastewater treatment for all development in an SPOZ in accordance to Policy 7.2.8 of this element and central water facilities shall be the preferred method of providing spring water.”

Analysis: The subject property was built in 1989, and has had well and septic since at least 1971. There have been no changes to the impacts to those sources to date. According to Marion County Utilities, the subject property is outside connection distance. Therefore the application is **consistent** with FLUE Policy 7.4.7.

8. **FLUE Policy 7.4.8 on On-Site Treatment Disposal Systems (OSTDS) [within the Springs Protection Overlay Zone (SPOZ)]** provides, “For development where connection to a regional, sub-regional, or alternative wastewater system is not required, then an OSTDS will be required Within the Primary SPOZ, enhanced OSTDS able to reduce total nitrogen by a minimum if 65% is required if central sewer connection is not available.”

Analysis: Because the site is located within the Primary Springs Protection Overlay Zone, there might be concerns about the addition of a dwelling unit to an existing conventional OSTDS. Once the rezoning is granted, the applicant will need to meet all DOH requirements, which might involve an

enhanced on-site wastewater disposal system. The application is being processed as being **consistent** with FLUE Policy 7.4.8.

Based on the above findings, the proposed rezoning is **consistent** with 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 **DENY** the rezoning amendment.
- B. 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 **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 **APPROVE** the proposed rezoning because the application:

- A. Will not adversely affect the public interest because the rezoning seeks to decrease the intensity of potential development;
- B. Is consistent with the Marion County Comprehensive Plan, specifically with:
 - 1. FLUE Policies 1.1.5, 2.1.19, 4.1.2, 5.1.3, 5.1.4, 7.4.7, and 7.4.8
- C. Is compatible with the surrounding uses because the proposed rezoning would downzone a parcel located in an area designated for lower density and intensity development close to similar rural residential uses within a subdivision of record which maintains long-term plans for rural residential use.

VII. PLANNING & ZONING COMMISSION RECOMMENDATION

To be determined. Scheduled for August 26, 2024, at 5:30 PM.

VIII. BOARD OF COUNTY COMMISSIONERS ACTION

To be determined. Scheduled for September 17, 2024, at 2:00 PM.

IX. LIST OF ATTACHMENTS

- A. Rezoning Application, received June 18, 2024
- B. DRC Comments Letter
- C. Site Photographs