



**Marion County
Board of County Commissioners**

Growth Services

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**PLANNING & ZONING SECTION
STAFF REPORT**

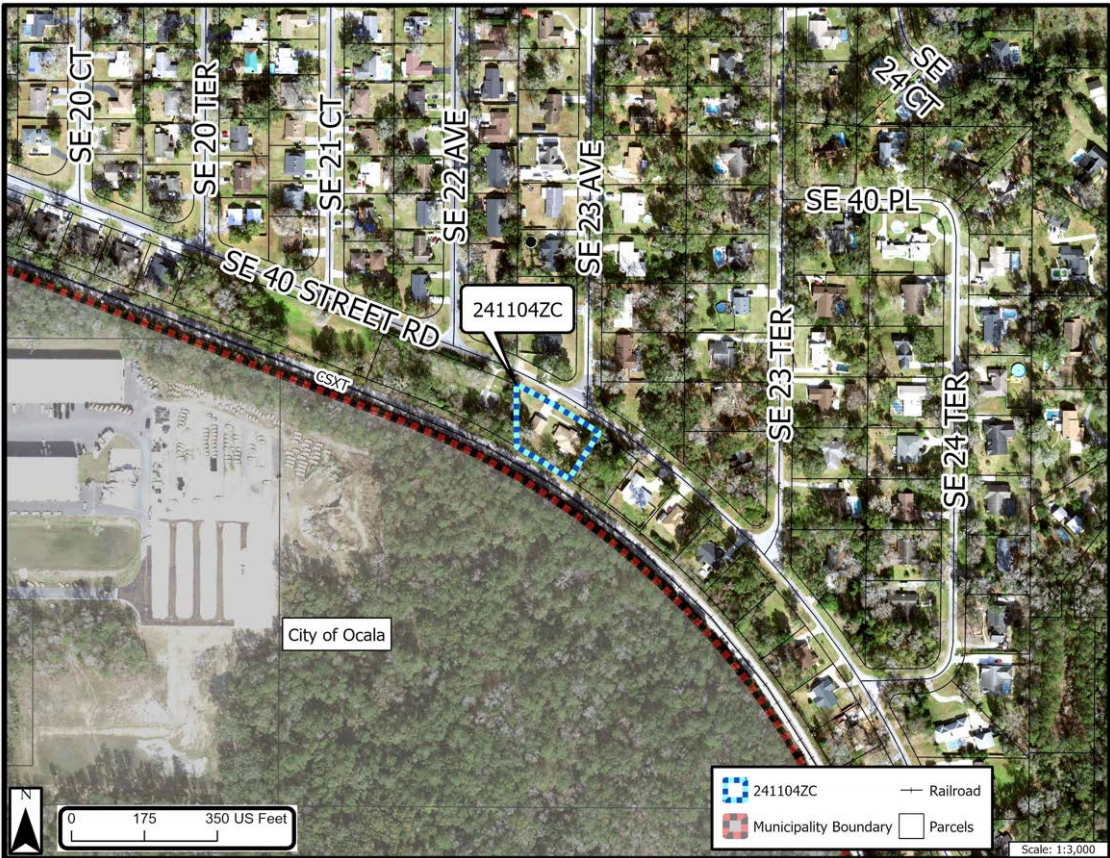
P&Z Date: 10/28/2024	BCC Date: 11/19/2024
Case Number	241104ZC
CDP-AR	31866
Type of Case	Rezoning from Multiple-Family Dwelling (R-3) to Single Family Dwelling (R-1) for the conversion of a garage to a guest residence.
Owner	Jonny & Jaziel Castaneda
Applicant	Jaziel Castaneda
Street Address/Site Location	2280 SE 40 th Street Rd. Ocala, FL, 34480
Parcel Number(s)	3126-005-001
Property Size	±0.57 acres
Future Land Use	High Residential (HR)
Existing Zoning Classification	Multiple-Family Dwelling (R-3)
Overlays Zones/Special Areas	Urban Growth Boundary (UGB), Primary Springs Protection Overlay Zone (PSPOZ)
Staff Recommendation	Denial
P&Z Recommendation	Approval
Project Planner	Kathleen Brugnoli, Planner II
Related Cases	None

I. ITEM SUMMARY

Jaziel Castaneda, on behalf of Jonny and Jaziel Castaneda, filed a rezoning application to change from Multiple-Family Dwelling (R-3) to Single-Family Dwelling (R-1) for a ± 0.57-acre parcel (see Attachment A). The Parcel Identification Number for the property is 3126-005-001; the site address is 2280 SE 40th Street Rd., and the legal description is provided within the application (see Attachment A). The site is located within the Urban Growth Boundary (UGB) as well as the Primary Springs Protection Overlay Zone (PSPOZ).

The application proposes rezoning the entire ±0.57-acre site to Single-Family Dwelling (R-1) for all uses permitted within the proposed zoning classification. The intent provided within the rezoning application is for the conversion of an existing garage to a guest residence.

**Figure 1
General Location Map**



II. STAFF SUMMARY RECOMMENDATION

Staff recommends **Denial** of the rezoning application. The rezoning will not adversely affect public interest, but it is not consistent with the Comprehensive Plan, and is not compatible with surrounding uses.

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 (18 owners) within 300 feet of the subject property on October 11, 2024. Consistent with LDC Section 2.7.3.B., public notice was posted on the subject property on October 14, 2024, and consistent with LDC Section 2.7.3.E., due public notice was published in the Ocala Star-Banner on October 14, 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, but that the proposed zoning change is not consistent with the current Comprehensive Plan, and that it is not compatible with land uses in the surrounding area. Staff's analysis of 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 north and east as being High Residential (HR). To the immediate west is Public (P) land use which is a water treatment plant and, contiguous to the west, a water retention area (WRA). After the two Public land use parcels, the HR land use continues on. East and northeast of the subject property are parcels designated Medium Residential (MR).

Figure 2
FLUMS Designation



Figure 3 displays the current zoning for the subject property in relation to the existing zoning of the surrounding properties while Figure 4 displays the proposed zoning relative to that of the parcels surrounding it. Roughly ten (10) acres along SE 40th Street Rd. share the same zoning classification and provide a buffer of sorts between the lower intensity development to the north/east and the heavier commercial uses to the south/west. Also, of note to the west/south is the intersection of S. Pine Ave. and SE Lake Weir Ave as well as CSX owned railway.

The site is located within the Urban Growth Boundary where parcels of higher density and intensity are to be located. Additionally, the site is within the Primary Springs Protection Overlay Zone (PSPOZ). The parcel is within Shadow Woods Second Addition Subdivision, east of its neighboring subdivision of Citrus Park. While these subdivisions do include R-1 as is requested, the pattern of zoning classification established in the area and the zoning surrounding this particular parcel would make this rezoning to R-1 isolated and result in spot zoning. Additionally, a change from R-3 to R-1 would require a supplementary change in Land Use as a change to R-1 would make the parcel's current HR land use incompatible.

Figure 3
Existing Zoning Classification

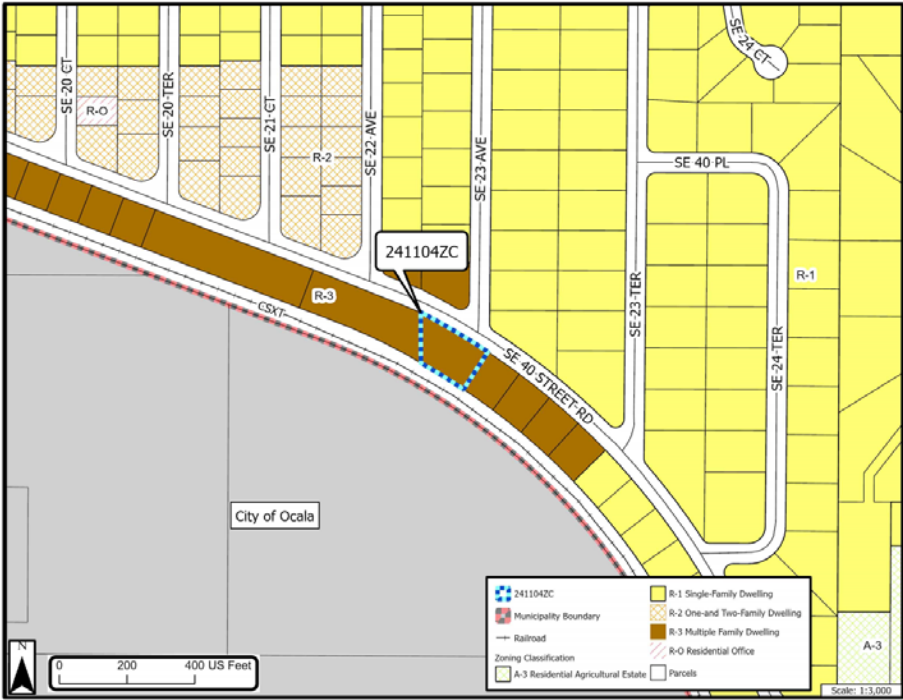


Figure 4
Proposed Zoning Classification

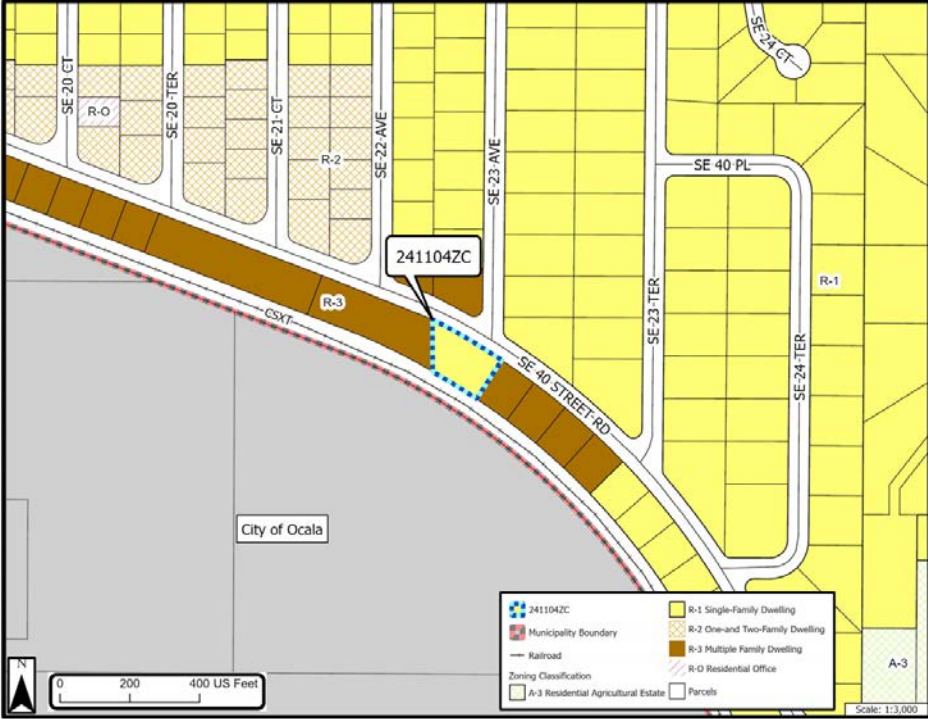


Figure 5 provides an aerial image of the subject property and surrounding area, while Figure 6 displays the subject and surrounding properties' existing uses as established by the Marion County Property Appraiser Office's Property Code (PC).

- A. Table A displays the information of Figures 2, 3, and 6 in tabular form. Consistent with LDC Section 2.7.3.D, staff conducted a site visit and found the property developed with a residence and a detached garage, as can be seen in the aerial view of the property. The area surrounding the home is a mix of single-family homes and duplexes, with examples of each provided in the site photos (Attachment B).

**Figure 5
Property Aerial**



Figure 6
Existing Use per Property Appraiser Property Code

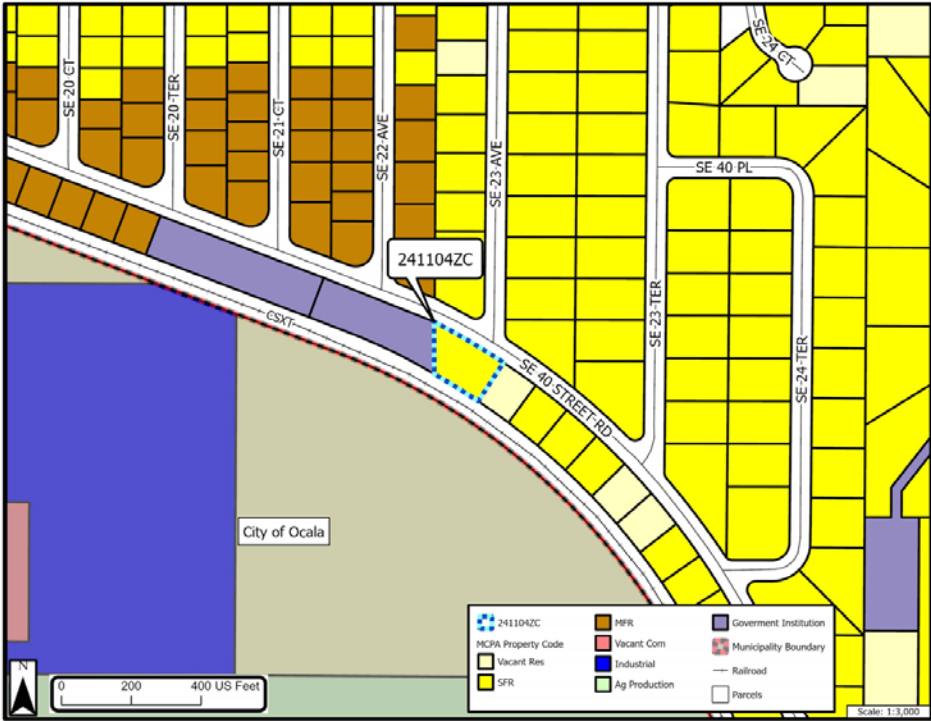


TABLE A. Adjacent Property Characteristics			
Direction	FLUM Designation	Zoning Classification	Existing Use per Property Appraiser Code
North	High Residential (HR) Medium Residential (MR)	Multiple-Family Dwelling (R-3) Single-Family Dwelling (R-1)	Improved Residential
South	City of Ocala	City of Ocala	City of Ocala
East	High Residential (HR)	Multiple-Family Dwelling (R-3)	Vacant Residential
West	Public (P)	Multiple-Family Dwelling (R-3)	Municipal Property

The LDC defines the intent of R-1 zoning to be, "...to provide areas for medium-density residential development..." If the zoning change is approved, the subject

parcel will meet an intent incompatible with its High Residential (HR) land use. Whereas the current R-3 zoning defines its intent as, “The multi-family Dwelling classification is intended to provide for high-density and urban residential development, including multi-family dwellings in areas served by public or private water and sewer services.”

Based on the above findings, the proposed rezoning application is **incompatible** with the existing and future surrounding land uses because the proposed rezoning would allow a reduction in density and intensity (alternatively referred to as downzoning) that is not appropriate and incompatible with the current zoning pattern in the surrounding area.

How does the request affect the public interest?

1. Transportation impacts. These include roadways, public transit, and other mobility features.
 - a. Roadways. The property fronts the intersection of SE 40th Street Rd and SE 23rd Ave. Both 40th and 23rd are local subdivision roads maintained by Marion County.
 - b. Public transit. There are currently no fixed route services available in the area.
 - c. Other mobility features. No sidewalks currently exist on this portion of SE 40th Street Road. 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 residential calculation, the proposed rezoning would result in a potential demand of 720 gallons per day.

The change in zoning would create additional demand that is addressed in the DRC comments provided by Utilities (Attachment C). Utilities stated in their comments the second residence will trigger connection if the property is not already connected. 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 residential calculation, the proposed rezoning would result in a potential demand of 528 gallons per day.

The change in zoning will not create any additional demand. The property record card currently lists a septic system on the property. However, based on the DRC Comments from Utilities, the addition of another home will require connection to the City of Ocala's sewer system as the property will now fall within connection distance. Once the property meets sanitary sewer requirements, **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. Based on the existing and proposed residential zoning, and the addition of a single-family guest cottage, **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 areas. 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 Shady Fire Station #16, located at 7151 S. Magnolia Ave., over 7 miles southwest of the subject property. The Comprehensive Plan does not establish a level of service standard for fire rescue/emergency services. Still, Marion County has established a 5-mile drive time 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 4 miles south of the subject property at 3260 SE 80th Street, Ocala. 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 R-1 rezoning may generate student populations as a residential use. Local school zones potentially affected

include South Ocala Elementary (100%), Osceola Middle (103%), Forest High (100%) with corresponding capacity figures from 120th day figures of the 23-24 school year. While there are areas of localized overcrowding within the county, overall, Marion County Public Schools (MCPS) currently has sufficient district-wide capacity; further, MCPS is examining school capacities and is currently undertaking the construction of new public schools. 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.**

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

1. FLUE Policy 1.1.6: The County shall require new development or substantial redevelopment to provide buffering to address compatibility concerns and reduce potential adverse impacts to surrounding properties, as further defined in the LDC.

Analysis: The subject site is located within a line of R-3 zoned properties buffering Commercial uses to the south from Residential to the north. Changing the zoning would disrupt the conforming and compatible buffer created between the residential area to the north and the higher intensity of Commercial to the south. The proposed rezoning would be **inconsistent** with FLUE Policy 1.1.6.

2. FLUE Policy 2.1.19: 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 inconsistent with the site's High Residential future land use designation as the proposed zoning is intended to be for single-family development. While the R-1 zoning sought would allow for a guest home, it would establish a zoning classification that doesn't match the pattern of development in the area and would allow spotty zoning. The current High Residential land use is intended for multi-family development such as Multiple-Family Dwelling (R-3) or Mixed Residential (R-4). Therefore, the proposed rezoning is **not 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 a 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 particular situation, the Comprehensive Plan is the more Stringent regulation by limiting the zoning classifications compatible with the different densities/intensities permitted with each land use designation. In this case, the High Residential land matches the current land use of R-3 on the property; changing the zoning to R-1 would create an incompatibility with the existing land use. The proposed rezoning would be **inconsistent** 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 October 28, 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, therefore, the application is being processed **consistent** with FLUE Policy 5.1.4.

Based on the totality of the above findings, the proposed rezoning **is not 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, 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.
- 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 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;
- B. Is inconsistent with the Comprehensive Plan provisions because it is not in conformance with:
 - 1. FLUE Policies 1.1.6, 2.1.19, and 4.1.2;
- C. Is not compatible with the surrounding uses because the proposed rezoning would downzone a parcel located in an area already similarly designated with a higher zoning classification.

VII. PLANNING & ZONING COMMISSION RECOMMENDATION

Planning & Zoning Commission recommended denial of staff's recommendation and, instead, recommended approval of the applicants requested zoning change.

VIII. BOARD OF COUNTY COMMISSIONERS ACTION

To be determined.

IX. LIST OF ATTACHMENTS

- A. Rezoning application.
- B. Site and Area Photographs.
- C. DRC Comments.
- D. Surrounding Property Owners Notification.