



**Marion County
Board of County Commissioners**

Growth Services

2710 E. Silver Springs Blvd.
Ocala, FL 34470
Phone: 352-438-2600
Fax: 352-438-2601

**PLANNING & ZONING SECTION
STAFF REPORT**

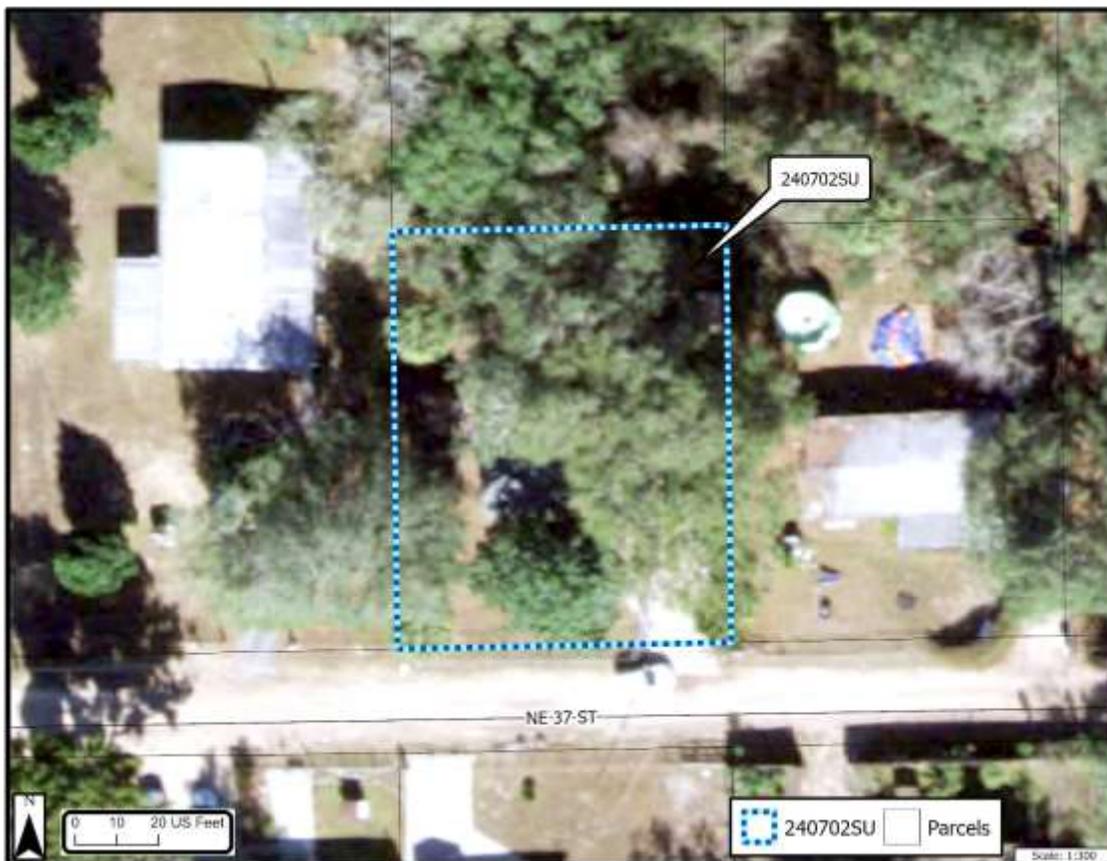
P&ZC Date: N/A	BCC Date: 07/16/2024
Case Number:	240702RA
CDP-AR:	31446
Type of Case:	Reasonable Accommodation: For two roosters in R-4 Zoning
Owner	April Smith
Applicant	Same as Owner
Street Address	17065 NE 37 th St
Parcel Number	16633-129-00
Property Size	±0.18
Future Land Use	Rural Land (RL)
Zoning Classification	Mixed Residential (R-4)
Overlay Zone/Scenic Area	Secondary Springs Protection Zone
Staff Recommendation	Approval with Conditions
P&ZC Recommendation	N/A
Project Planner	Marcus Lloyd, Planner II
Related Case(s)	N/A

I. ITEM SUMMARY

April Smith, applicant and owner, has filed for a Reasonable Accommodation (RA) Special Use Permit (SUP). To allow for two roosters in R-4 Zoning (Mixed Residential) See attachment A. Figure 1 is an aerial photograph showing the general location of the subject property. The Parcel Identification Number associated with the property is 16633-129-00 and the street address is 17065 NE 37th St is located inside of the Secondary Springs Protection Zone. The applicant has a letter from their doctor indicating that the two emotional support roosters are prescribed for the applicant.

The roosters are a specific breed, Silkies, which are somewhat docile and incapable of flight, are kept in a shed converted into a coop where they have access to bedding, water, and food. The roosters have a large amount of roaming area in the applicants yard, the property is surrounded by a tall opaque fence that screens the neighbors from the view of the roaming area.

Figure 1
Aerial Photograph of Subject Property



II. STAFF SUMMARY RECOMMENDATION

Staff recommends **APPROVAL** with conditions specified in Section VII.B. of this Staff Report. The recommended conditions are being imposed to address compliance with the requirements in Land Development Code (LDC) Sections 2.8.2.D and 2.8.3.B, and 4.2.6(f).

III. NOTICE OF PUBLIC HEARING

Consistent with LDC Section 2.7.3.C, notice of public hearing was mailed to all property owners (21 property owners) within 300 feet of the subject property on June 27th, 2024. Consistent with LDC Section 2.7.3.B, public notice was posted on the subject property on June 28th, 2024, where site photos were also collected (Attachment B) and consistent with LDC Section 2.7.3.E due public notice was published in the Ocala Star-Banner on July 1st, 2024. As of the date of the initial distribution of this staff report, no letters of opposition or support have been received. Evidence of the above-described public notices are on file with the Growth Services Department and are incorporated herein by reference.

IV. BACKGROUND/CHARACTER OF THE AREA

A. *Existing site conditions.* The property card shows that the site is vacant commercial. Figure 3 shows that the property is currently listed as commercial by the Marion County Property Appraiser's Office. The site is surrounded by vacant parcels, with nearby uses being single family residential and to the south are properties being used for agricultural production.

Figure 2
Existing Conditions Map



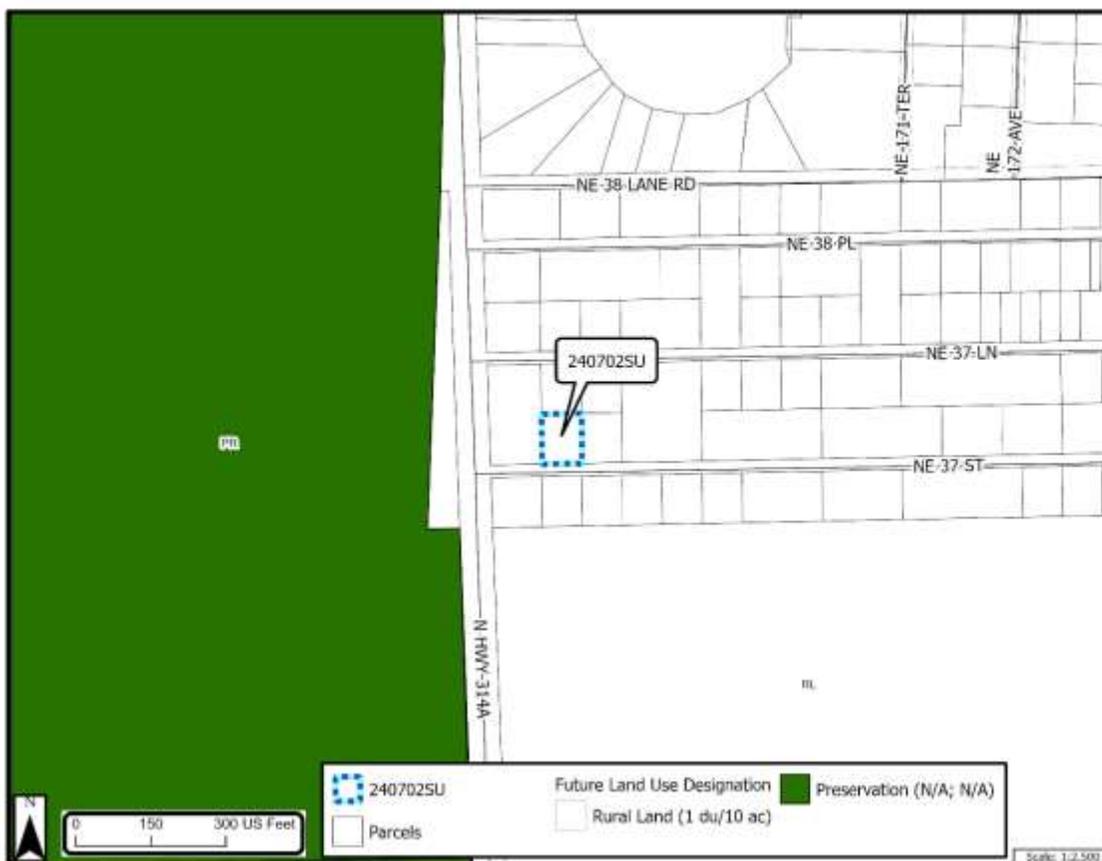
- B. *Zoning district map.* Figure 4 shows the subject property is classified as Mixed Residential (R-4). This is the property's initial zoning classification.

Figure 3
Zoning Classification



- C. *FLUMS designation.* Figure 5 is the FLUMS and it shows that the subject property is designated Rural Land (RL), allowing a maximum development of 1 dwelling units per 10 acres. This is the property's initial land use designation.

Figure 4
FLUMS Designations



V. ANALYSIS

LDC Section 2.8.2.D provides that in making a recommendation to the Board, the Planning and Zoning Commission shall make a written finding the SUP addresses nine (9) specific requirements. LDC Section 2.8.3.B requires consistency with the Comprehensive Plan. Staff's analysis of compliance with these ten (10) requirements are addressed below.

- A. *Provision for **ingress and egress** to property and proposed structures thereon with reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.*

Analysis: The property has one access point off NE 37th Street.

- B. *Provision for **off-street parking and loading areas**, where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the SUP on adjoining properties and properties generally in the surrounding area.*

Analysis: The property owner has a personal driveway, and no additional parking is expected to be needed for this specific use.

- C. *Provisions for **refuse and service area**, with particular reference to the items in (1) and (2) above.*

Analysis: The provided site plan indicates that the house will remain unchanged, not altering any of the existing conditions on site. The coop for the roosters is on the side of the house, and is meeting setbacks from other properties. The applicant has stated that all waste will be collected personally when removing it from the property. Notwithstanding, staff imposes the following condition.

- *The property owner will maintain a well-kept area for the roosters.*
- *Waste produced by the animals shall be collected multiple times per week in order to reduce negative impacts to neighbors on surrounding properties.*

- D. *Provision for **utilities**, with reference to locations, availability, and compatibility.*

Analysis: There is an existing well and septic on the property. Water is found to be available for the animals.

- E. *Provision for **screening and buffering** of dissimilar uses and of adjacent properties where necessary.*

Analysis: The Findings of Facts provided states that there is a 6 ft chain link fence around the whole property. Notwithstanding, staff imposes the following conditions:

- *The fencing around the property shall be maintained in good condition.*

- F. *Provision for **signs**, if any, **and exterior lighting** with consideration given to glare, traffic safety, economic effects, and compatibility and harmony with properties in the surrounding area.*

Analysis: There will not be any additional signs or exterior lighting as a result of this use.

- G. *Provision for **required yards and other green space**.*

Analysis: The coops are found to be consistent with required yard setbacks of 8 ft.

- H. *Provision for general **compatibility** with adjacent properties and other properties in the surrounding area.*

Analysis: 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 an aerial photograph displaying existing and surrounding properties. Figure 5 is an aerial photograph showing the subject property, adjacent properties, and the existing residential area. At this time, this area is comprised of low density residential with some agricultural uses in the general vicinity.

- I. *Provision for meeting any **special requirements** required by the site analysis for the particular use involved.*

Analysis: Staff notes that unlike a variance, which runs with the land and is recorded in the public records, a special use permit is not recorded. As a result, a subsequent owner will not have notice of the requirements. Staff has recommended a condition that will void the SUP if the property changes hands. To ensure that the SUP stays in compliance and has a system of periodic reviews, Staff recommends a list of conditions provided at the end of this report to mitigate the possibility of any negative impacts from this special use.

- The Reasonable accommodation runs with the owner, and not the property.

J. *Consistency with the Comprehensive Plan.*

1. Policy 2.1.5: **Permitted & Special Uses** – 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: LDC Section 4.2.9 requires a Special Use Permit for personal Roosters as a use in R-1 zoning. Thus, the application is consistent with FLUE Policy 2.1.5.

Based on the above findings, Staff concludes the SUP is consistent with LDC Sections 2.8.2.D and 2.8.3.B provided conditions to address the ten (10) requirements are imposed.

VI. **ALTERNATIVE RECOMMENDATIONS**

- 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 the Board of County Commissioners to **DENY** the special use permit 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 the approval of the Ordinance with amended conditions and make a recommendation to the Board of County Commissioners to adopt a proposed Ordinance to **APPROVE WITH AMENDED CONDITIONS** the special use permit.
- 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 the Board of County Commissioners 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.

VII. STAFF RECOMMENDATION

- A. Staff recommends the Board enter into the record the Staff Report and all other competent substantial evidence presented at the hearing and make a recommendation to the Board of County Commissioners to adopt a proposed Ordinance to **APPROVE AS CONDITIONED** the special use permit.
- B. To address compliance with LDC Sections 2.8.2.D and 2.8.3.B, the following conditions are imposed:
1. *The property owner will maintain a well kept area for the roosters*
 2. *Waste produced by the animals shall be collected multiple times per week in order to reduce negative impacts to neighbors on surrounding properties.*
 3. *The fencing around the property shall be maintained in good condition.*
 4. *The Reasonable Accommodation runs with the owner, and not the property.*

VIII. BOARD OF COUNTY COMMISSIONERS' ACTION

To be determined.

IX. LIST OF ATTACHMENTS

- A. SUP Application for the RA.
- B. Site Photos and animal photos.
- C. DRC Comments.