



**Marion County
Board of County Commissioners**

Growth Services

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Ocala, FL 34470
Phone: 352-438-2600
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**PLANNING & ZONING SECTION
STAFF REPORT**

Hearing Dates:	P&Z Date: 11/27/23	BCC Date: 12/19/23 Cont'd to: 3/19/24
Case Number	231206ZC	
CDP-AR	30679	
Type of Case	Rezoning from General Agriculture (A-1) to Rural Commercial (RC-1)	
Owner	Jerry Cauthen and Karen Cauthen	
Applicant	Paolo Mastroserio, PE, of Mastroserio Engineering, LLC, OBO Del Lago Ventures, Inc.; Rob Batsel, Esq.	
Street Address/Site Location	No address assigned	
Parcel Number(s)	07263-000-00 (northeastern portion)	
Property Size	±11.06 acres of an overall ±38.62-acre parcel	
Future Land Use	Rural Land	
Existing Zoning Classification	General Agriculture (A-1)	
Overlays Zones/Special Areas	Inside the Farmland Preservation Area (FPA), Silver Springs Primary Springs Protection Zone (PSPZ), and Silver Springs Secondary Protection Zone (SSPZ)	
Staff Recommendation	DENIAL	
P&Z Recommendation	DENIAL; 5:1	
Project Planner	Eryn Mertens, Planner II	
Related Cases	24-DA02 (Developer's Agreement)	

I. ITEM SUMMARY

Paolo Mastroserio, PE, of Mastroserio Engineering, LLC, on behalf of Del Lago Ventures, Inc., filed a rezoning application to change ± 11.06 acres of an overall ± 38.62 -acre parcel from General Agriculture (A-1) to Rural Commercial (RC-1) (see Attachment A). The Parcel Identification Number (PID) for the overall property is 07263-000-00 and the legal description is contained within the site deed (see Attachment A) and sketch (see Attachment C). The overall property is currently an unimproved rural property situated on the corner of N US Highway 441 and W Highway 329, with the majority of the parcel sitting south of W Hwy 329, and a small portion clipped off by the highway and sitting northwest of the highway. There is a tree line that runs east-west through the northern half of the parcel. The request is intended to rezone the northeast ± 11.06 -acre portion of the parcel, north of the tree line, to Rural Commercial (RC-1) for the development of a RaceTrac gas station, convenience store, and truck fueling, however, zoning changes are not conditional so all permitted uses must be considered. The site is located within the Farmland Preservation Area (FPA), the Silver Springs Primary Springs Protection Zone (SPSPZ), the Silver Springs Secondary Protection Zone (SSSPZ), and outside of the Marion County Utilities' Utility Service Area. (See Figure 1)

Figure 1
General Location Map



II. STAFF SUMMARY RECOMMENDATION

Staff recommends **DENIAL** of the rezoning application. The rezoning will establish a zoning classification which is inconsistent with the site's future land use, which is inconsistent with the Marion County 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 (12 owners) within 300 feet of the subject property on November 9, 2023. Consistent with LDC Section 2.7.3.B., public notice was posted on the subject property the week of November 13, 2023 and consistent with LDC Section 2.7.3.E., due public notice was published in the Ocala Star-Banner on November 13, 2023. 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 the first iteration of this staff report, fifty-one (51) letters of opposition have been received, and one (1) letter in support.

This application was scheduled for consideration by this Board at the December 19, 2023 public hearing, as noticed according to the above. However, at this public hearing, the applicant elected to continue this item for this Board's consideration at the March 19, 2024 public hearing, in order to be heard with a separate, related application regarding a Developer's Agreement, limiting the development of this property (see Attachment H). This item was re-noticed for this new hearing date via: (1) mailed notices to all twelve (12) property owners, sent on February 9, 2024; (2) posted on the subject property, on January 8, 2024; and (3) published in the Ocala Star-Banner on February 12, 2024. Evidence of these updated 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 final iteration of this staff report, approximately one-hundred and eighty-five (185) letters of opposition have been received in Growth Services. This number was previously thought to be higher, however, with multiples of letters being submitted to multiple offices, some duplicates were inadvertently counted, initially. There have been five (5) letters in support which have been received by Growth Services. Records of these letters are on file with the Growth Services Department and are herein incorporated by reference.

IV. ANALYSIS

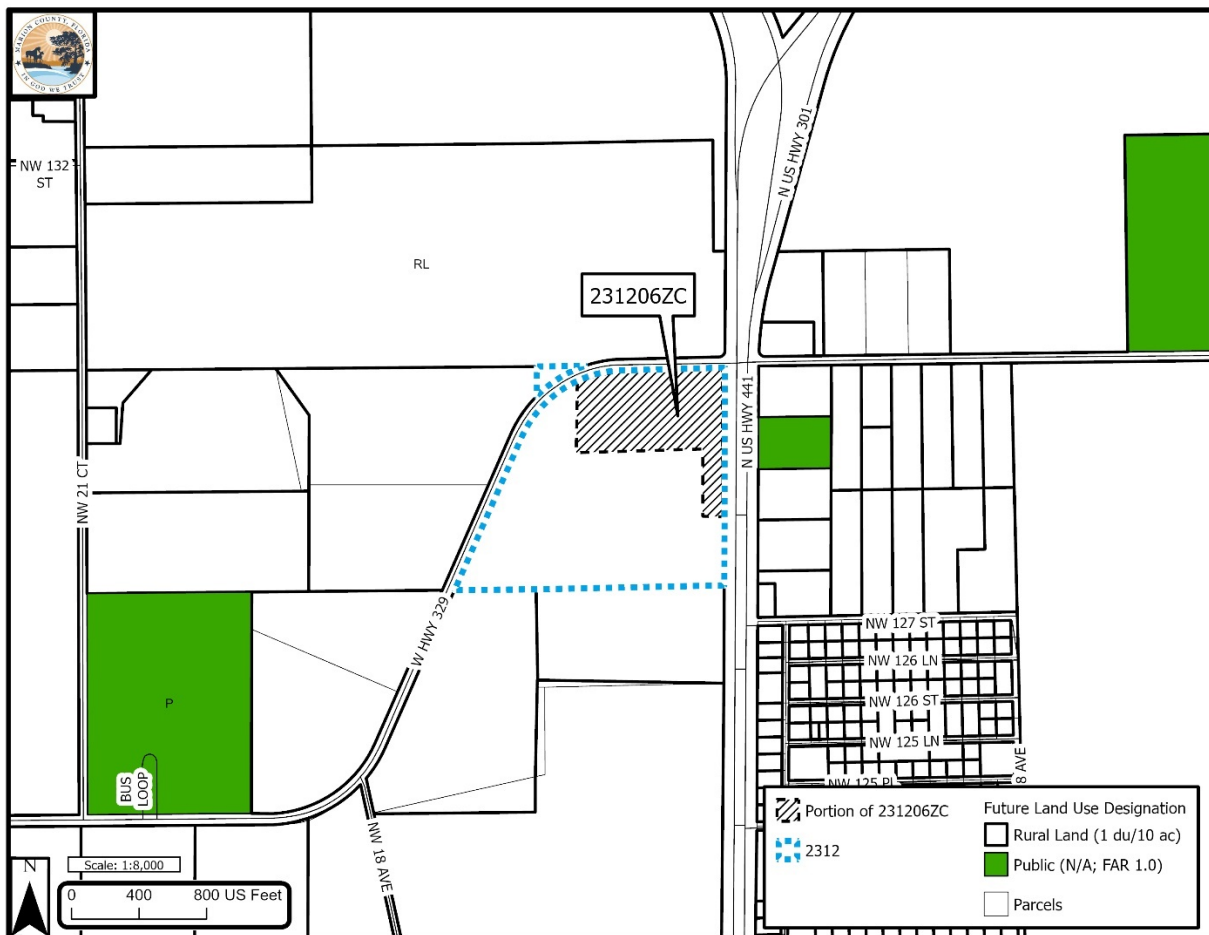
LDC Section 2.7.3.E.(2) provides that in making a recommendation to the Board, the Planning and Zoning Commission shall make a written finding that granting the rezoning will not adversely affect the public interest, that the proposed zoning change is consistent with the current Comprehensive Plan, and 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 and surrounding properties are Rural Land (RL), sprinkled with a couple Public (P) designated properties.

Figure 2
FLUMS Designation



The subject property's Rural Land designation accommodates agricultural uses, associated housing related to farms and agricultural-related commercial and industrial uses. The permitted density allows up to one (1) dwelling unit per ten (10) acres.

Figure 3 displays the proposed zoning for the subject property in relation to the existing zoning of the surrounding properties. The property to the north is zoned Community Business (B-2), and a few smaller properties to the east are zoned Regional Business (B-4). Just south of those are some residential properties, zoned Single-Family Dwelling and Rural Residential (R-1 and RR-1, respectively), with more Community Business (B-2) between the residential properties and N US Hwy 441. Otherwise, the lands surrounding these properties are all General Agriculture (A-1).

Figure 3
Proposed Zoning Classification

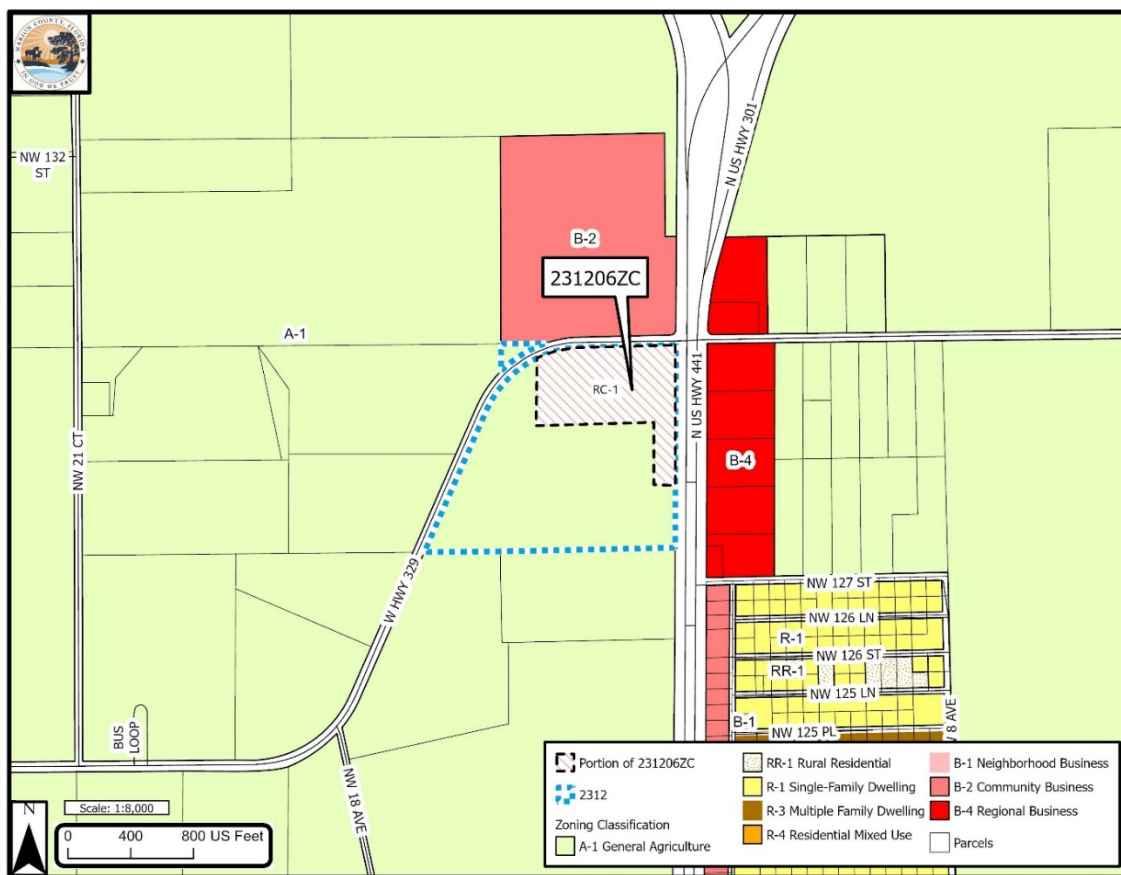


Figure 4 provides an aerial image of the subject property and surrounding area, while Figure 5 displays the existing uses as established by the Marion County Property Appraiser Office's Property Code (PC) for the subject property and surrounding properties. Table A displays the information of Figures 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 remains undeveloped and nestled in a rural area surrounded by agricultural uses, or vacant rural properties. Agricultural uses are defined in the Marion County Land Development Code as "[T]hose uses of land which involve the science and art of production of plants and animals useful to man including to a variable extent, the preparation of these products for man's use and

their disposal by marketing or otherwise. These shall include horticulture, floriculture, viticulture, aquaculture, forestry, dairy, livestock, including the breeding and/or training of horses, poultry, bees, ratites, and any and all forms of farm products and farm production.”

There are two gas stations across N US Hwy 441, at both corners of the intersection with W Hwy 329. The gas station on the northern corner is a parcel of record and has a Policy 1.20 Letter, dated April 23, 1999, now known as a Policy 10.1.5 Letter. These letters are provided to parcels with conforming commercial or industrial use which was in existence as of April 7, 1994, the initial adoption of the Comprehensive Plan here in Marion County, and recognizes these parcels as having conforming uses. This Sonoco gas station on the northern corner offers two (2) pumps, servicing no more than four (4) cars at any given time, and includes a small convenience store. While the gas station on the southern corner, Circle K, doesn't currently have one of these Policy 1.20 Letters, they could if they simply requested it, as they have existed since 1990. This gas station offers 3 pumps, servicing no more than six (6) cars at any given time, and also includes a convenience store.

Figure 4
Property Aerial

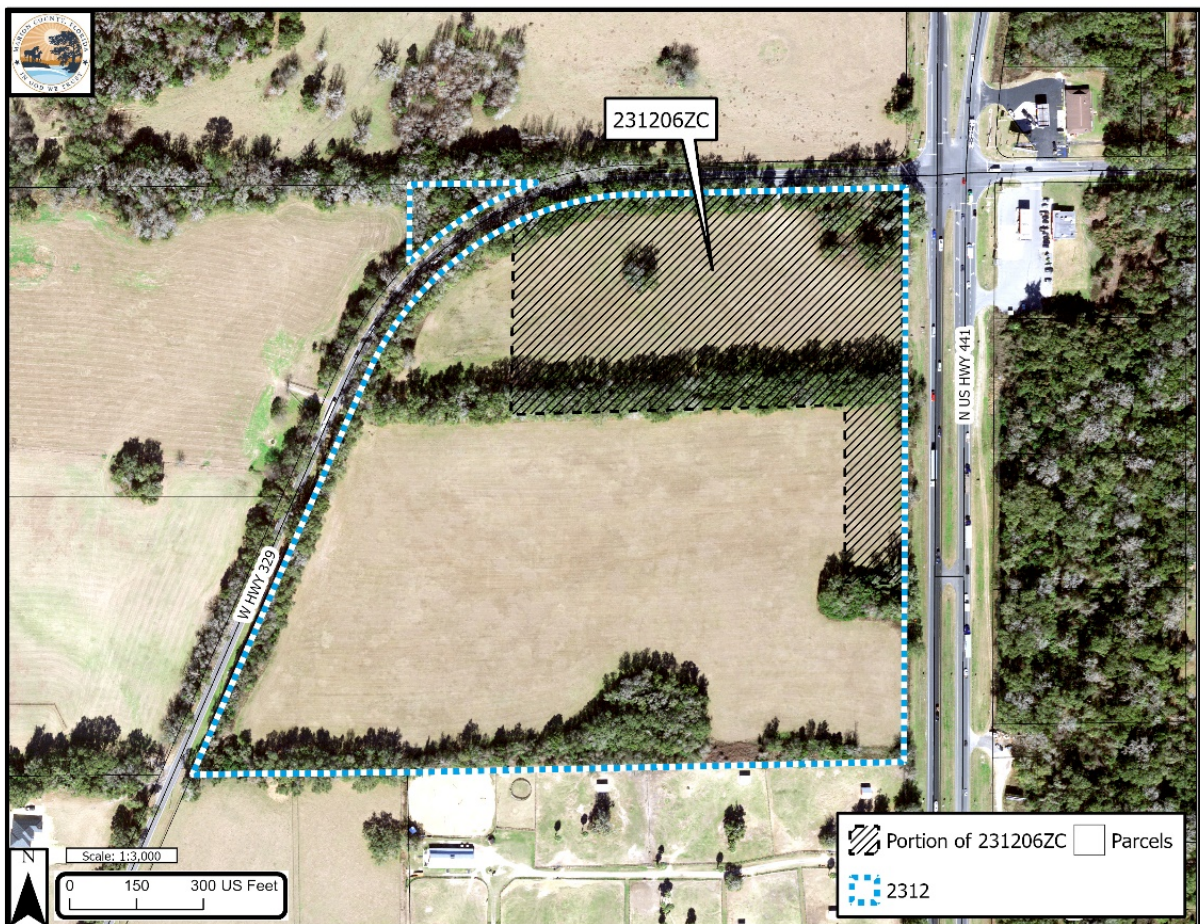


Figure 5
Existing Use per Property Appraiser Property Code

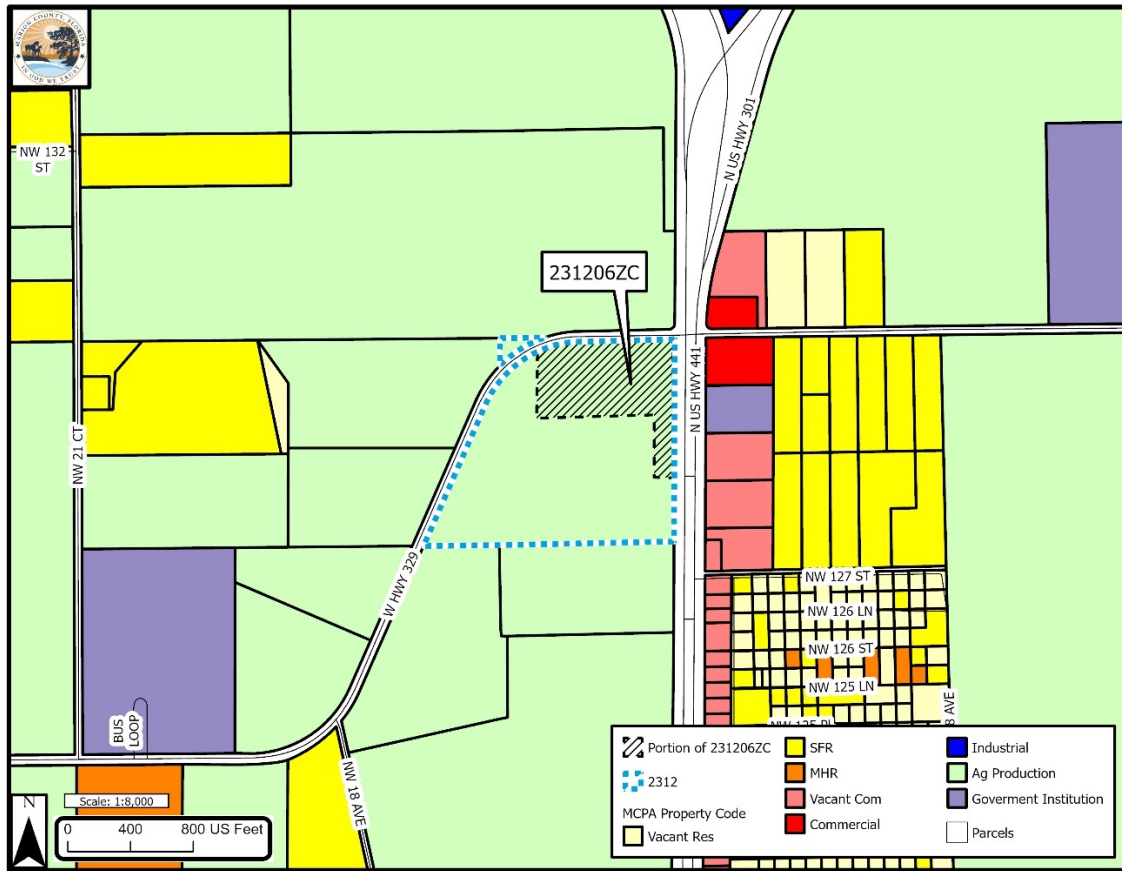
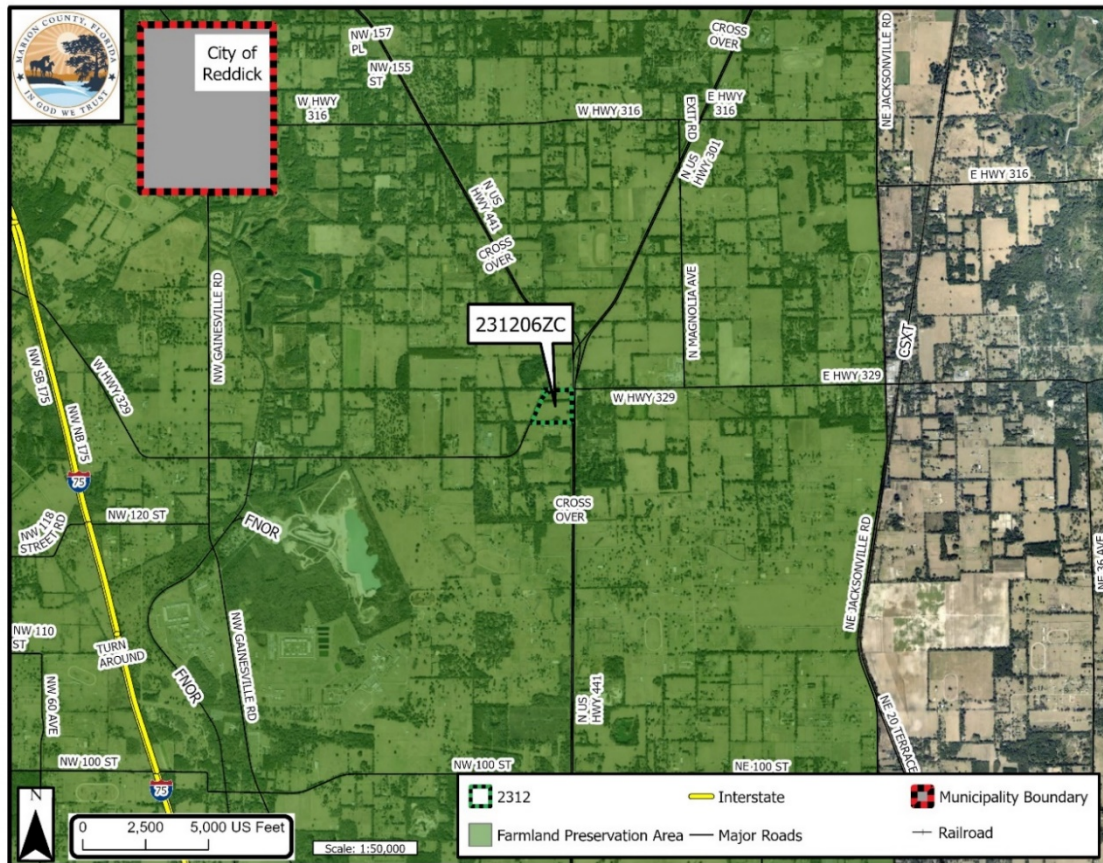


TABLE A. Adjacent Property Characteristics			
Direction	FLUM Designation	Zoning Classification	Existing Use per Property Appraiser Code
North	Rural Land (RL)	Community Business (B-2)*, General Agriculture (A-1)	Ag Production
North-East	Rural Land (RL)	Regional Business (B-4)*	Commercial, Vacant Commercial
South	Rural Land (RL)	General Agriculture (A-1)	Ag Production
East	Rural Land (RL)	Regional Business (B-4)*, Community Business (B-2)*, Single-Family Residential (R-1), and Rural Residential (RR-1)	Commercial, Government Institution, Vacant Commercial, Single-Family Residential, Vacant Residential, Manufactured Home Residential

West	Rural Land (RL)	General Agriculture (A-1)	Ag Production
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* indicates incompatibility with the future land use designation of Rural Land

Figure 6
Farmland Preservation Area



This parcel has a Rural Land future land use designation, with a General Agriculture (A-1) zoning classification. The Rural Land designation is “intended to be used primarily for *agricultural uses*, associated *housing related to farms* and *agricultural related commercial and industrial uses*”, as set forth in Policy 2.1.16 of the Marion County Comprehensive Plan (MCCP) (emphasis added). Further, “**agricultural use**” is defined in Policy 2.1.14 of the MCCP, regarding General Definitions for Uses, as

“[a]ny generally accepted, reasonable, and prudent method for the operation of a farm, including, but not limited to, horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, if the land is used principally for the production of tropical fish; aquaculture, including algaculture; sod farming; all forms of farm products as defined in Section 823.14(3), F.S. and farm production.

Agricultural Lands are classified as such pursuant to Section 193.461, F.S.” (emphasis added)

As illustrated in the figures and tables above, this parcel is firmly within the Farmland Preservation Area, and is surrounded by similar rural and agricultural properties. Marion County has specifically endeavored to protect rural and agricultural areas in our community. Specifically, according to Policy 2.1.6 of the MCCP, regarding **Protection of Rural Areas**,

Rural and agricultural areas shall be protected from premature urbanization and a vibrant rural economy shall be encouraged outside the UGB and Planned Service Areas. Urban and suburban uses incompatible with agricultural uses shall be directed toward areas appropriate for urban development such as within the UGB and PSAs.

Rural Area is generally defined in Policy 3.1.4 of the MCCP, regarding Rural Area Outside of the [Urban Growth Boundary (UGB)], as “[t]he lands outside of the UGB”. This Comprehensive Plan provision continues on to state that “development in this area shall be guided by the following principles and as further defined in the LDC:

1. *Protect the existing rural and equestrian character of the area and acknowledge that a certain portion of the County's population will desire to live in a rural setting.*
2. *Promote and foster the continued operation of agricultural activities, farms, and other related uses that generate employment opportunities in the Rural Area.*
3. Establish a framework for appropriate future opportunities and development options including standards that address the timing of future development.
4. Create a focused strategy for the regulation of mining and resource extraction activity.
5. *Allow for new Rural Land and Rural Activity Center Future Land Use designations with a Comprehensive Plan Amendment (CPA), as further allowed in this Plan and as further defined in the LDC.” (emphasis added)*

Furthermore, Objective 3.3 of the MCCP, regarding **Farmland Preservation Area**, the intent is outlined

“to encourage preservation of agriculture as a viable use of lands and an asset of Marion County’s economy and to protect the rural character of the area.”

Marion County has specifically addressed *planning principles* within this area, and the so states that they are

“designed to protect significant natural resources, including prime farmland and locally important soils as defined by the United States Department of Agriculture and unique karst geology that provides high recharge to the Floridan Aquifer, a key source of freshwater for Central Florida. *The County establishes this area as critical to the enhancement and preservation of its designation as the Horse Capital of the World.*” (emphasis added)

Policy 3.3.1 of the M CCP, regarding the **Elements of Rural Character in the Farmland Preservation Area**,

“The County *shall* preserve and protect rural and equestrian/agricultural character within the Rural Lands, specifically the Farmland Preservation Area, by requiring that all appropriate future development activities within this Area preserve, support, and enhance the fundamental elements of rural character set forth below, *and further requiring that all Zoning Changes and Special Use Permits within the Farmland Preservation Area be consistent with and preserve, protect, support, and enhance the rural, equestrian, and farmland character of the Farmland Preservation Area.*” (emphasis added)

This application seeks to rezone an ±11.06-acre portion of this property to Rural Commercial (RC-1) for the purpose of placing a RaceTrac gas station with eight (8) pumps to service a maximum of 16 vehicles at any time, as well as five (5) refueling lanes for servicing semi-tractor trailers, as well.

Based on several factors: (1) the above exploration of the County’s mission to protect properties exactly like this one, with the exact land uses carried by this parcel, and the County’s commitment to protect this property and the area surrounding it from premature urbanization and uses incompatible with rural and agricultural uses; and further, (2) in light of the two pre-existing nonconforming smaller gas stations at this same intersection, which are already supporting this area with this exact use; as well as (3) the incompatibilities which already exist in this area between several neighboring commercially-zoned properties (though most are still undeveloped) which are incompatible with their Rural Land future land use designation; and lastly, (4) the heightened controls on development of properties just like this within the Farmland Preservation Area, the proposed rezoning application is wholly **incompatible with the existing and future surrounding land uses**.

B. *Effect on public interest.*

1. Transportation impacts. These include roadways, public transit, and other mobility features.
 - a. Roadways. The proposed rezoning will accommodate the development of a gas station with sixteen (16) automobile fueling

positions, five (5) truck fueling positions, and a 6,008 SF Convenience Store, which is unlike the other established gas stations in the area. The project proposes four (4) points of access: one full access for trucks, and one additional right in/right out access for automobiles on Highway 329, and two (2) accesses on US Hwy 441 for automobiles and trucks, both right in/right out, one of which does not meet the minimum 660 feet driveway spacing as required by the Land Development Code (LDC), and thus will require a waiver.

W Hwy 329 is a paved, two-lane, County-maintained Collector road. N US Hwy 441 (which at this location is also N US Hwy 301), is a four-lane interstate highway that is known to exhibit significant operational and safety issues. Approximately 2/3 miles south of the subject intersection is a large hill that impedes the line of sight of the northbound traffic on US Hwy 441 and prevents vehicles and semi-trucks from detecting a potential queue of vehicles backing up at that intersection at the foot of the hill in the northbound lanes.

Just north of the site is where US Hwy 301 and US Hwy 441 split. According to the data available from the Signal Four Analytics website (<https://signal4analytics.com/>), which is the standard that FDOT utilizes for crash information, from September 8, 2018, to September 14, 2023 (roughly 5 years), there have been 268 crashes within a ½ mile of this intersection. Of those 268 crashes, 100 resulted in injury, 8 resulted in serious injury, and there was 1 fatality. Also worth noting, is that of those 268 crashes, only 1 was alcohol-related. I have included charts pulled from this website to illustrate this data. (See Figures 7 and 8)

Figure 7
Signal Four Analytics Heat Map



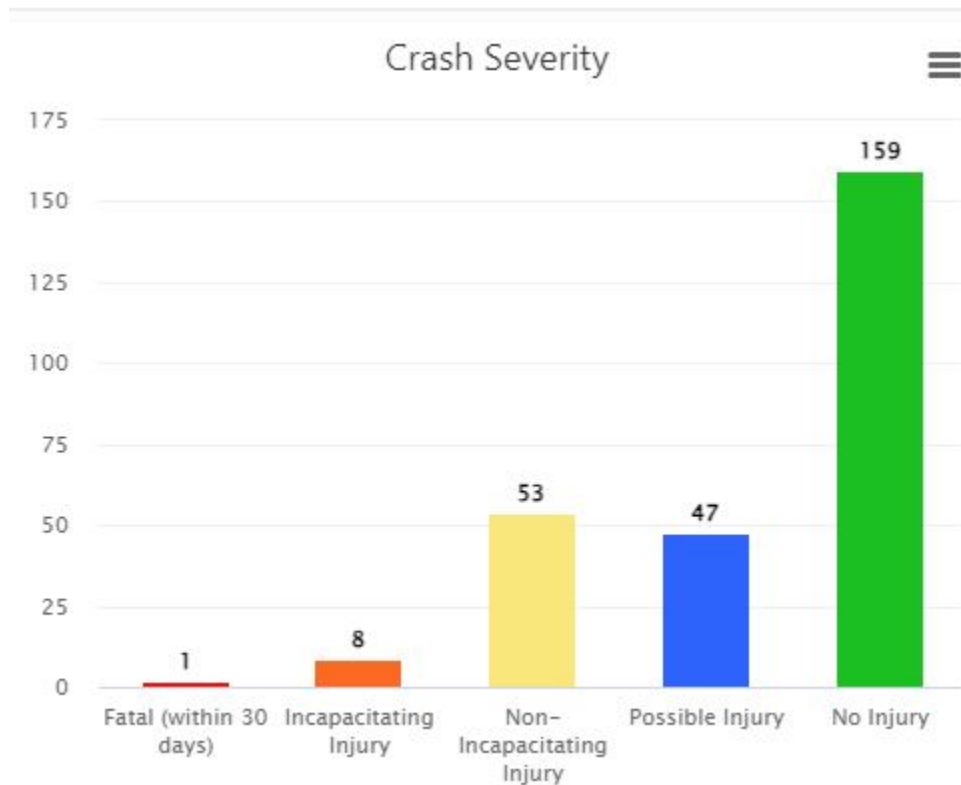
Injury Summary

[Common Attributes](#)

[FDOT Attributes](#)

	Total	Fatal Crashes	Serious Injury Crash...	Injury Crashes	Property Damage ...
Crashes	268	1	8	100	159
Fatalities (within 30 ...	1	1	0	0	0
Incapacitating Injuries	16	1	15	0	0
Non-Incapacitating I...	74	0	2	72	0
Possible Injuries	93	0	3	90	0
No Injuries	584	0	3	133	448
Non-Traffic Fatalities	1	0	0	1	0

Figure 8
Signal Four Analytics Crash Severity Map



The intersection is also situated between a high school and a middle school, and there are no sidewalks in the area. This exacerbates the deficiencies presented by the intersection, and creates higher volumes of traffic than would be normally experienced even during times of Peak Hour operations.

The intersection just north of CR 329-Hwy 441, where the highways split, which empties immediately into the subject intersection, where the applicant seeks to place a 16-station fueling positions for automobiles, and 5-station fueling positions for semi-trucks and other large vehicles, has been recognized by the Florida Department of Transportation (FDOT) as having a deficient divergent-convergent design. This intersection has been of significant concern due to the high frequency of crashes. Staff's position is that the potential negative development at this location could potentially create additional impediment to freight traffic on the corridor. Further, N US Hwy 301 is recognized as an at-grade corridor for the FDOT's Strategic Intramodal System (SIS), therefore maintaining freight traffic is of the utmost importance, and the *risk* presented by creating more points of conflict at an already impacted area *severely*

outweighs the benefits provided by the addition of the proposed project.

The proposed project is expected to generate 124 new external PM peak-hour trips. After buildout, with all previously approved developments which have not yet been built, the PM Peak Hour Level of Service (LOS) for the intersection of US Hwy 441 and Hwy 329, currently a "B", will lower to a "C".

Based on the above, the application **would adversely affect** the public interest.

- b. Public transit. The property is more than 5 miles away as the crow flies from the closest stop on the Silver Transit Route of the SunTran bus line. The area is rural in nature as it has historically been, and thus there is no access to public transit. However, establishing same would be premature development for this area and therefore, the proposed project **would not adversely affect** the public interest in this way.
- c. Other mobility features. No sidewalks currently exist along either W Hwy 329 and N US Hwy 441 or in the vicinity. This area is mainly agricultural and rural, and this intersection is not where we want to encourage pedestrian travel because it is dangerous. It is for this reason the application **would not adversely affect** the public interest in this way.

Based on the above findings, staff concludes that rezoning roadway impacts **would adversely affect public interest**.

- 2. Potable water impacts. Potable Water Element Policy 1.1.1 adopts a level of service (LOS) standard of approximately 2,750 gallons per acre per day for nonresidential demand. Based on a commercial calculation, the proposed rezoning could result in a potential demand of 30,415 gallons per day.

The property is outside the UGB and not within the Marion County Utilities Service Area. The proposed project would be deferred to the Florida Department of Health for onsite water conditions. Based on the above findings, staff concludes the rezoning's potable water impacts **may adversely affect the public interest**.

- 3. Sanitary sewer impacts. Sanitary Sewer Element Policy 1.1.1 adopts a LOS standard of approximately 2,000 gallons per acre per day for commercial and industrial demand. Based on a commercial calculation, the proposed rezoning would result in a potential demand of 22,120 gallons per day.

The property is outside the UGB and not within the Marion County Utilities Service Area. The proposed project would be deferred to the Florida Department of Health for onsite wastewater conditions. Based on the above findings, staff concludes the rezoning's wastewater impacts **may adversely affect the public interest.**

4. Solid waste impacts. Marion County has not established a solid waste commercial/industrial level of service standard as such operations provide for disposal with acceptable haulers, particularly as a gas station/truck fueling/convenience store may also opt for a dumpster form of collection. Based on the above, it is concluded 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 (LOSS) of two (2) acres per 1,000 persons. Marion County has not established a recreation non-residential level of service. As such, a formal demand rate is not provided. Based on the above, it is concluded 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 is part of an existing flood prone identified area and includes two existing designated flood plain areas. Redevelopment of the site will be required to comply with a 100-year frequency 24-hour duration design storm and address the existing flood prone character of the site as redevelopment proceeds through Marion County's site development review processes. Based on the above, it is concluded the rezoning stormwater/drainage impacts **would not adversely affect the public interest.**
7. Fire rescue/emergency services. Marion County's North Marion Fire Station #11, located at 12250 NW Gainesville Rd. Reddick, FL 32686, is ±3.7 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, it is concluded the rezoning fire rescue/emergency impacts **would not adversely affect the public interest.**
8. Law enforcement. The Sheriff's North Multi-District Office, located at 8311 N. Hwy 441, is ±4.2 miles south of the application site. The Comprehensive Plan does not establish a level of service standard for law enforcement services, and sheriff deputy patrols are mobile operations throughout an identified geographic area; however, staff has established a 5-mile radius from the subject property as evidence of the availability of such services. Based on the above, it is concluded the application's law enforcement impacts **would not adversely affect the public interest.**

9. Public schools. The proposed rezoning's commercial nature as a gas station/truck fueling/convenience store is not expected to generate a student population in a structured form. Based on the non-residential aspect of the proposed project, it is concluded that the application's public-school impacts **would not likely adversely affect the public interest.**

In summation, staff finds that the impacts on the surrounding roadways and lack of available centralized water and sewer infrastructure are significant enough concerns that the proposed zoning change **will adversely affect the public interest.**

C. *Comprehensive Plan consistency.*

1. FLUE Policy 1.1.6: Buffering of Uses, requires new development or substantial redevelopment to provide buffering to address compatibility concerns and reduce potential adverse impacts to surrounding properties as defined in the LDC.

Analysis: The proposed rezoning will provide for the development of a gas station/truck fueling/convenience store. Buffering for the redevelopment will be required to address a Type C Buffer along the site's right-of-way frontages. This will be an issue that is considered as part of a formal review process, and is not something that can be required of an applicant seeking a straight rezoning, without the use of a specific device, such as a PUD or a Developer's Agreement (with specific requirements; see companion staff report). A PUD is inappropriate in this instance as there is no commercial entitlement on Rural Land, so that avenue would be unavailable to resolve the buffering issue. However, subsequent to submitting this rezoning application, the applicant submitted a companion application for the consideration of a Developer's Agreement. Applicant attempts to address the buffers under this agreement. Regardless of the outcome of the consideration of that companion application, staff finds the future site development is **capable of compliance** with site buffering **consistent** with FLUE Policy 1.1.6.

2. FLUE Policy 2.1.16: This land use designation is intended to be used primarily for agricultural uses, associated housing related to farms and agricultural related commercial and industrial uses. This land use designation is allowed in the Rural Area and allows for rural or agricultural-related uses.

Analysis: Staff finds the proposed rezoning will establish a site zoning inconsistent with the site's Rural Land future land use designation that proposes a large gas station with a convenience store, 5 truck fueling positions, and 16 fueling positions for automobiles, which is a greater number of automobile fueling positions than exist at both established gas stations across the street, combined. Further, granting this rezoning

request may not be conditioned on or limited to the uses as proposed by the hypothetical RaceTrac project. This means that should this rezoning application be approved, all permitted uses would be allowed at the maximum development of 0.30 Floor Area Ratio. At 11.06 acres, the maximum development is 143,748 GSF of commercial development. This could be several gas stations with convenience stores, restaurants, offices, and more, as allowed in the RC-1 zoning classification, up to the maximum commercial development potential of 143,748 GSF. Staff concludes the proposed rezoning is **inconsistent** with FLUE Policy 2.1.16.

Figure 9
Map of RACs

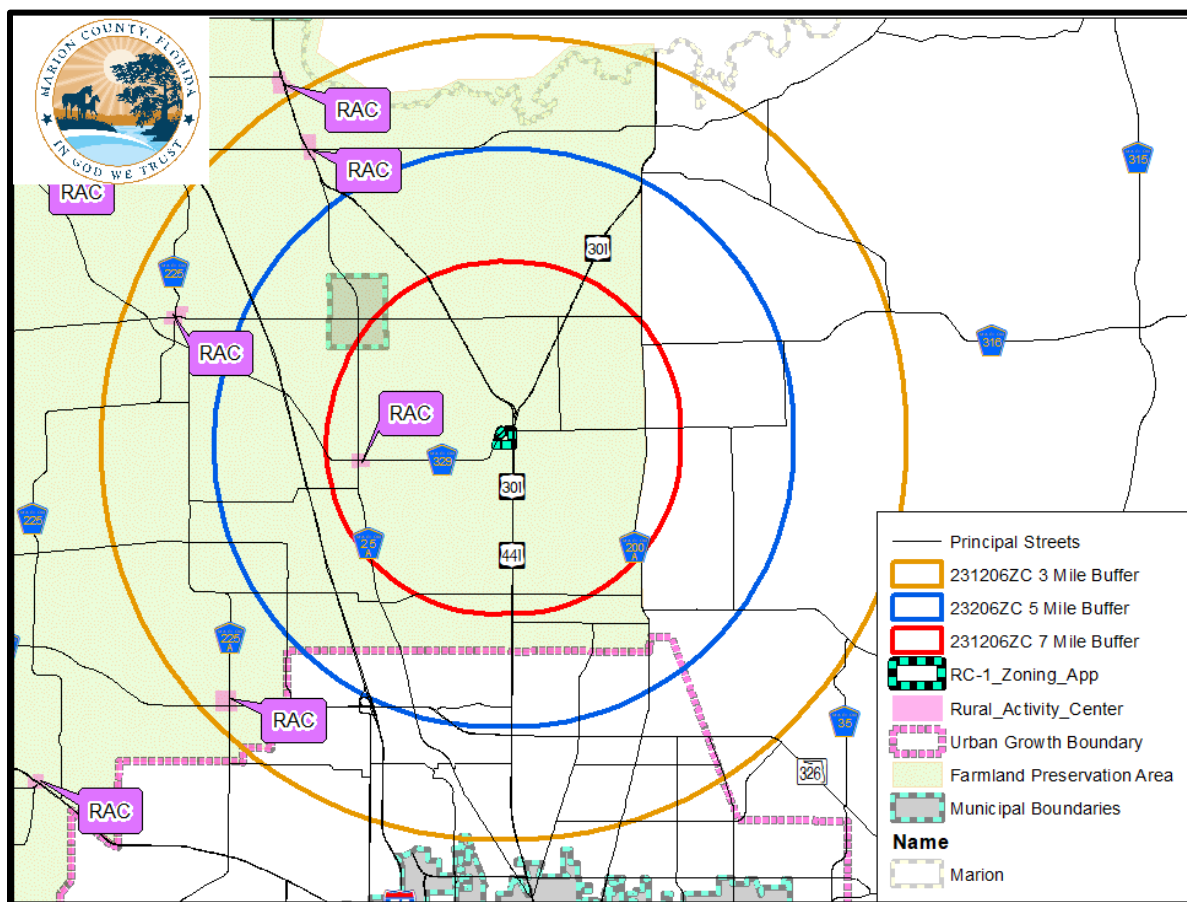
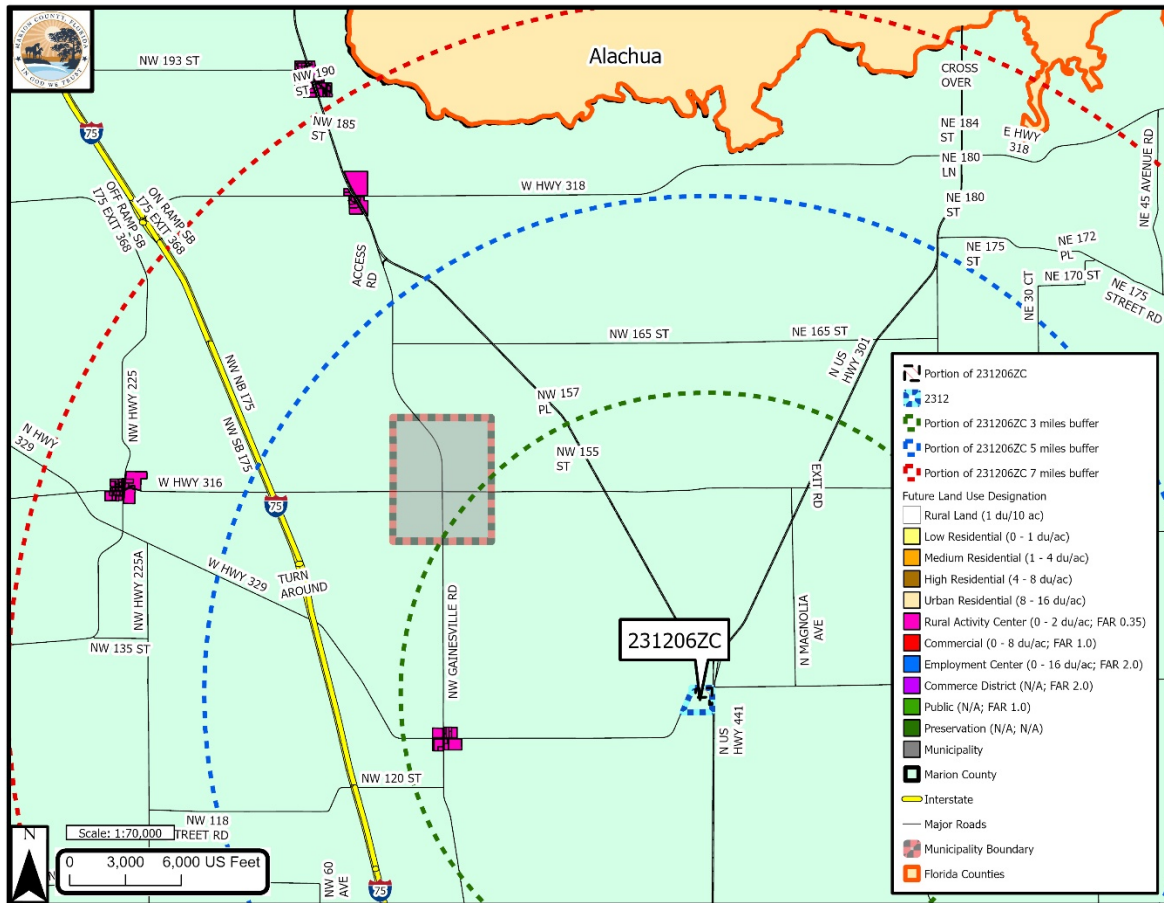
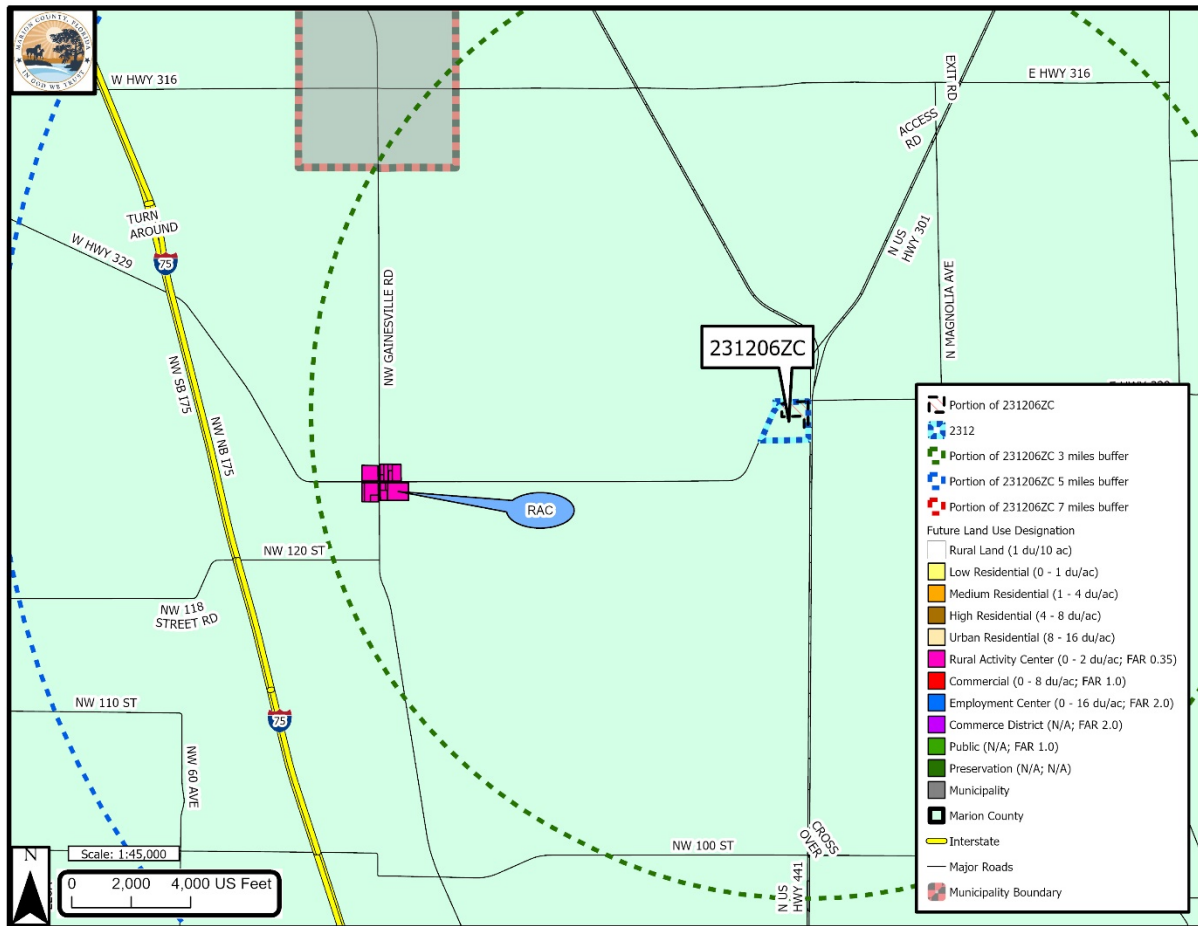


Figure 10
Map of Closest RACs



**Figure 11
Closest RAC**



3. FLUE Policy 4.1.2 on Conflicts Between Comprehensive Plan, Zoning, and LDC, provides that “[t]he 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....”

Analysis: In this instance, where the future land use designation of this parcel (Rural Land) does not allow for commercial development, the Comprehensive Plan is more stringent than the zoning classification sought by this application (Rural Commercial, RC-1), which currently permits a gas station with convenience store. Since this commercial use would not conform to the Rural Land future land use, staff would recommend denial based on the implementation of the more stringent regulation set forth in the Comprehensive Plan as is required by this policy. Further, Chapter 163.3194 of the Florida Statutes discusses the importance of all land development regulations being consistent with and conforming to the County Comprehensive Plan, and if they currently are not, the County is actually required by statute to amend those regulations to make them so.

4. FLUE Policy 5.1.2 on Review Criteria - Changes to Comprehensive Plan and Zoning, provides “[b]efore approval of a Comprehensive Plan Amendment (CPA), Zoning Change (ZC), or Special Use Permit (SUP), the applicant shall demonstrate that the proposed modification is suitable. The County shall review, and make a determination that the proposed modification is compatible with existing and planned development on the site and in the immediate vicinity, and shall evaluate its overall consistency with the Comprehensive Plan, Zoning, and LDC and potential impacts on, but not limited to the following:
1. Market demand and necessity for the change;
 2. Availability and potential need for improvements to public or private facilities and services;
 3. Allocation and distribution of land uses and the creation of mixed use areas;
 4. Environmentally sensitive areas, natural and historic resources, and other resources in the County;
 5. Agricultural activities and rural character of the area;
 6. [sic]
 7. Prevention of urban sprawl, as defined by Ch. 163, F.S.;
 8. Consistency with the UGB;
 9. Consistency with planning principles and regulations in the Comprehensive Plan, Zoning, and LDC;
 10. Compatibility with current uses and land uses in the surrounding area;
 11. Water Supply and Alternative Water Supply needs; and
 12. Concurrency requirements.

Analysis: Regarding the above 12 items for consideration, section 163.3164(46) of the Florida Statutes defines “suitability” as “the degree to which the existing characteristics and limitations of land and water are compatible with a proposed use or development.” Staff has reviewed, and has determined that the following have not been sufficiently demonstrated by the applicant, thus failing to establish that the proposed zoning change would be suitable:

1. Market demand and necessity for the change.
Analysis: Applicant has not sufficiently demonstrated why a commercial use such as this is appropriate here at the subject site. Staff feels the more appropriate location would be at the Rural Activity Center (RAC) less than 3 miles away on the same road, W Hwy 329. The Applicant has also failed to sufficiently demonstrate why the market demands and necessitates a third gas station and convenience store here at this intersection

According to Policy 2.1.21 of the M CCP regarding the Rural Activity Center, “[t]his land use designation allows for mixed use nodes of residential (single-family and multi-family) and *commercial uses*, including agricultural-related commercial uses to meet the daily needs of residents in the Rural Area to reduce trips to the Urban Areas of the county for daily needs and services. This designation shall be *located at intersections of arterial, collector, and/or major roads*, and extend no greater than one-quarter (1/4 mile) or 1,320 linear feet from the center of the RAC for a maximum of 96 acres.... New RACs shall have at least three businesses and be at least five (5) miles from other RACs, as measured from the center of the RAC, unless it can be demonstrated that eighty-five (85) percent of the RAC is developed. In order to minimize development impacts to the surrounding Rural Area, properties in the RAC shall be designed to provide shared access, obtain access from the lesser road class, and minimize impacts to the operations of the intersection, and compatibility concerns for the surrounding properties. The density range shall be up to two (2) dwelling units per one (1) gross acre and a maximum Floor Area Ratio of 0.35, as further defined by the LDC. This land use designation is Rural land use designation.” (emphasis added)

The RAC existing less than 3 miles away to the west of the subject site is only 4% developed. Rather than ‘gum-up’ a major (SIS) highway, essential to the economy in the State of Florida in the way that travel along these routes are intended to be unimpeded and without delay in the movement of commerce throughout Florida and beyond, staff aligns with the aims of the State, and echoes the intentions of the County as set forth in the M CCP, to preserve the rural and agricultural nature of this parcel and surrounding area. Therefore, staff would recommend that instead of creating an inconsistency at this site, the site should maintain consistency between the M CCP and the zoning of this parcel, by not rezoning at this time.

Ultimately, staff finds this item **unmet** by the applicant, and further that the project as proposed is incompatible with existing and planned development on the site and in the immediate vicinity, and granting a rezoning from General Agriculture (A-1) to Rural Commercial (RC-1) would be inconsistent with the Comprehensive Plan, and LDC. (See Figures 9,10 and 11)

2. Availability and potential need for improvements to public or private facilities and services.

Analysis: Staff finds that the location is in a rural area and that improvements made at this time to relevant public or private facilities and services would be premature for this site and area, generally. Therefore, this item is **unmet** for the purposes of establishing the extent of the Applicant's burden of making the necessary improvements that would be created by the development of a gas station, truck fueling, and convenience store; and nothing the Applicant has submitted has sufficiently established that a large gas station with convenience store is suitable for this site.

3. Allocation and distribution of land uses and the creation of mixed-use areas.

Analysis: The applicant falls short in establishing that the proposed zoning change would be suitable under this item, and granting the zoning change would be inconsistent with its future land use designation of Rural Land. Due to the inability to grant this request without creating zoning inconsistent with the MCCP, it is impossible for the Applicant to sufficiently establish that the zoning change would be suitable, and thus, this item remains **unmet**.

4. Environmentally sensitive areas, natural and historic resources, and other resources in the County.

Analysis: The Applicant has failed to sufficiently establish how granting the rezoning for the purpose of developing a RaceTrac gas station, truck fueling, and convenience store is suitable at this location as supported by this item for consideration. This site is within the Farmland Preservation Area. For reasons previously stated, staff finds that the Applicant has failed to establish suitability for this zoning change under this item, and it remains **unmet**.

5. Agricultural activities and rural character of the area.

Analysis: Applicant has failed to sufficiently establish that a gas station, truck fueling, and convenience store would be an agricultural-related activity, or that it would promote the rural character of the area in any meaningful way, which is not already promoted and served by the two existing smaller gas stations which have existed since the 90s. Thus making the zoning change upon which the development depends **unsuitable**. Therefore, this item remains **unmet** by the applicant.

6. [sic]

7. Prevention of urban sprawl, as defined by Ch. 163, F.S.

Analysis: Section 163.3164(52) of the Florida Statutes defines “Urban sprawl” as “a development pattern characterized by low density, automobile-dependent development with either a single use or multiple uses that are not functionally related, requiring the extension of public facilities and services in an inefficient manner, and failing to provide a clear separation between urban and rural uses.” The applicant has, if anything, established how the proposed use meets every part of this definition, exactly. It is for this reason that after reviewing the application, staff has determined that the applicant has not sufficiently demonstrated that the proposed zoning change would be suitable, paving the way for the proposed project at this location. Urban sprawl is what the County has specifically endeavored to avoid. Therefore, this item remains **unmet**.

8. Consistency with the UGB.

Analysis: Staff finds that the applicant has failed to sufficiently establish how the proposed change would be suitable under this item. This is the type of urban development we want to encourage to occur within the Urban Growth Boundary, or if in the rural areas, in the Rural Activity Centers, establishing a clustering of commercial uses which make it more appropriate for the rural community.

According to Policy 3.1.5 of the MCCP, regarding Urban Areas Outside of UGB, “[t]he County shall maintain existing Future Land Use designations that have been previously adopted that are outside of the UGB to recognize vested development rights. *Any expansion or creation of new Urban Areas outside the UGB shall require a Comprehensive Plan Amendment, analysis to demonstrate the potential need for the creation of such new Urban Areas*, and other appropriate documentation in accordance with Policy 3.1.3. It shall not be necessary to modify the UGB to expand or create Urban Areas outside the UGB unless the expansion or creation of new urban area is within the FPA.” (emphasis added)

This type of urban development should be occurring within the Urban Growth Boundary. Alternatively, our Comprehensive Plan requires a companion Comp Plan Amendment (future land use change request) because it is creating an urban area outside the UGB; and because

it is commercial use and isn't agricultural-related, it is not appropriate in a Rural Commercial Zoning Class, even. Further, it doesn't occur within a Rural Activity Center, so, staff finds that it is **inconsistent** with the Urban Growth Boundary, and also the zoning classification the application is seeking here. Thus, the applicant has failed to establish the suitability of the proposed zoning change with regard to this item for consideration, and it remains **unmet**.

9. Consistency with planning principles and regulations in the Comprehensive Plan, Zoning, and LDC.

Analysis: The proposed project is located within the Farmland Preservation Area. The planning principles for development in this area are "designed to protect significant natural resources, including prime farmland and locally important soils as defined by the United States Department of Agriculture and unique karst geology that provides high recharge to the Floridan Aquifer, a key source of freshwater for central Florida. The County establishes this area as critical to the enhancement and preservation of its designation as the Horse Capital of the World." Staff finds that the applicant has failed to establish suitability for this site under the established planning principles of the Farmland Preservation Area, and therefore, this item remains **unmet**.

10. Compatibility with current uses and land uses in the surrounding area.

Analysis: Currently, this site has a Rural Land future land use designation, as does the majority of the surrounding area. Consistent with its current future land use, it has a General Agriculture (A-1) zoning classification, and as previously stated, it is within the Farmland Preservation Area. Further, the Marion County Property Appraiser shows its existing use as Cropland, and the parcel has been granted an Agricultural Exemption. The applicant has failed to establish suitability for the zoning change from General Agriculture to a Rural Commercial zoning classification, which, according to Section 4.2.23 of the Land Development Code (LDC), is "intended to provide for agricultural related commercial uses that would be appropriate on Rural Lands not located in a Rural Activity Center. All undeveloped commercial parcels located in the Rural Lands shall rezone to this reclassification prior to applying for development approval." (emphasis added)

Not only would this proposed *commercial* zoning classification be **incompatible** with its existing and future *rural/agricultural* land uses, but this zoning classification allows many uses that are not agricultural-related commercial uses. Therefore staff finds that the applicant has left this item **unmet**.

11. Water Supply and Alternative Water Supply needs.

Analysis: There are no connections to central water or sewer available within the vicinity, however, staff finds that the proposed project has potential for providing sufficient alternative water supply needs. However, once required connection distance has been established, if per their intensity, they are inside that distance, the Developer will be required to connect. This determination will be made as part of a formal review process. The only proposed change is a straight zoning change, therefore, this item is **inapplicable** at this time.

12. Concurrency requirements.

Analysis: As this proposed zoning change has no component of residential development, staff finds this item **inapplicable** at this time.

5. FLUE Policy 5.1.3 on Planning and Zoning Commission, provides “[t]he 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 purpose of the advisory board 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 November 27, 2023, Planning and Zoning Commission and, therefore, the application is **consistent** with this FLUE Policy 5.1.3.

6. 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: Staff finds public notice has been provided as required by the LDC and Florida Statutes and, therefore, concludes the application is being processed **consistent** with FLUE Policy 5.1.4.

7. FLUE Policy 7.4.3 regarding (P/SSPZ) Permitted Uses provides that the County shall implement and maintain a LDC to identify permitted and special uses to ensure that the function of a protected natural 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 site is within the Silver Springs Primary and Secondary SPZ that will establish specialized stormwater design standards, particularly depending on soil and subsurface characteristics of the site. Staff notes that compliance with SPZ requirements will seek to address potential adverse impacts wherein site use would be **consistent** with FLUE Policy 7.4.3.

8. Transportation Element (TE) Policy 2.1.4 on determination of impact provides in part “All proposed development shall be evaluated to determine impacts to adopted LOS standards.”

Analysis: Staff finds potential traffic impacts of the proposed rezoning will be **inconsistent** with the site’s established Rural Land future land use designation and current rural use. Further, development of the site will be subject to traffic engineering review and impact analysis. Of note, the traffic analysis which was submitted for review only analyzes the 6,008 SF of the subject property (the extent of the development as proposed in the conceptual plan), and fails to address the remaining potential commercial development space, which totals 137,740 GSF that has yet to be included for traffic analysis. Staff concludes the proposed rezoning will be **inconsistent** with TE Policy 2.1.4.

Based on the above findings, staff concludes the proposed rezoning **is inconsistent 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 the approval of the Ordinance, and adopt a proposed Ordinance to **APPROVE** the rezoning application.
- 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 public hearing, adopt the findings and conclusions contained herein, and **DENY** the proposed rezoning because the application:

- A. **Will adversely affect** the public interest because the apparent conformance with level of service standards for the relevant elements is outweighed by significant nonconformance with the transportation roadways level of service standards;
- B. Is **inconsistent with the Comprehensive Plan** provisions because it fails to conform with:
 - 1. FLUE Policies 1.1.6, 2.1.16, 5.1.2, 5.1.3, 5.1.4, 7.4.3
 - 2. TE Policy 2.1.4.
- C. Is **incompatible with the surrounding uses** because the proposed rezoning would enable the development of any commercial use permitted under the RC-1 zoning application, not just the proposed project, thus constituting urban sprawl as defined by the Florida Statutes, and violating Marion County's mission to preserve rural and farmland in our community.

VII. PLANNING & ZONING COMMISSION RECOMMENDATION

Denial, 5:1.

VIII. BOARD OF COUNTY COMMISSIONERS ACTION

To be determined.

IX. LIST OF ATTACHMENTS

- A. Rezoning application, filed 8/28/2023
- B. DRC Staff Review Comments
- C. Parcel Sketch
- D. Site Photographs
- E. Continuance Letter
- F. Continuance Opposition Letter
- G. Developer's Agreement, received 11.22.23
- H. Latest Revision to Developer's Agreement, received 2.26.24