



**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&Z Date: 03/25/2024	BCC Date: 04/16/2024
Case Number	240404ZC
CDP-AR	31077
Type of Case	Rezoning from Regional Business (B-4) to Rural Residential (RR-1).
Owner	Angela Hodges
Applicant	Steve F. Slocumb
Street Address/Site Location	SW 41 st Street Rd/SW 153 rd Ave, No address assigned
Parcel Number(s)	2003-098-001
Property Size	±1.16 acres
Future Land Use	Rural Land (RL)
Existing Zoning Classification	Regional Business (B-4)
Overlays Zones/Special Areas	Primary Springs Protection Zone (PSPZ)
Staff Recommendation	Approval
P&Z Recommendation	TBD
Project Planner	Eryn Mertens, Planner II
Related Cases	N/A

I. ITEM SUMMARY

Staff is recommending Approval of the rezoning of this property from B-4 (Regional Business) to RR-1 (Rural Residential) on 1.24 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 2003-098-001; the subject property is located north of W SR 40, at the southwest corner of SW 41st Street Road and SW 153rd Avenue, with no address yet assigned. The legal description is provided within the application (see Attachment A). The site is located outside both the Farmland Preservation Area (FPA), and the Urban Growth Boundary (UGB), but inside the Silver Springs Primary Springs Protection Zone (PSPZ). It is located outside the Marion County Utilities area.

The subject property is one parcel which is made up of several of the lots, identified as Lots 1, 2, 3, and a portion of Lot 19, on the original plat map of the Rainbow Park Unit 3 residential subdivision. This application proposes to rezone the entire ± 1.16 -acre site from Regional Business (B-4) to Rural Residential (RR-1) for all uses permitted within the proposed zoning classification. The intent provided within the rezoning application is Single-Family Residences.

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 (23 owners) within 300 feet of the subject property on March 8, 2024. Consistent with LDC Section 2.7.3.B., public notice was posted on the subject property on March 5, 2024, and consistent with LDC Section 2.7.3.E., due public notice was published in the Ocala Star-Banner on March 11, 2024. Evidence of the above-described public notices are on file with the Growth Services Department and is incorporated herein by reference. As of the date of the initial distribution of this staff report, no letters of opposition or support have been received.

TABLE A. Adjacent Property Characteristics			
Direction	FLUM Designation	Zoning Classification	Existing Use per Property Appraiser Code
North	Rural Land (RL)	Mult. Family Dwelling (R-3)	Improved Residential Vacant Residential
South	Rural Land (RL)	General Agriculture (A-1)	ROW, Grazing Land
East	Rural Land (RL)	Regional Business (B-4)	Vacant Residential, Vacant Commercial
West	Rural Land (RL)	Regional Business (B-4)	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 remains undeveloped and heavily treed. A few parcels to the north are smaller in size and developed with mostly single-family residences built in 2023. There are a few homes developed on the other side of this same block to the southwest of the subject property, including five (5) parcels which were granted this exact zoning change (RR-1, from B-4) in 2022 and 2021. 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 Rural Land (RL).

Figure 2
FLUMS Designation

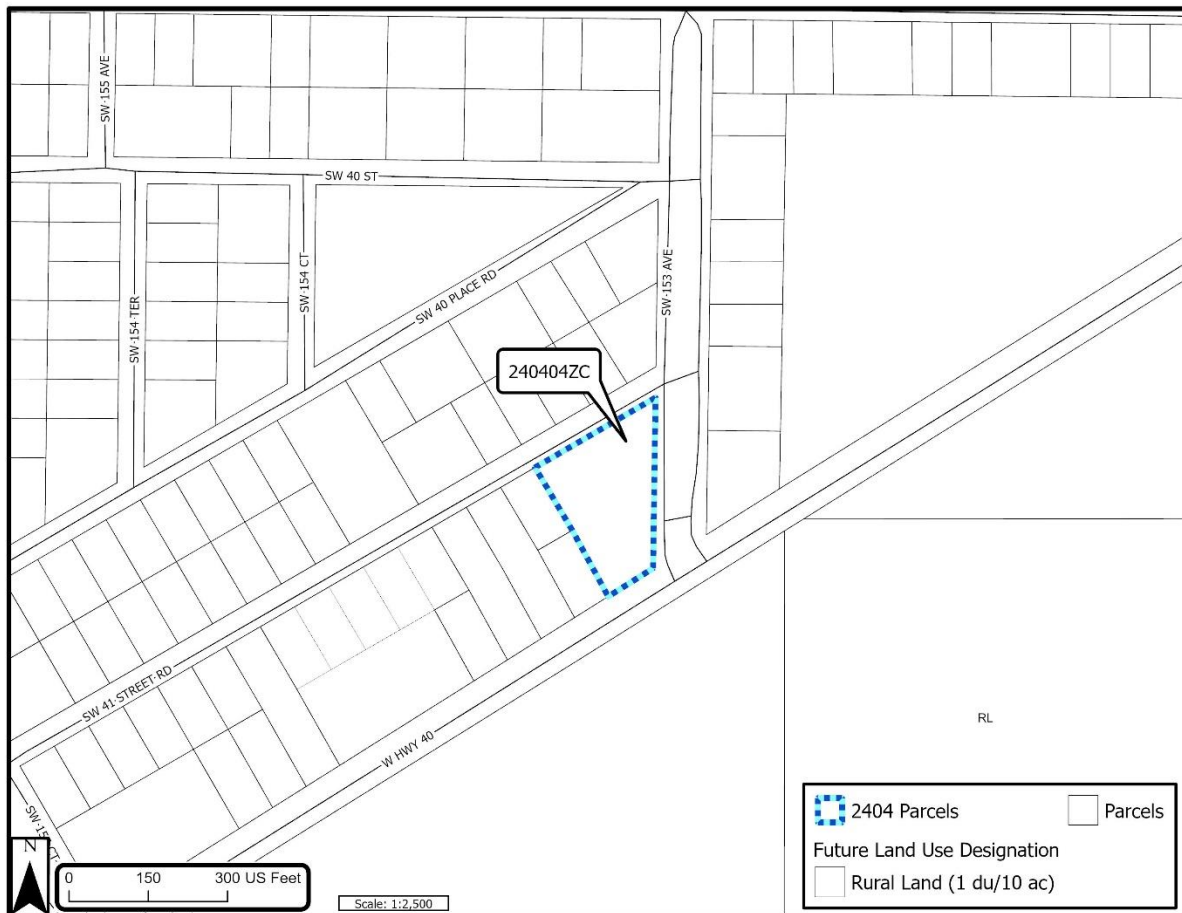


Figure 3 displays the proposed zoning for the subject property in relation to the existing zoning of the surrounding properties. North of the subject site is a mix of Single-Family Dwelling (R-1) and Multiple-Family Dwelling (R-3) zoning

classifications, east is Regional Business (R-4), south is General Agriculture (A-1), and west is an area of Regional Business (B-4), and then the five (5) parcels which have already had zoning changes from B-4 to RR-1.

The site is located outside the Urban Growth Boundary (UGB) as well as the Farmland Preservation Area (FPA), but inside the Primary Springs Protection Zone (PSPZ). Being inside the Primary Springs Protection Zone and outside the Urban Growth Boundary makes this a parcel where more intense development than what is proposed under this application request would be discouraged. 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

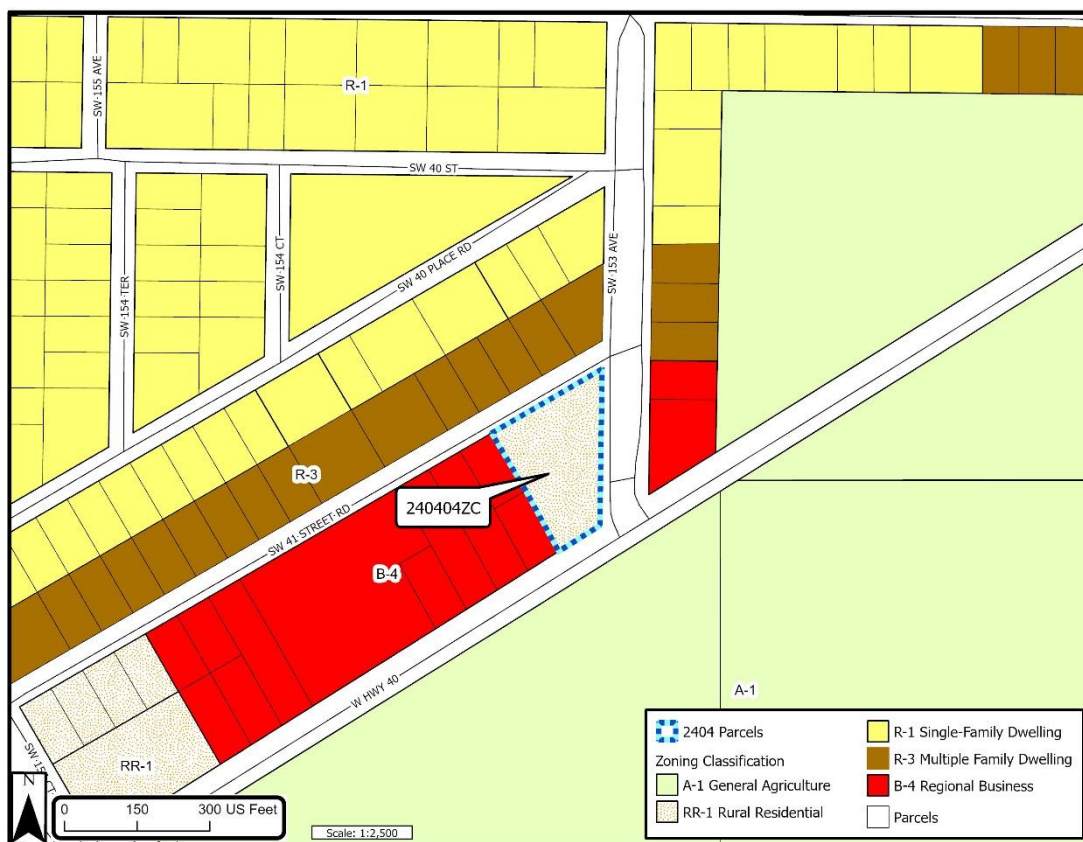


Figure 4
Property Aerial

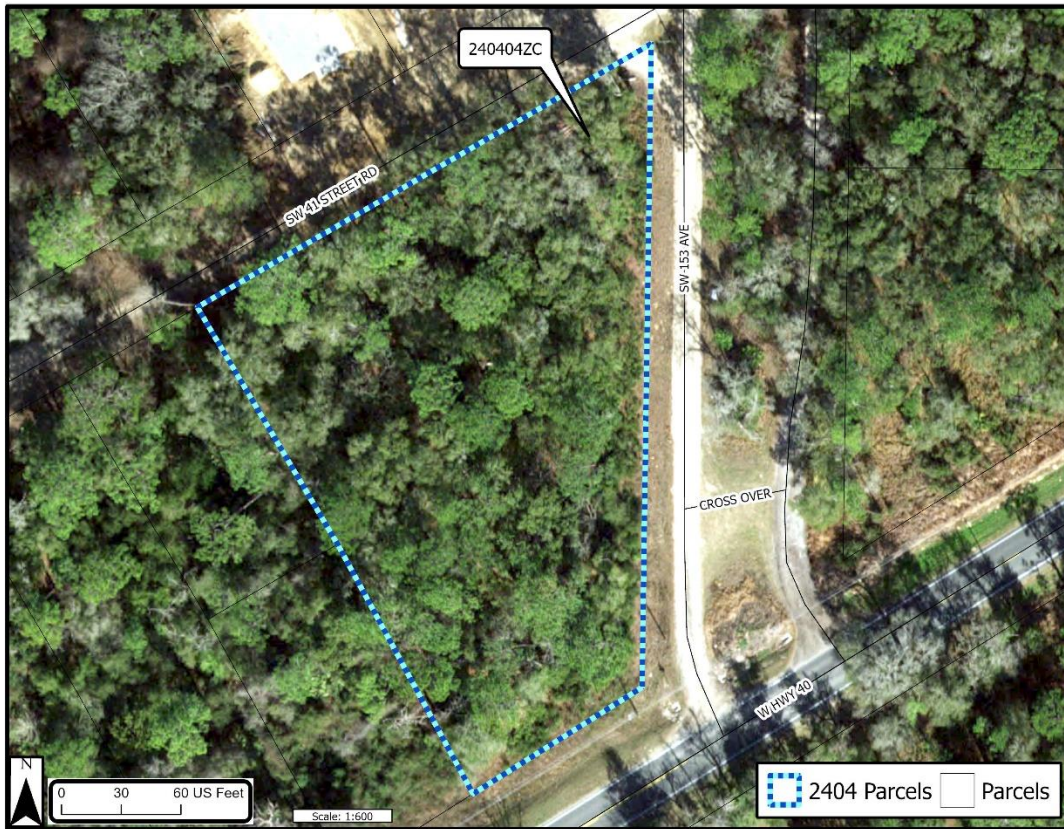
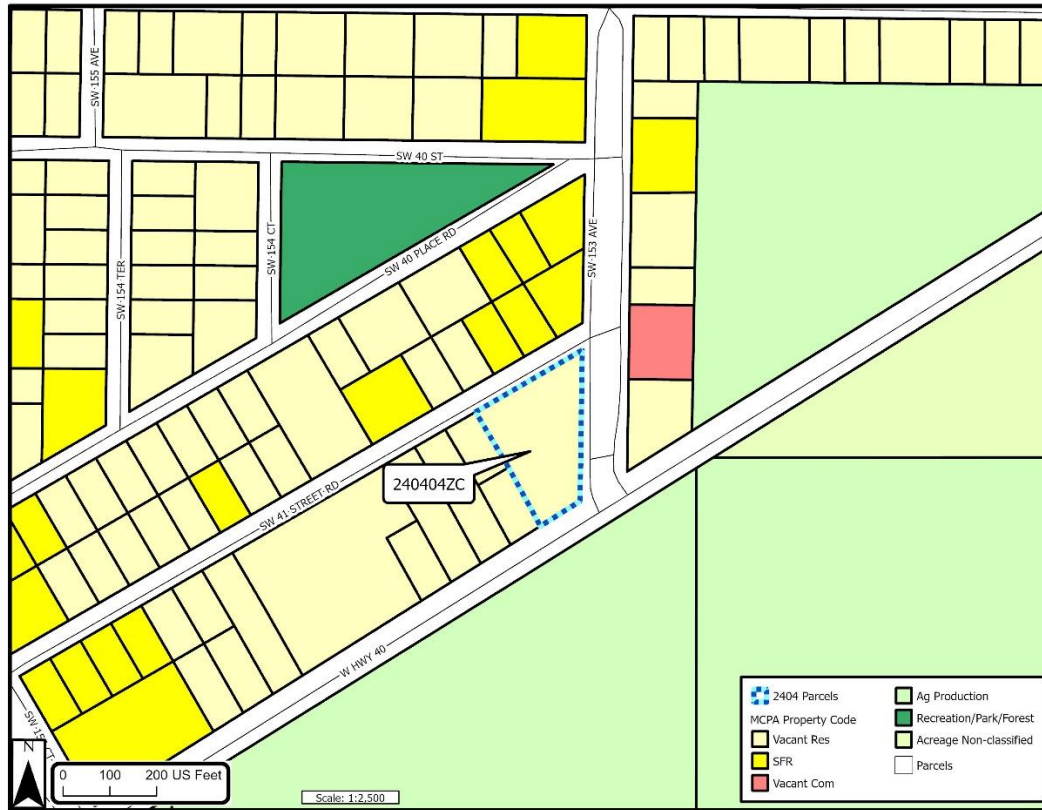


Figure 4 provides an aerial image of the subject property and surrounding area, while Figure 5 displays the subject and surrounding properties' existing uses as established by the Marion County Property Appraiser Office's Property Code (PC).

Figure 5
Existing Use per Property Appraiser Property Code



The applicant is requesting that the property be rezoned from B-4: Regional Business to RR-1: Rural Residential. Within vicinity of the subject property, parcels 2003-101-007 and 2003-101-009 were rezoned from B-4 to RR-1 under request #180302Z on March 19, 2018. Parcel 2003-101-012 was rezoned from B-4 to RR-1 under request 210305Z on March 16, 2021. Parcels 2003-098-(015, 016, 017 and 018) was rezoned from B-4 to RR-1 under request 211011Z on Oct 19th, 2021.

The most recent zoning change was made under request 220104Z for Parcel 2003-098-115, which is a 1.24-acre parcel situated similarly to the subject parcel, only on the southwestern end of this same block of the same residential subdivision. That request was granted in early 2022, and the parcel is now RR-1.

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 a reduction in density and intensity (alternatively referred to as downzoning) outside of the UGB, and inside the Primary Springs Protection Zone, which furthers the future land use and the long-term intent for the area. The site is surrounded by rural lands with residential and agricultural land uses. The current B-4 zoning is not consistent with the Rural Land Use assigned to the area. The proposed RR-1 residential zoning is consistent with the FLU designation and 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. SW 40th Place Road fronts the property and leads out to SW 153rd Avenue, both of which are unpaved county-maintained local subdivision roads. A change from an undeveloped B-4 property to RR-1 for the development of single family homes **will not adversely affect** the public interest.
 - b. Public transit. Not available in this area. Therefore the development of single family homes on this parcel **will not adversely affect** the public interest.
 - c. Other mobility features. No sidewalks currently exist in the vicinity. Upon development, sidewalks will likely not be required. 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 360 gallons per day.

The property is outside the UGB but and Marion County Utilities' Service Area and also 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 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 264 gallons per day.

The property is outside the UGB and not within Marion County Utilities' current extension area. 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 proposed rezoning would result in a potential demand of 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 flood plain areas but does contain some flood prone areas. Development of the site will be required to comply with a 100-year frequency 24-hour duration design storm as the site development proceeds through Marion County's site development review processes. Based on the above, the rezoning stormwater/drainage impacts **would not adversely affect** the public interest.
7. Fire rescue/emergency services. The site is officially located in the service district for Marion County's Lake Tropicana Fire Station #25, located at 17700 SW 36th Loop, roughly 2.5 miles northwest of the subject property. The Comprehensive Plan does not establish a level of service standard for fire rescue/emergency services but staff has established a 5-mile radius from the subject property as evidence of the availability of such services. Based on the above, the rezoning fire rescue/emergency impacts **would not adversely affect** the public interest.
8. Law enforcement. The nearest Sherriff substation is located approximately 5.75 miles southwest of the subject property at 19995 SW 86th Street, Dunnellon. 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: Dunnellon Elementary (99.83%), Dunnellon Middle (64.59%), and Dunnellon High (110.26%). 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 2.1.6: 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.

Analysis: This property is located inside a subdivision of record under Policy 10.1.4 in the Marion County Comprehensive Plan. This means that we allow them to return to the use that pre-existed in the zoning code, which includes residential use for this parcel. The Rural Residential zoning classification is consistent with the Rural Land future land use designation, and is the level of intensity we would want to encourage at this location, as well as protect from premature urbanization.

Further, property owners are entitled to a zoning classification which is consistent with their future land use designation. And, pursuant to F.S. 163.3194, the zoning classification must be consistent with the future land use element of the County's adopted comprehensive plan, which functions as the County's constitution for purposes of future land development and use. Currently, the existing Regional Business (B-4) zoning is inconsistent with the future land use of Rural Land.

Should this parcel have wanted to develop commercially with a Rural Land future land use, they would have had to apply for a Small-scale Comprehensive Plan Amendment to change their future land use. Part of that analysis considers the compatibility with the surrounding area. All of the surrounding area has a future land use designation of Rural Land; therefore,

it is likely that staff will not support that request. The instant rezoning request is the most compatible request for this property, and furthers the County's initiative to protect rural area like this. Therefore this request is **consistent** with FLUE Policy 2.1.6.

3. **FLUE Policy 2.1.16: Rural Land (RL)** - This land use is intended to be used primarily for agricultural uses, associated housing related to farms and agricultural-related commercial and industrial uses. The base density shall be (1) dwelling unit per ten (10) gross acres, and the designation is a Rural Area land use.

Analysis: The proposed rezoning will take a property with a current zoning which is inconsistent with its future land use, and give the property a zoning classification which is consistent with the site's Rural Land future land use designation, as the proposed zoning is rural in nature. Therefore, the proposed rezoning is **consistent** with FLUE Policy 2.1.16.

4. **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 RR-1 is necessary to resolve the current conflict created by this parcel's commercial zoning and rural land use. 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, and per statute, the County is required to bring the zoning code into conformity with the adopted Comprehensive Plan. See 163.3194(2)(b), F.S. Therefore this rezoning request is **consistent** with FLUE Policy 4.1.2.

5. **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 March 25, 2024, 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: 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.

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 make a recommendation to **DENY** the rezoning amendment.
- B. Enter into the record the Staff Report and all other competent substantial evidence presented at the hearing, 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 **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, 2.1.6, 2.1.16, 4.1.2, 5.1.3
- 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 March 25, 2024, at 5:30 PM.

VIII. BOARD OF COUNTY COMMISSIONERS ACTION

To be determined. Scheduled for April 16, 2024, at 2:00 PM.

IX. LIST OF ATTACHMENTS

- A. Rezoning Application, received January 23, 2024
- B. DRC Comments Letter
- C. Site Photographs