



**Marion County  
Board of County Commissioners**

Growth Services

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

	<b>P&amp;ZC Date:</b> 4/29/2024	<b>BCC Date:</b> 5/21/2024
<b>Case Number:</b>	240504SU	
<b>CDP-AR:</b>	31232	
<b>Type of Case:</b>	<b>Special Use Permit:</b> for parking commercial vehicles/equipment on parcel zoned A-1. One (1) grapple truck, one (1) 20-foot trailer, and one (1) dump truck, only.	
<b>Owner</b>	Yusniel Nuevo Castaneda	
<b>Applicant</b>	Yusniel Nuevo Castaneda	
<b>Street Address</b>	14552 SW 22 <sup>nd</sup> Court Road, Ocala, FL 34473	
<b>Parcel Number</b>	41200-087-00	
<b>Property Size</b>	±10 acres	
<b>Future Land Use</b>	Medium Residential (MR)	
<b>Zoning Classification</b>	General Agriculture (A-1)	
<b>Overlay Zone/Scenic Area</b>	Secondary Springs Protection Zone (SSPZ)	
<b>Staff Recommendation</b>	<b>Approval with conditions</b>	
<b>P&amp;ZC Recommendation</b>	<b>TBD</b>	
<b>Project Planner</b>	Eryn Mertens	
<b>Related Case(s)</b>	Code Case #944003 via citizen complaint	

## I. ITEM SUMMARY

Applicant, Yusniel Nuevo Castaneda, has filed an application for a special use permit (SUP) to allow for the “parking of grapo equipment in the property”. Pursuant to staff’s first contact with applicant, the request was clarified to be for “commercial vehicles/equipment” on a parcel, zoned General Agriculture (A-1). *After communicating with Code Enforcement and also the applicant, this request was advertised to include the allowance for one (1) grapple truck, one (1) 20-foot trailer, and one (1) dump truck, only.* Subsequent to advertising the request, the applicant modified their request to its **current scope**: to include the **one (1) grapple truck, and accessory equipment to the grapple truck (VIN 1NPALU0X36D891783), only.**

This application was submitted in response to code violation (Case # 944003), generated by a neighbor complaint received by Marion County Code Enforcement staff on February 6, 2024, stating that at the time of the complaint, applicant was “running a business in a residential property”, and that “commercial trucks transit in and out of the residential area causing damaged to the road”. Code Enforcement, as well as planning staff, has made several trips out to the subject property and has confirmed the presence of six or seven commercial vehicles, including the grapple truck; along with a twenty (20)-foot trailer; a red grapple arm; a yellow grapple arm; the collector trailer; a dumpster, and significantly large piles of yard waste and tree and brush debris. Almost all of the vehicles had the “YE Land Clearing” business logo and contact information on them. Also observed on the property were goats, donkeys, and hay.

Applicant has stated his land clearing business, YE Land Clearing, LLC, exclusively serves the Marion Oaks community, and he was unaware that parking the vehicles on his A-1 property required a permit. He now seeks to remedy the lack of the permit for parking his one (1) grapple truck and accessory grapple equipment on this parcel. The applicant, through a team effort of bilingual planning staff, now understands that he may not park the commercial vehicles or engage in commercial uses on his A-1 property. He has been advised that the commercial uses must cease and the tree debris piles must be removed. Applicant stated his intention to remove the dumpster and tree debris, and that he is selling the red grapple arm equipment.

At a recent site visit, planning staff observed no commercial vehicles on site, and it appears the dumpster has been removed. Staff was unable to determine if the tree debris was removed from the property, as the site is heavily wooded. There are ‘No Trespassing’ signs posted at the entrance to the property.

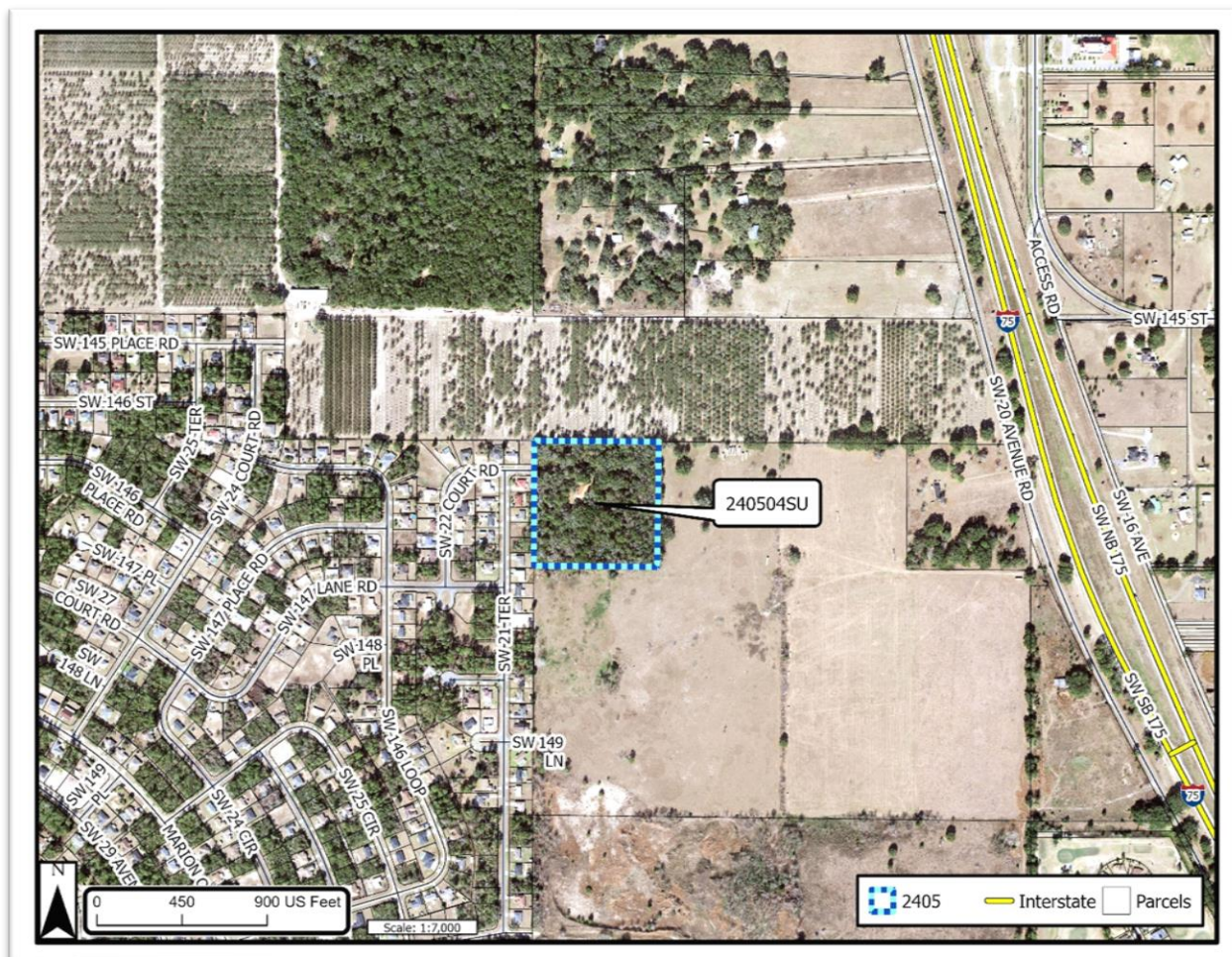
In an attempt to ensure the SUP application request accurately reflects the applicant’s intent, the applicant has also been specifically advised by planning staff that only the vehicle included in the request would be permitted on property if the SUP was approved. Planning staff stressed that this SUP would not mean generally that only one commercial vehicle would be permitted on the property at a time; but that only the specific vehicle(s) named in the SUP would be permitted on the property, and no others at any time. The applicant has repeatedly indicated that he understands.

Of note, Section 4.3.21(2)(b)(7) of the Land Development Code enables the issuance of a temporary use permit for a term of 3 years, allowing the parking of one (1) commercial vehicle on 10+ acres not used for bona fide agriculture. The applicant would be ineligible for this permit because the road on which the subject property is located, SW 22<sup>nd</sup> Court Rd, has been improved by an MSTU. According to the Marion County Property Appraiser's site, the subject property carries a use code of Single-Family Residence, and the property does not have an Ag exemption.

Parcel Identification Number for the subject property is 41200-087-00, and the street address for the subject property is 14552 SW 22nd Court Road, Ocala, FL 34473. Figure 1 is an aerial photograph showing the general location of the subject property. Figure 2 and 3 are concept plans provided by the applicant, depicting the parking arrangements on his heavily treed property.

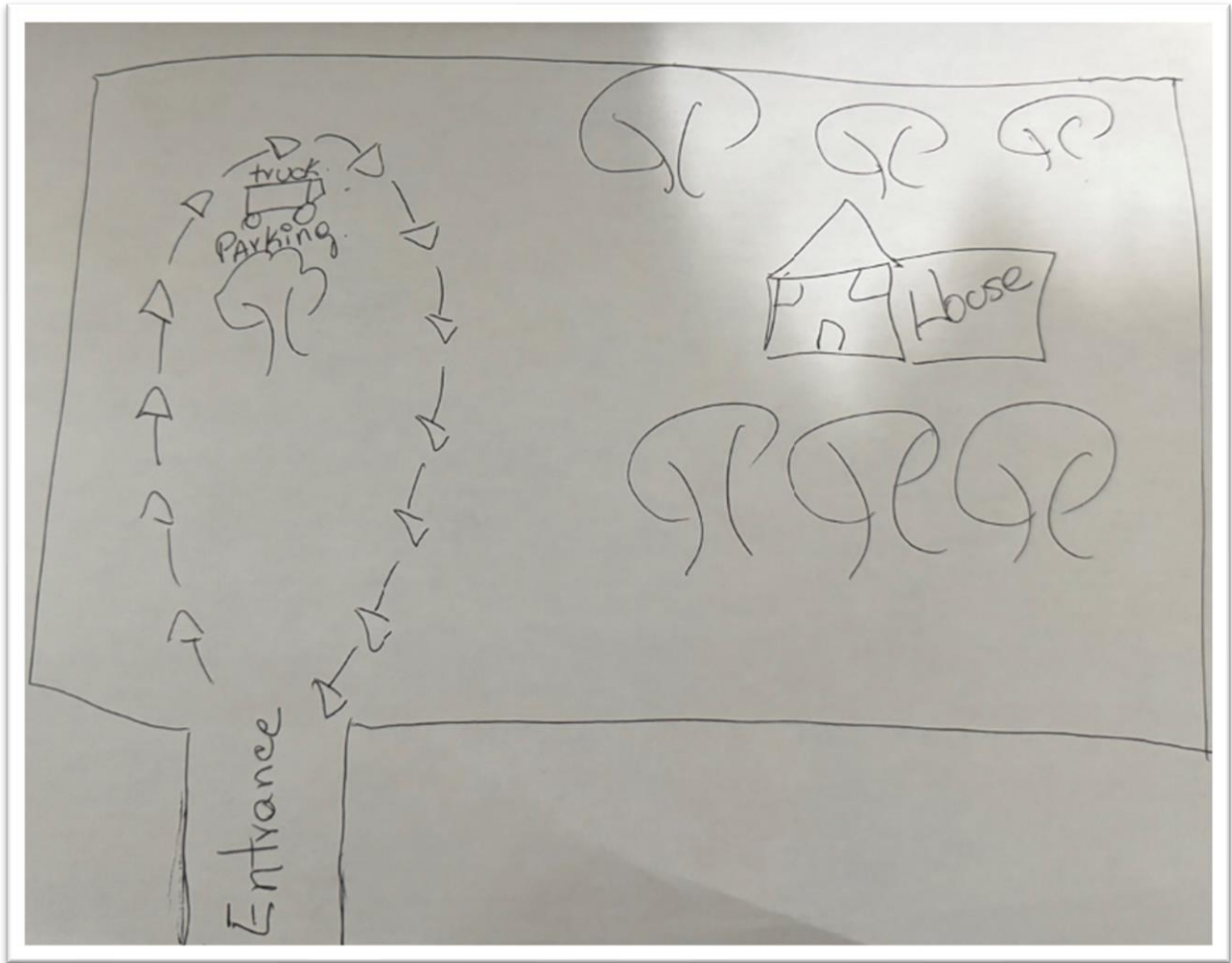
The legal description is displayed in the deed included in the application (See Attachment A). The subject property is a 10-acre parcel outside of the Urban Growth Boundary (UGB) and inside the Secondary Springs Protection Overlay Zone (SSPZ).

**Figure 1**  
**Aerial Photograph of Subject Property**





**Figure 3**  
**Conceptual Plan Submitted by Applicant**



## **II. STAFF SUMMARY RECOMMENDATION**

Staff recommends **approval with conditions** as specified in Section VI.B. of this Staff Report. The recommended conditions should be imposed to address compliance with the requirements in LDC Sections 2.8.2.D and 2.8.3.B.

## **III. NOTICE OF PUBLIC HEARING**

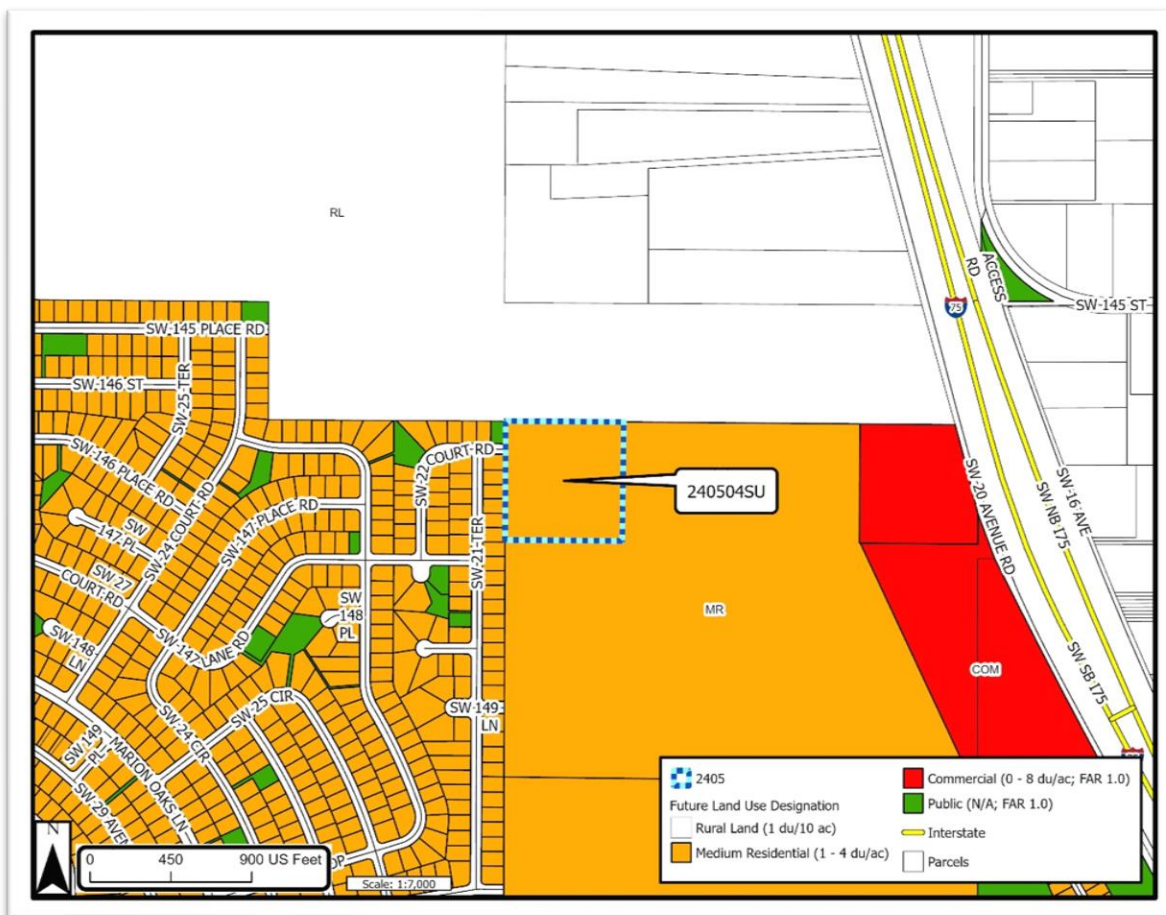
Consistent with Land Development Code (LDC) Section 2.7.3.C., a notice of public hearing was mailed to all property owners (23 property owners) within 300 feet of the subject property on April 12, 2024. Consistent with LDC Section 2.7.3.B., public notice was posted on the subject property on April 15, 2024, and consistent with LDC Section 2.7.3.E., due public notice was published in the Ocala Star-Banner on April 15, 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.





C. *FLUMS designation.* Figure 6 is the FLUMS and it shows the subject property and abutting properties to the east, west, and south are designated Medium Residential (MR), which, according to the Marion County Comprehensive Plan, Policy 2.1.18, is intended to recognize areas suited for primarily single-family residential units within the UGB, PSAs, and Urban Area. However, the designation allows for multi-family residential units in certain existing developments along the outer edges of the UGB or Urban Area. The density range shall be from one (1) dwelling unit per one (1) gross acre to four (4) dwelling units per one (1) gross acre, as further defined in the LDC. This land Use designation is an Urban Area land use.

**Figure 6**  
**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 Growth Services staff to review this application and make a recommendation on the 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 particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.*

**Analysis:** The subject property is not a part of any residential subdivision, however, the sole access to this property is located off SW 22 Court Rd, which is a part of the Marion Oaks Unit 3 subdivision, and which has been improved by an MSTU.

Staff recommends the Special Use Permit (SUP) be approved with the following condition:

- The ingress/egress of the vehicle shall continue to be from SW 22<sup>nd</sup> Court Rd. The applicant/owner/operator shall be responsible for completing and maintaining any such improvement(s) required by the OCE within 90 days [of approval of this SUP by the Board].

- 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 subject property is 10 acres, and heavily screened by many trees, with sufficient space for loading areas to be contained on the property, and off the right of way. The site is subject to compliance with the Marion County Land Development Code for noise, glare, and odor. In the interests of preserving the interests of the adjoining properties and properties generally in the surrounding area, staff recommends that the SUP be approved with the following conditions:

- The site shall be developed and operated consistent with the submitted conceptual plan and the conditions as provided with this approval.
- The Special Use Permit is limited to one (1) commercial grapple truck, only (VIN# 1NPALU0X36D891783), with accessory equipment (i.e., collector trailer, and grapple arm)
- The parking/storage of any other commercial vehicles is prohibited, including trailer unit(s), or 'refer' unit(s).

- No mechanical repairs/maintenance on the commercial vehicle shall take place on-site.
- No storage of tree debris shall ~~be stored~~allowed on site.
- The grapple truck parking area shall remain consistent with the established practice of the subject property existing at the time of the circulation of this report, and with the conceptual plans submitted with the application.
- No other commercial vehicles may be parked on property.
- No open burning may occur on the subject property.

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

**Analysis:** The proposed SUP will not necessitate provisions for refuse and service as the parking of the subject vehicle will not generate a significant increase in waste from the existing single-family residence on the subject property. However, staff recommends the following condition:

- No large piles of brush or tree debris may be accumulated on property.
- No construction debris may be stored on the subject property.

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

**Analysis:** The proposed SUP would not increase the existing need for provisions for utilities existing on this property.

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

**Analysis:** The proposed SUP would allow the applicant to park one commercial grapple truck on the subject property. Currently, the property is heavily treed and the truck parking is located to the rear of the property, significantly buffered from the subdivision the property is attached to on the east. However, to the north of the property exists a private property with an agriculture exemption on which the owner seems to be growing a small nursery of ornamentals. To the east and south will be the Maro residences once built out. Based on previous conversations with the applicant on clearing their own property, and to ensure the lush screening is maintained, staff does recommend the following condition:

- The property shall be required to maintain a 30-foot wide no-touch buffer around the entire perimeter.

- 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:** The proposed SUP would not increase the existing intensity of the existing site.

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

**Analysis:** The parcel is a ±10-acre agricultural property with a single-family residence. Applicant runs a land clearing business which exclusively services Marion Oaks, and is proposing to continue parking only one of his commercial trucks on his property (the grapple truck, and accessory equipment named above, only). The subject property has ample space for the parking of the vehicle as proposed, and the proposed SUP will not increase the need for this provision.

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

**Analysis:** Compatibility is defined 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.” The proposed SUP requests the continued parking of the applicant’s grapple truck on the subject property.

The Code Enforcement complaint came from a nearby resident who is concerned about the many commercial trucks coming in and out of the subject property through the subdivision by way of a road that has been improved by an MSTU. Staff recommends the approval of applicants request to continue this use, as to the one abovementioned grapple truck, inclusive of accessories to the grapple truck, subject to the conditions proposed, and which are summarized below. The applicant is insistent that no other commercial vehicles will be parked on the subject property moving forward.

- 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 recommends that if the Board approves the SUP, a condition that will void the SUP if the property changes hand.

Based on the applicant’s willingness to make right the unauthorized parking of commercial vehicles on property, and to avoid the continued non-conforming use on the subject property, by means of an approved special use, staff recommends

additional conditions be imposed to ensure that the SUP stays in compliance and has a system of periodic reviews:

- The owner/operator of the commercial vehicle shall reside on-site.
- This Special Use Permit shall run with the owner of the semi-tractor (Yusniel Nuevo Castaneda) and shall also run with the subject property.
- The Special Use Permit shall terminate upon any division, subdivision, or transfer of the subject property.
- The Special Use Permit shall expire on May 20, 2027, at which point, it may be renewed administratively up to 3 consecutive times, for up to 3 years each, by a written instrument signed and issued by the Growth Services Director (or position equivalent to the Growth Services Director at that time), unless:
  - There have been unresolved violations of the County Land Development Code, the County Code of Ordinances, and/or the conditions of the Permit against the subject property, or against Yusniel Nuevo Castaneda,
  - Neighboring property owners within 600 feet of the subject property have complained to the County Code Enforcement, Zoning, or equivalent/similar Departments/Divisions about the uses of the subject property by this Permit, or
  - The Growth Services Director determines that renewal should be considered directly by the Board of County Commissioners through the Special Use Permit review process (or review process equivalent at that time).

J. *Consistency with the Comprehensive Plan.*

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 4.2.3(C) requires a Special Use Permit for the parking of commercial vehicles in excess of 16,000 lbs. in A-1 zoning as outlined in LDC Section 4.3.21. 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, because it complies with the nine (9) specific requirements of Section 2.8.2.D and it is Consistent with the Comprehensive Plan as is required under 2.8.3.B.

## VI. ALTERNATIVE RECOMMENDATIONS

- 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 with amended conditions, and make a recommendation to the Board to adopt a proposed Ordinance to **APPROVE WITH AMENDED CONDITIONS** the special use permit.

- 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 the Board 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.
- C. 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 to **DENY** the special use permit amendment.

## 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 **APPROVE** the special use permit **with the following proposed conditions**:
1. The ingress/egress of the vehicle shall continue to be from SW 22nd Court Rd. The applicant/owner/operator shall be responsible for completing and maintaining any such improvement(s) required by the OCE within 90 days [of approval of this SUP by the Board].
  2. The site shall be developed and operated consistent with the submitted conceptual plan and the conditions as provided with this approval.
  3. The Special Use Permit is limited to one (1) commercial grapple truck, only (VIN# 1NPALU0X36D891783), with accessory equipment (i.e., collector trailer, and grapple arm)
  4. The parking/storage of any other commercial vehicles is prohibited, including trailer unit(s), or 'refer' unit(s).
  5. No mechanical repairs/maintenance on the commercial vehicle shall take place on-site.
  6. No storage of tree debris shall ~~be stored~~allowed on site.
  7. The grapple truck parking area shall remain consistent with the established practice of the subject property existing at the time of the circulation of this report, and with the conceptual plans submitted with the application.
  8. No other commercial vehicles may be parked on property.
  9. No open burning may occur on the subject property.
  10. No large piles of brush or tree debris may be accumulated on property.
  11. No construction debris may be stored on the subject property.
  12. The property shall be required to maintain a 30-foot wide no-touch buffer around the entire perimeter.
  13. The owner/operator of the commercial vehicle shall reside on-site.
  14. This Special Use Permit shall run with the owner of the semi-tractor (Yusniel Nuevo Castaneda) and shall also run with the subject property.

15. The Special Use Permit shall terminate upon any division, subdivision, or transfer of the subject property.
16. The Special Use Permit shall expire on May 20, 2027, at which point, it may be renewed administratively up to 3 consecutive times, for up to 3 years each, by a written instrument signed and issued by the Growth Services Director (or position equivalent to the Growth Services Director at that time), unless:
  - a. There have been unresolved violations of the County Land Development Code, the County Code of Ordinances, and/or the conditions of the Permit against the subject property, or against Yusniel Nuevo Castaneda,
  - b. Neighboring property owners within 600 feet of the subject property have complained to the County Code Enforcement, Zoning, or equivalent/similar Departments/Divisions about the uses of the subject property by this Permit, or
  - c. The Growth Services Director determines that renewal should be considered directly by the Board of County Commissioners through the Special Use Permit review process (or review process equivalent at that time).

## **VIII. PLANNING AND ZONING COMMISSION RECOMMENDATION**

To be determined.

## **IX. BOARD OF COUNTY COMMISSIONERS' ACTION**

To be determined.

## **X. LIST OF ATTACHMENTS**

- A. SUP Application, filed on February 29, 2024.
- B. DRC Comments Letter
- C. Site Photos
- D. Marco Polo PUD Approval Letter
- E. Maro PUD Approval Letter
- F. Development Agreement regarding improvements by Maro and Marco Polo