



**Marion County
Board of County Commissioners**

Growth Services

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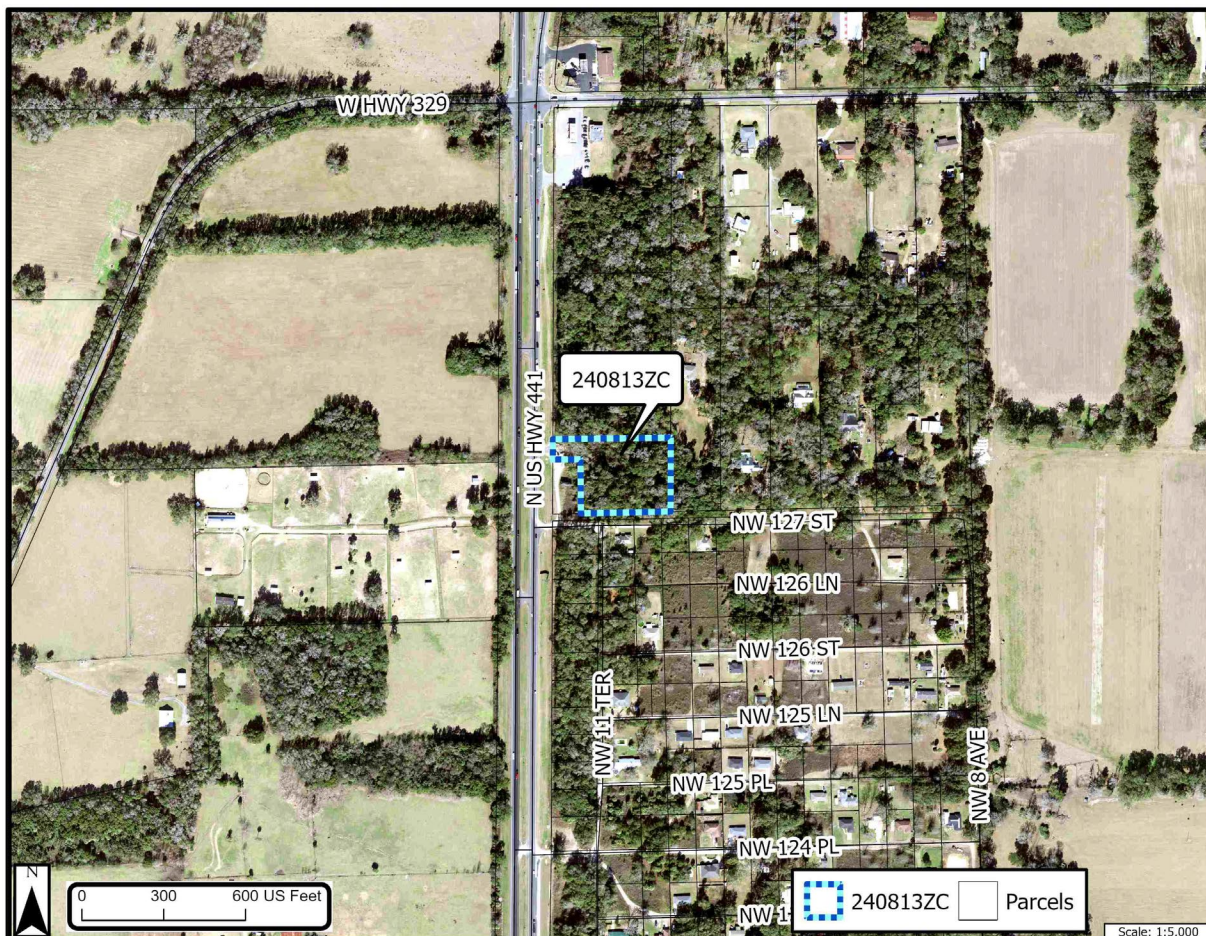
**PLANNING & ZONING SECTION
STAFF REPORT**

P&Z Date: 07/29/2024	BCC Date: 08/20/2024
Case Number	240813ZC
CDP-AR	31613
Type of Case	Rezoning from Regional Business (B-4) to Rural Commercial (RC-1).
Owner	Robert and Julie Gillford
Applicant	Austin T. Dailey, Esq. with Klein & Klein, LLC.
Street Address/Site Location	No Address Assigned
Parcel Number(s)	08465-001-03
Property Size	±2.45-acre property
Future Land Use	Rural Land (RL)
Existing Zoning Classification	Regional Business (B-4)
Overlays Zones/Special Areas	Farmland Preservation Area (FPA), Primary Springs Protection Zone (PSPZ)
Staff Recommendation	Denial
P&Z Recommendation	Denial
Project Planner	Eryn Mertens, JD, Planner II
Related Cases	None

I. ITEM SUMMARY

Austin Dailey, Esq., with Klein & Klein, LLC, on behalf of Robert and Julie Gifford, filed a rezoning application to change a ± 2.45 -acre parcel from Regional Business (B-4) to Rural Commercial (RC-1). The Parcel Identification Number for the property is 08465-001-03; the site does not have an address, but it is located 1,200 feet south of the intersection of N US Hwy 441 and W Hwy 329. A legal description is provided in the application (see Attachment A). The subject property is located within the Farmland Preservation Area (FPA) and the Primary Springs Protection Zone (PSPZ), and is not near any Marion County Utilities connections. The application proposes rezoning the entire property to Rural Commercial (RC-1) for the purposes of a "landscape contractor's yards", however, this rezoning would entitle them to any and all permitted uses under the RC-1 zoning classification.

Figure 1
General Location Map



II. STAFF SUMMARY RECOMMENDATION

Staff recommends **DENIAL** of the rezoning application. This site has a future land use designation of Rural Lands, and granting this request would establish a zoning classification 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 (19 owners) within 300 feet of the subject property on July 12, 2024. Consistent with LDC Section 2.7.3.B., public notice was posted on the subject property on July 15, 2024, and consistent with LDC Section 2.7.3.E., due public notice was published in the Ocala Star-Banner on July 15, 2024. Evidence of the above-described public notices is on file with the Growth Services Department and is incorporated herein by reference. As of the date of the initial distribution of this staff report, no letters of opposition or support have been received.

IV. ANALYSIS

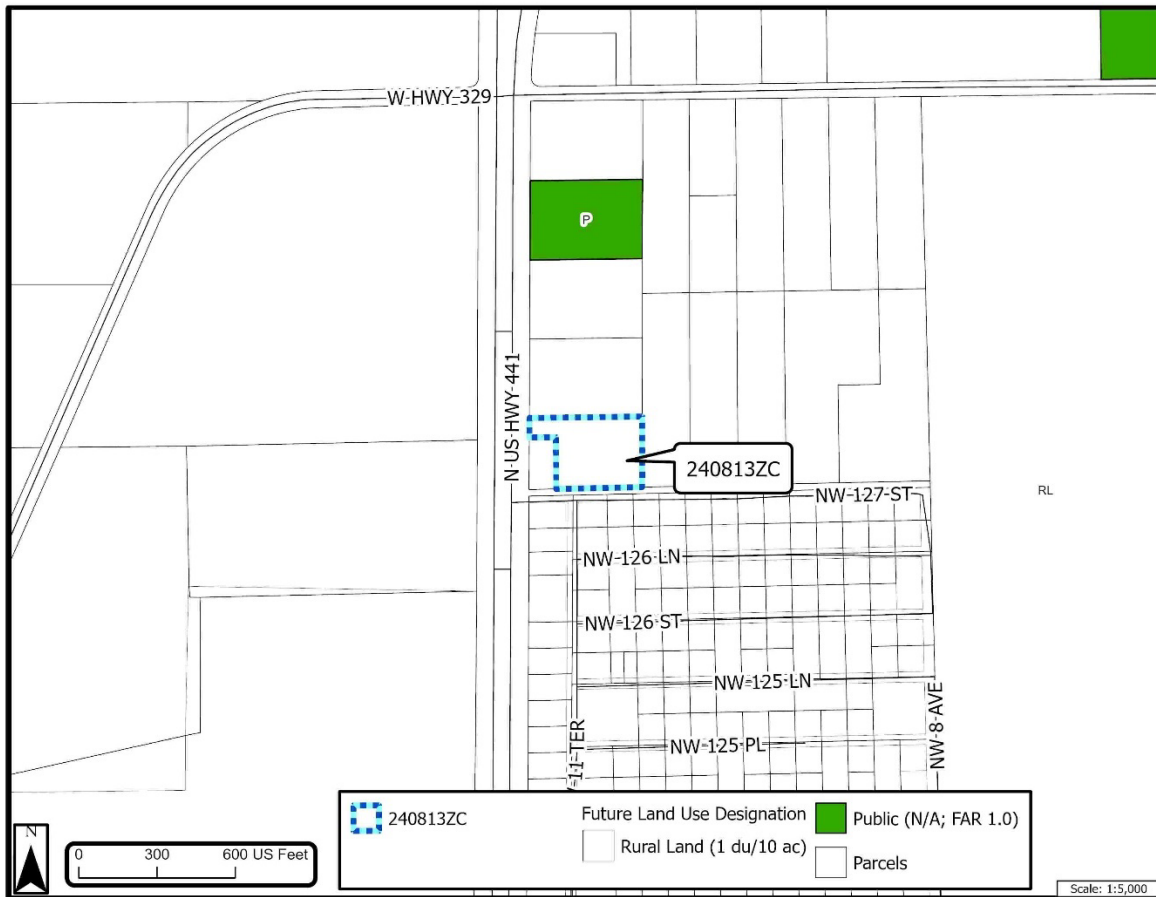
LDC Section 2.7.3.E.(2) provides that in making a recommendation to the Board, the Planning and Zoning Commission shall make a written finding that granting the rezoning will not adversely affect the public interest, that the proposed zoning change is consistent with the current Comprehensive Plan, and 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 above 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. There is no commercial entitlement on Rural Lands.

Figure 3 displays the proposed zoning for the subject property in relation to the existing zoning of the surrounding properties. The small strip of properties to the north along N US Hwy 441, between the subject property and W Hwy 329, are zoned B-4, the even smaller strip of properties to the south along N US Hwy 441, are zoned Community Business (B-2), and Single Family Dwelling (R-1), with a sprinkle of a few Rural Residential (RR-1) zonings. Otherwise, the lands surrounding this property is all General Agriculture (A-1).

Figure 3
Proposed Zoning Classification

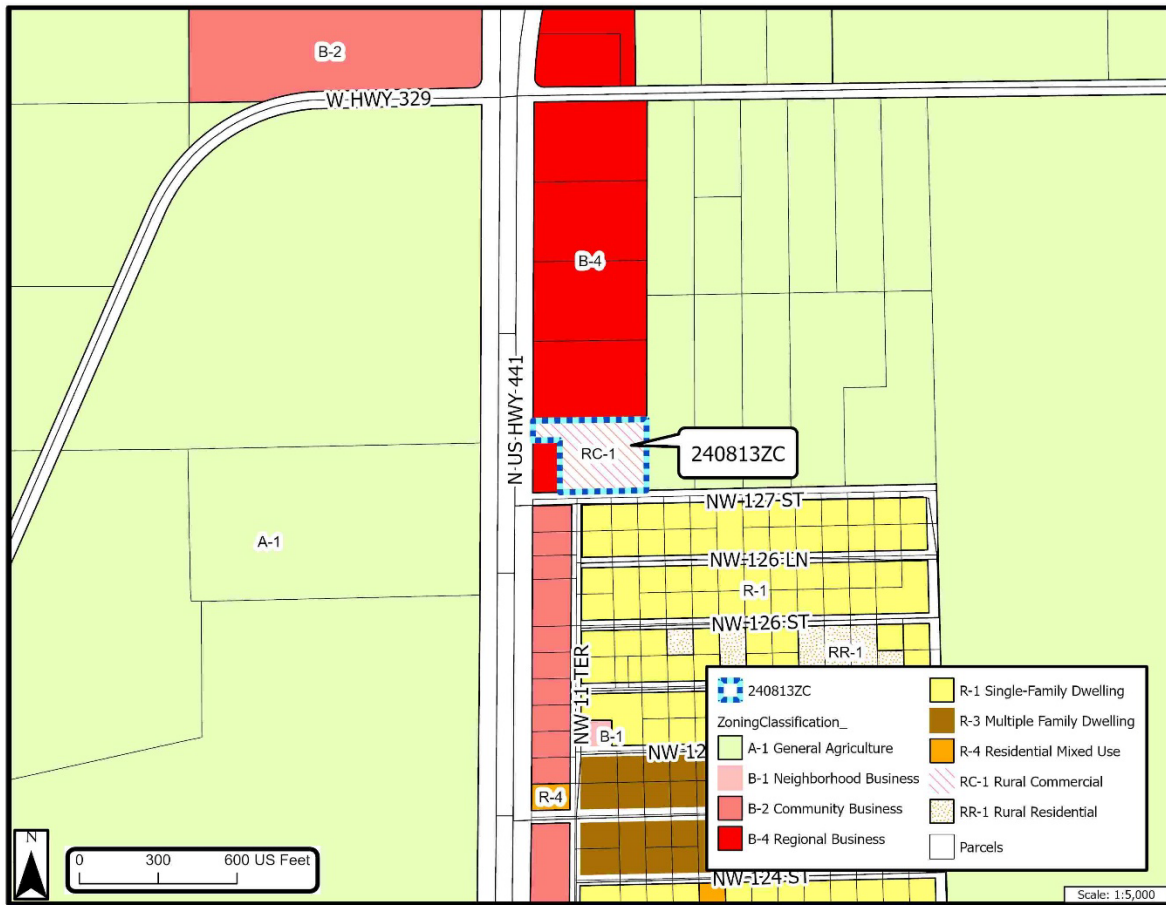


Figure 4 provides an aerial image of the subject property and surrounding area. This aerial was taken and published in 2023 by the Marion County Property Appraiser's (MCPA) office. Figure 5 displays an aerial taken in December of 2023, and is accessible from the Pictometry map of the MCPA's website. As of today, no permits for tree clearing have been sought or issued.

Figure 4
Property Aerial



Figure 5
MCPA Pictometry Aerial



Figure 6 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, 5, and 6 in tabular form.

Consistent with LDC Section 2.7.3.D, staff conducted a site visit and finds that while completely cleared of trees, the subject property remains undeveloped and nestled in a rural area surrounded by residential and agricultural uses, or vacant rural properties, and according to the MCPA website, is currently benefitting from an agricultural use tax exemption. Also according to the MCPA, the property immediately to the east of this property is that owner's homestead. The same is true for several homes to the immediate south of this property.

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 to the north of the subject property on N US Hwy 441, at both corners of the intersection with W Hwy 329. The gas station on the northern corner, Sonoco, 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 nonconforming 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 allow these nonconforming parcels to be recognized as having conforming uses. 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.

Figure 6
Existing Use per Property Appraiser Property Code

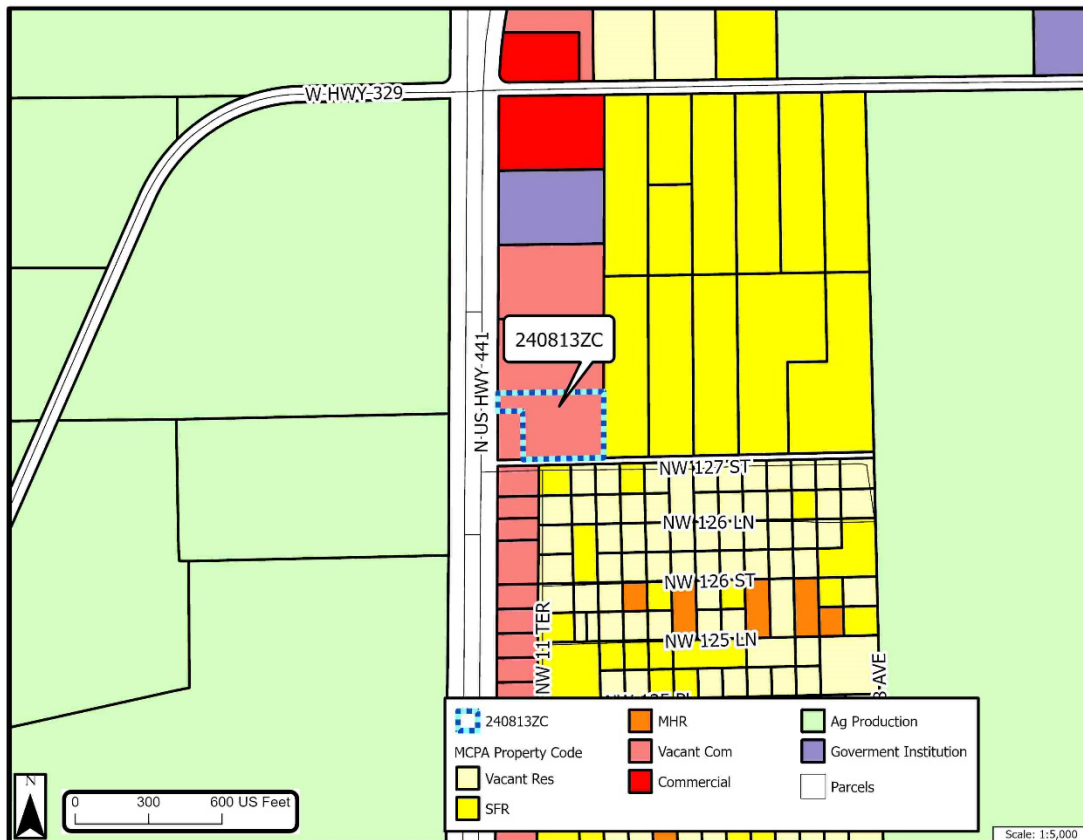
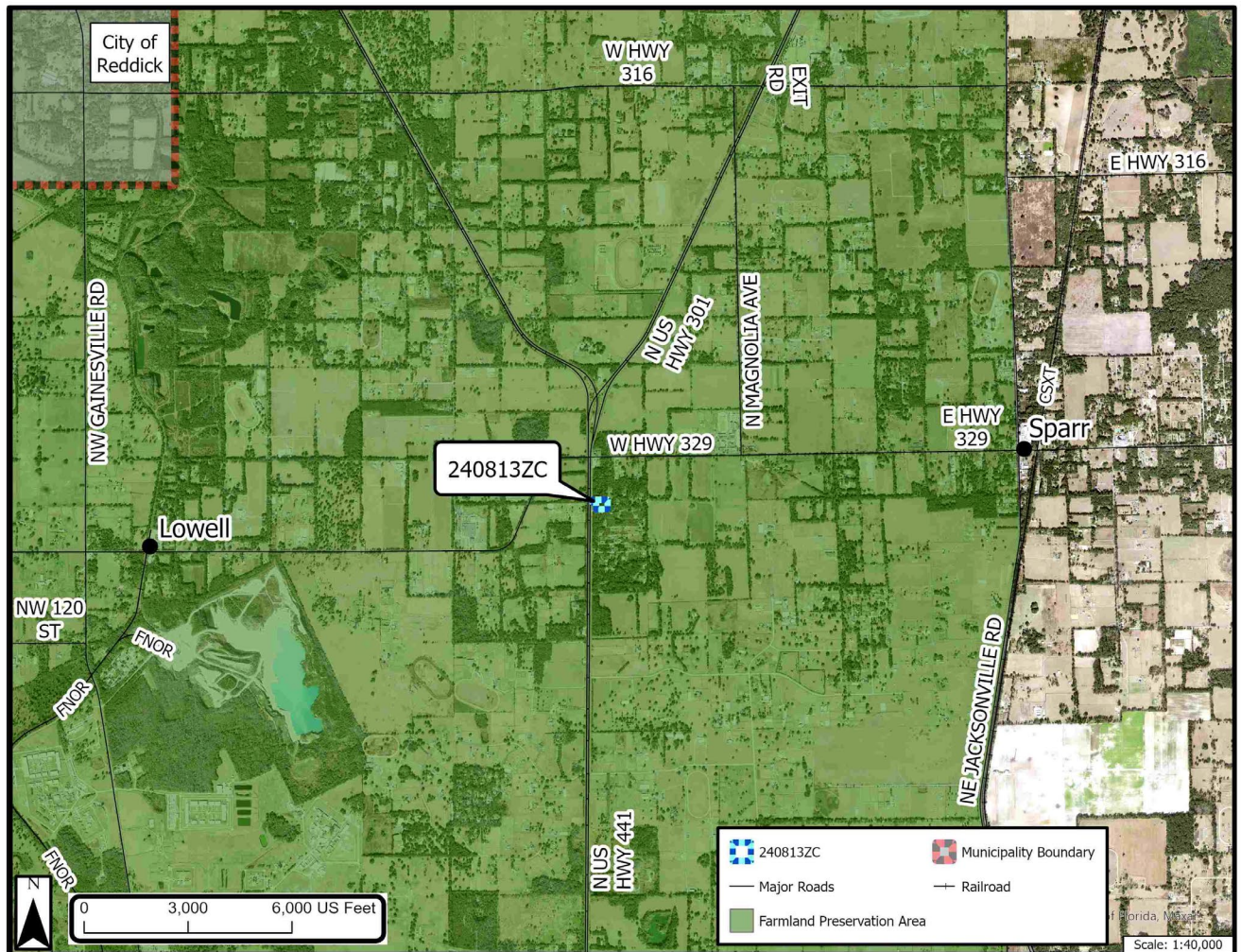


TABLE A. Adjacent Property Characteristics			
Direction	FLUM Designation	Zoning Classification	Existing Use per Property Appraiser Code
North	Rural Land (RL)	Regional Business (B-4)	Vacant Commercial
South	Rural Land (RL)	Single-Family Dwelling (R-1), Rural Residential (RR-1)	Vacant Commercial, Single-Family Residential, Vacant Residential
East	Rural Land (RL)	General Agriculture (A-1)	Single Family Residential
West	Rural Land (RL)	ROW, Regional Business (B-4), General Agriculture (A-1)	ROW, Agriculture Production

Figure 7
Farmland Preservation Area



This parcel has a Rural Land future land use designation, with an inconsistent zoning classification, Regional Business (B-4). 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).

Staff finds that just because the business of a landscape contractor's yard involves outdoor aesthetics, including plants and trees, it is not an agricultural use, and is not an agricultural related commercial use; it's simply a commercial use, and is inappropriate on Rural Lands designated properties outside of a Rural Activity Center.

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 a ±2.45-acre portion of this property to Rural Commercial (RC-1) for the intent to develop a landscape contractor’s yard, which is currently listed as a permitted use under the Rural Commercial (RC-1) zoning classification.

Land Development Code Sec. 4.2.23 (A) states that the intent of classification for RC-1 is, “...to provide for agricultural related commercial uses that would be appropriate on Rural Lands not located in a Rural Activity Center [RAC].” The subject parcel is just under 3.25 miles from a RAC which has plenty of opportunity for commercial development in this Rural Area as it is only 4% developed. A rezoning to RC-1 undermines the intent of the area and this RAC commercial node.

Further, the Urban Growth Boundary is located less than 4 miles due south of the subject property. There are ample commercial properties inside the UGB which support this type of use.

Based on several factors: (1) a landscape contractor’s yard, while currently listed under the RC-1 zoning classification as a permitted use, is not an agricultural related commercial use, and therefore does not meet the intent of the RC-1 zoning classification; (2) a property owner is entitled to a zoning classification which is consistent with it’s future land use designation, not the other way around, and therefore the subject property, which carries a Rural Lands future land use is

entitled to a zoning classification which is consistent with its Rural Lands future land use, and RC-1 is not consistent with Rural Lands unless the commercial use is agricultural related; (3) the above exploration of the County's mission to protect properties like this one, with the exact land uses carried by this parcel, and the County's commitment to protect Rural Areas like this one, and the area surrounding it, from premature urbanization and uses incompatible with rural and agricultural uses; and further, (4) the incompatibilities which already exist in this area between several neighboring commercially-zoned properties (though most are still undeveloped – including this one) which are incompatible with their Rural Land future land use designation; and lastly, (5) 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, and granting this request would be creating a conformity issue** as RC-1 is not compatible with Rural Lands, unless the commercial use is agriculturally related, as stated in the intent of both the Rural Lands future land use designation description, and also in the LDC under the RC-1 zoning classification intent paragraph. In addition, the subject parcel's current zoning classification is also incompatible with its Rural Land use, so prior to development, the parcel will need to rezone to General Agriculture (A-1) or Rural Residential (RR-1) to bring the property into conformity.

B. Effect on public interest.

1. Transportation impacts. These include roadways, public transit, and other mobility features.
 - a. Roadways. 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 1/3 miles south of the subject property is a 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. You can observe this level of traffic backed up from the light to the north at W Hwy 329 in Figure 5 aerial, above.

The intersection just to the north of the subject property (CR 329-US 441) 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 the roadways feeding it, and creates higher volumes of traffic than would be normally experienced even during times of Peak Hour operations.

Where the highways split, which empties immediately into the intersection of CR 329-US 441, 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 in the area. Staff's position is that the potential negative development at this

location will 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.

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 N US Hwy 441 or in the vicinity. This area is mainly agricultural and rural, and this area 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, the rezoning roadway **impacts would adversely affect the 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 the nonresidential calculation, the proposed rezoning would result in a potential demand of 6,737.5 gallons per day.

The property is within Marion County Utilities' Service Area but outside current connection distance. Based on the above findings, 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 the nonresidential calculation, the proposed rezoning would result in a potential demand of 4,900 gallons per day.

The property is within Marion County Utilities service area but not within Marion County Utilities' required extension area. Based on the above

findings, the rezoning's **sanitary sewer impacts may adversely affect the public interest.**

4. Solid waste impacts. Solid Waste Element Policy 1.1.1 adopts a LOS standard of 6.2 pounds of solid waste generation per person per day for residential demand. A commercial/industrial level of service standard is not currently in place for Marion County as such operations are required to provide for individual commercial collection wherein disposal within Marion County is alternatively addressed. Based on the above, the rezoning **solid waste impacts would not adversely affect the public interest.**
5. Recreation. Recreation Element Policy 1.1.1. adopts a level of service standard of two (2) acres per 1,000 persons. A commercial/industrial level of service standard is not currently in place for Marion County. Based on the 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. Meadowood Farms Fire Station #12, located at 120 NW 110th Avenue, is roughly four miles southwest of the subject property. The Comprehensive Plan does not establish a level of service standard for fire rescue/emergency services. Still, Marion County has established a 5-mile drive time from the subject property as evidence of the availability of such services. Based on the above, the rezoning fire rescue/emergency impacts **would not adversely affect** the public interest.
8. Law enforcement. The 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 landscape contractor's yard (or any use within the RC-1 zoning classification) 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 landscape contractor's yard. 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). 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. Even still, staff finds the future site development is **capable of compliance** with site buffering **consistent** with FLUE Policy 1.1.6.

2. FLUE Policy 1.1.7: Discourage Strip Commercial and Isolated Development - The County shall discourage scattered and highway strip commercial development by requiring the development of such uses at existing commercial intersections, other commercial nodes, and mixed use centers with links to the surrounding area.

Analysis: The requested rezoning proposes to change a strip of property along N US 441 from B-4 to RC-1; approximately 2.45 acres. There is a node of RAC designated properties less than 3.25 miles away from the subject property, where this type of development is appropriate and meets the intent of this policy. The proposed RC-1 rezoning would **not be consistent** with FLUE Policy 1.1.7 as it would encourage strip commercial along N US 441, rather than development at the existing commercial node. Additionally, this change in zoning would allow a non-conforming commercial use unlike anything in the area, thereby creating an issue of spot zoning, as well.

3. 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 landscape contractor's yard. Further, granting this rezoning request may not be conditioned on or limited to the uses as proposed by the hypothetical Conceptual Plan. 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 2.45 acres, the maximum development is 32,016 GSF of commercial development. Staff concludes that because the subject property has a Rural Lands future land use designation, which has no commercial entitlement, the proposed rezoning to RC-1, no matter what the hypothetical use is (for example, a landscape contractor's yard, a gas station with convenience store and truck fueling, etc.), is **inconsistent** with FLUE Policy 2.1.16.

4. FLUE Policy 3.1.4: Rural Area Outside of UGB - The lands outside of the UGB shall generally be referred to as the Rural Area and 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.

Analysis: The RAC node that already exists in the area meets the third principle in that it establishes a framework for appropriate future opportunities and development options. By granting the request to rezone to RC-1, a non-conforming use would be created, and spot zoning would be introduced in the area that would not match the existing future land use, or the existing uses in the area or the commercial node already established in the RAC which is less than 3.25 miles away. The proposed rezoning is **inconsistent** with FLUE Policy 3.1.4.

5. FLUE Objective 4.1.1: Consistency between Comprehensive Plan, Zoning, and LDC - The County shall amend and maintain an official land use and

zoning map, appropriate land use designations and zoning classifications, and supporting LDC that shall be consistent with each other.

Analysis: By approving the requested rezoning, a zoning unlike that of the surrounding area would be established and would be inconsistent with surrounding area. The proposed rezoning is **inconsistent** with FLUE Objective 4.1.1.

6. 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: 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 landscape contractor's yard. 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. Granting the rezoning request for the subject parcel would not only **be inconsistent** with FLUE Policy 4.1.2, but it **would be acting in direct opposition to the statute**.

7. 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 MCCP 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 3.25 miles away to the west of the subject site is only 4% developed. Rather than impede 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 MCCP, to preserve the rural and agricultural nature of this parcel and surrounding area. Therefore, staff recommends that instead of creating an inconsistency at this site, the site shall maintain consistency between the MCCP 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 landscape contractor’s yard (or any of the permitted uses under RC-1); and nothing the Applicant has submitted has sufficiently established that a landscape contractor’s yard 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 landscape contractor's yard, or any of the uses permitted under the RC-1 zoning classification, 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 landscape contractor's yard, or any use permitted under the RC-1 zoning classification, would be an agricultural-related activity, or that it would promote the rural character of the area in any meaningful way. 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." 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. 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 M CCP, 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 blongs 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 (RC-1) 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**.

8. 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 the July 29th, 2024, Planning and Zoning Commission and therefore, the application is **consistent** with this FLUE Policy 5.1.3.

9. FLUE Policy 5.1.4 on Notice of Hearing provides, “The County shall provide notice consistent with Florida Statutes and as further defined in the LDC.”

Analysis: Public notice has been provided as required by the LDC and Florida Statutes and, therefore, the application is being processed **consistent** with FLUE Policy 5.1.4.

10. 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 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.

Based on the above findings, the proposed rezoning, while consistent with some of the FLUE policies, is not meeting the necessary policies that would allow staff to make a recommendation of approval and, therefore, **is not consistent with the Comprehensive Plan.**

V. ALTERNATIVE ACTIONS

- A. Enter into the record the Staff Report and all other competent substantial evidence presented at the hearing, amend the findings and conclusions contained herein so as to support a recommendation for the approval of the Ordinance, and make a recommendation to adopt a proposed Ordinance to **APPROVE** the rezoning amendment.
- B. Enter into the record the Staff Report and all other competent substantial evidence presented at the hearing, identify any additional data and analysis

needed to support a recommendation on the proposed Ordinance, and make a recommendation to **TABLE** the application for up to two months in order to provide the identified data and analysis needed to make an informed recommendation on the proposed Ordinance.

VI. STAFF RECOMMENDATION

Staff recommends the Board enter into the record the Staff Report, and all other competent substantial evidence presented at the hearing, adopt the findings and conclusions contained herein, and make a recommendation to **DENY** the proposed rezoning because the application:

- A. **Will adversely affect** the public interest because the apparent conformance with level of service standards for the relevant elements is outweighed by significant additional dangers this development proposes to add to an area already known to be dangerous.
- B. **Is inconsistent with the Comprehensive Plan** provisions because it fails to conform with:

FLUE Policies 1.1.6, 2.1.16, 5.1.2, 5.1.3, 5.1.4, 7.4.3
- 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, as well as Florida Statute. RC-1 on the subject parcel would be spot zoning, and would not only allow a zoning class in an area which is dissimilar to the zoning in the immediate area, but also would be creating a conconforming property, it would be proliferating commercial development on Rural Lands inside the Farmland Preservation Area, and it would be undermining the effectiveness of the underdeveloped RAC which is less than 3.25 miles away from the subject property, and the Comprehensive Plan FLUE.

VII. PLANNING & ZONING COMMISSION RECOMMENDATION

Denial 5-2

VIII. BOARD OF COUNTY COMMISSIONERS ACTION

To be determined.

IX. LIST OF ATTACHMENTS

- A. Rezoning application, filed May 30, 2024
- B. DRC Comments Letter
- C. Site and Area Photographs