



Marion County
Board of County Commissioners

Growth Services

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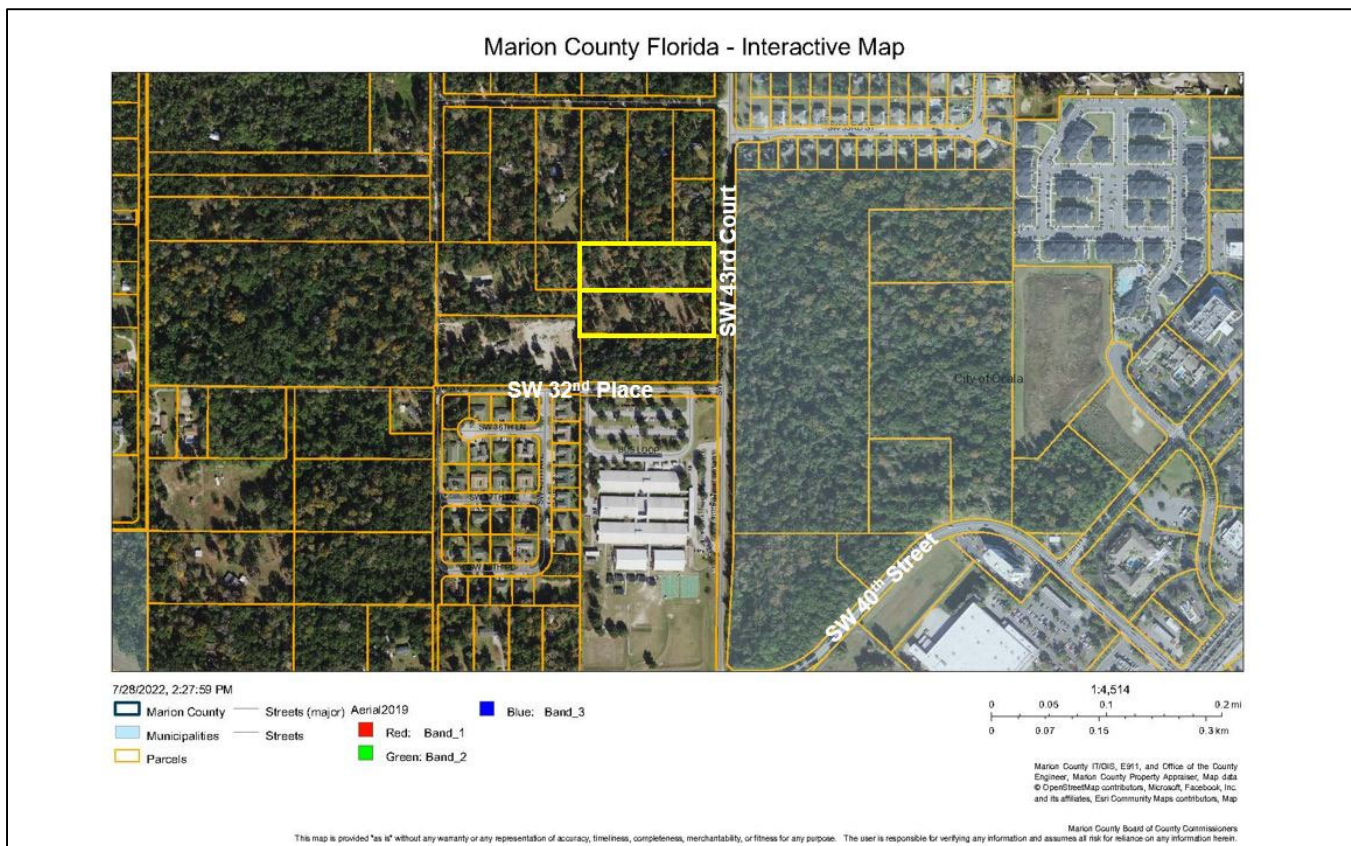
PLANNING & ZONING SECTION
STAFF REPORT

Production Date: 07/21/22	P&Z Date: 08/29/2022	BCC Date: 6/6/2023
Case Number:	220917Z	
CDP-AR:	28868	
Type of Case:	Rezoning from Planned Unit Development (PUD) to Multi-Family Dwelling (R-3)	
Owner	Bradley L. & Lori J. Busch	
Applicant	Jerry Pionessa, Jr., P.E., JMJ Group, LLC	
Street Address	Not Assigned	
Parcel Number	23813-008-00, 23813-009-00	
Property Size	5.80-acres	
Future Land Use	High Residential (HR)	
Zoning Classification	Mixed Residential (R-4) (expired Planned Unit Development (PUD)	
Overlay Zone/Scenic Area	Springs Protection Zone, Secondary	
Staff Recommendation	APPROVAL	
P&Z Recommendation	TBD	
Project Planner	Kenneth Odom, Transportation Planner	
Related Case(s)	Case # 060412Z rezoned property from Mixed Residential (R-4) to Planned Unit Development (PUD)	

I. ITEM SUMMARY

Applicant Jerry Pionessa, Jr., on behalf of the landowners Bradley and Lori Busch, have filed a rezoning application to change the zoning classification of a 5.80-acre property from Mixed Family Residential (R-4) to Multi-Family Dwelling (R-3) (see Attachment A). In 2006, the property was rezoned from Mixed Family Residential (R-4) to Planned Unit Development (PUD); however, consistent with Land Development Code (LDC) Section 4.2.31.M.(1)(a), the PUD was automatically revoked and reverted to its previous zoning classification because the application for approval of the final development plan is not filed within five years from the date of approval of the Preliminary Plat or Major Site Plan. The PI Numbers associated with the property are 23813-008-00 and 23813-009-00, the street address is not assigned. Figure 1 is an aerial photograph showing the general location of the subject property. The subject property is situated inside the Urban Growth Boundary (UGB) and within the Secondary Springs Overlay Protection Zone.

Figure 1
General Location Map



II. STAFF SUMMARY RECOMMENDATION

Staff recommends **APPROVAL** of the applicant's request because it is consistent with LDC Section 2.7.3.E.2, which requires that granting a rezoning will not adversely affect the public interest, that the rezoning is consistency with the Marion County Comprehensive Plan (MCCP), and that the rezoning is compatible with land uses in the surrounding area.

III. PUBLIC NOTICE

Consistent with Land Development Code (LDC) Section 2.7.3.C., notice of public hearing was mailed to all property owners (11 owners) within 300 feet of the subject property on August 12, 2022. As of the date of the initial distribution of this staff report, no letters of opposition or support have been received. Consistent with LDC Section 2.7.3.B., public notice was posted on the subject property on August 11, 2022 and consistent with LDC Section 2.7.3.E. due public notice was published in the Ocala Star-Banner on August 15, 2022. Evidence of the above-described public notices are on file with the Growth Services Department and is incorporated herein by reference.

IV. ANALYSIS

Land Development Code 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.

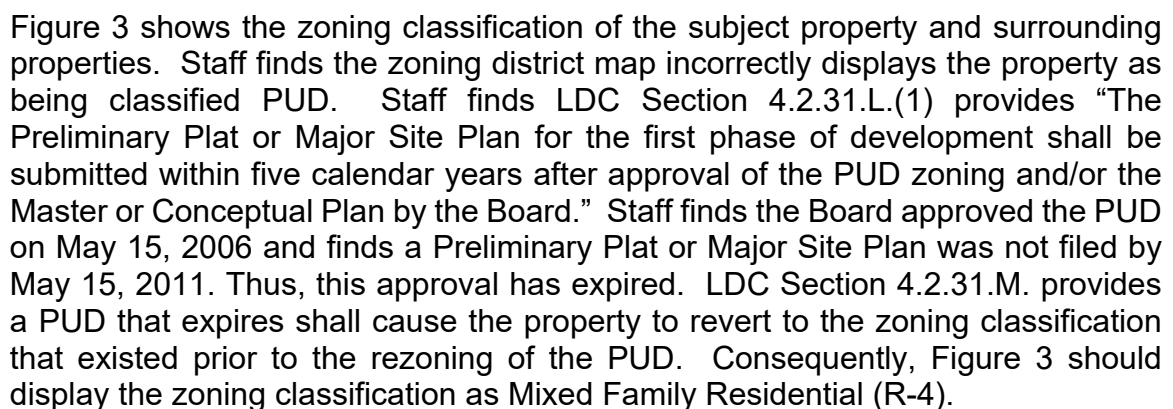
- A. *Compatibility with surrounding uses.* Compatibility is defined as a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition.

Figure 1 is an aerial photograph displaying existing and surrounding site conditions. It shows the subject property consists of two vacant rectangular-shaped parcels mostly covered with naturally occurring trees and undergrowth. Each parcel has a size of 2.9-acres with approximately 210 lineal feet of frontage on the west side of SW 43rd Court. An Environmental Assessment was not filed so it is unclear whether the subject property is constrained by environmental factors. According to the Soil Survey of Marion County, Florida, the site is primarily comprised of Astatula Sand soil that can reasonably accommodate development, depending on site characteristics. Based on the contours provided by Marion County's interactive map, the existing topography is relatively flat and the site can be made level for development through minimal grading and filling activities.

Figure 1 also shows the abutting and surrounding land uses. The properties to the north, south and west are part of mostly unimproved areas, two homes are present on two separate lots, that are naturally forested. The large parcel immediately to the east lies within the City of Ocala and is not currently designated with a zoning classification.

Figure 2 displays the existing FLUMS designation of the subject and surrounding properties. It shows the subject property is designated High Residential (HDR), which allows for 0-8 du/ac. Based on a size of 5.8-acres, up to 46 dwelling units could be constructed on the property. Surrounding parcels have Land Use

Figure 2
Future Land Use Map Series Designation



The application provides for rezoning the 5.08-acre property to Multi-family Residential (R-3). LDC Section 4.2.11.D. provides that the maximum density is 8 du/ac for Multi-family and 8-16 du/acre for High Urban Density (i.e., Urban Residential). Based on a size of 5.8-acres and a density of 8 du/ac, up to 46 dwelling units could be constructed on the property.

Figure 3 shows the properties to the east are located within the City of Ocala. To the north and south, the properties are zoned Mixed Residential (R-4) district. To the east, the property abutting the north 2.9-acres is zoned General Agriculture (A-1) while the property abutting the south 2.9-acres is zoned Multi-family Residential (R-3) district.

Figure 3
Zoning Classification Map

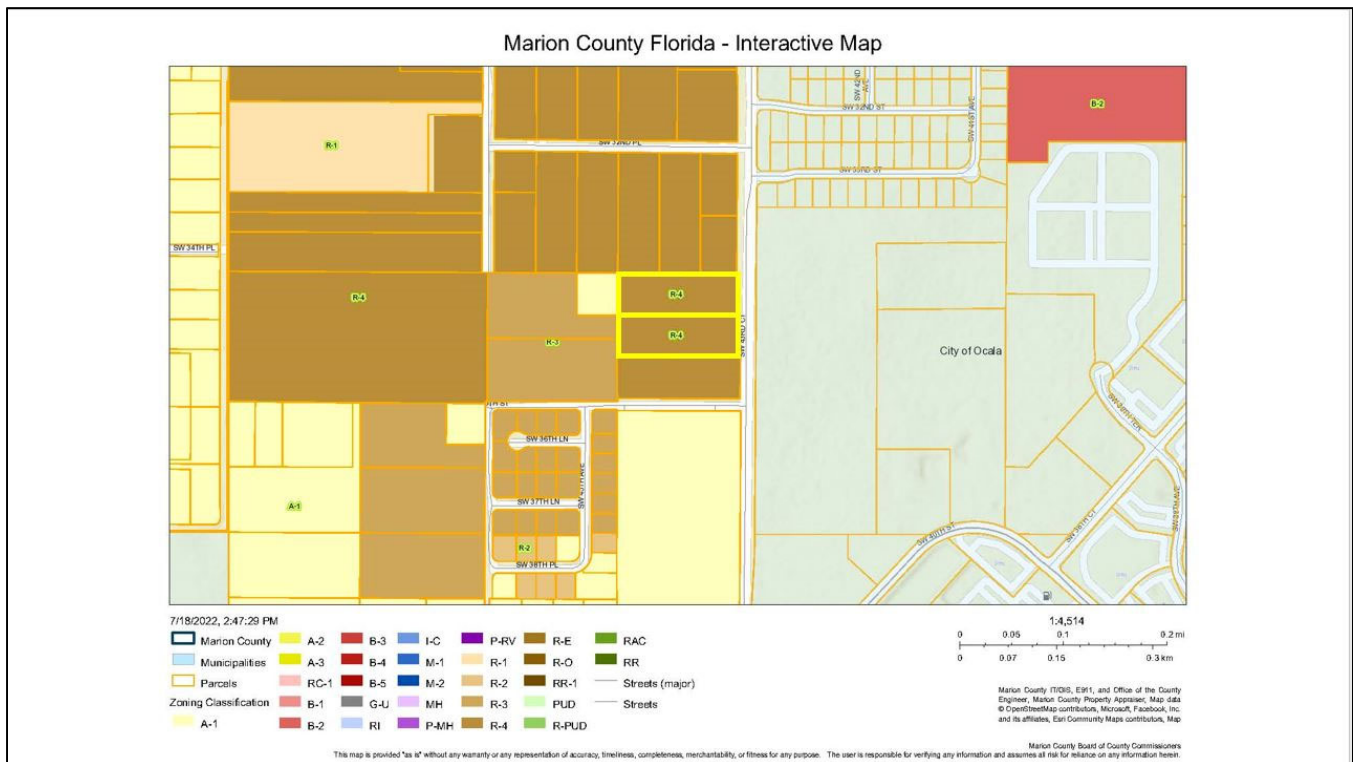


Figure 4 shows the existing uses of subject property and surrounding properties. Table A displays the information from Figures 2 through 4 in tabular form. Consistent with LDC Section 2.7.3.D, staff conducted a site visit on 7/29/22 and finds the subject property is unimproved at this time.

Figure 4
Subject Property and Surrounding Land Use Map

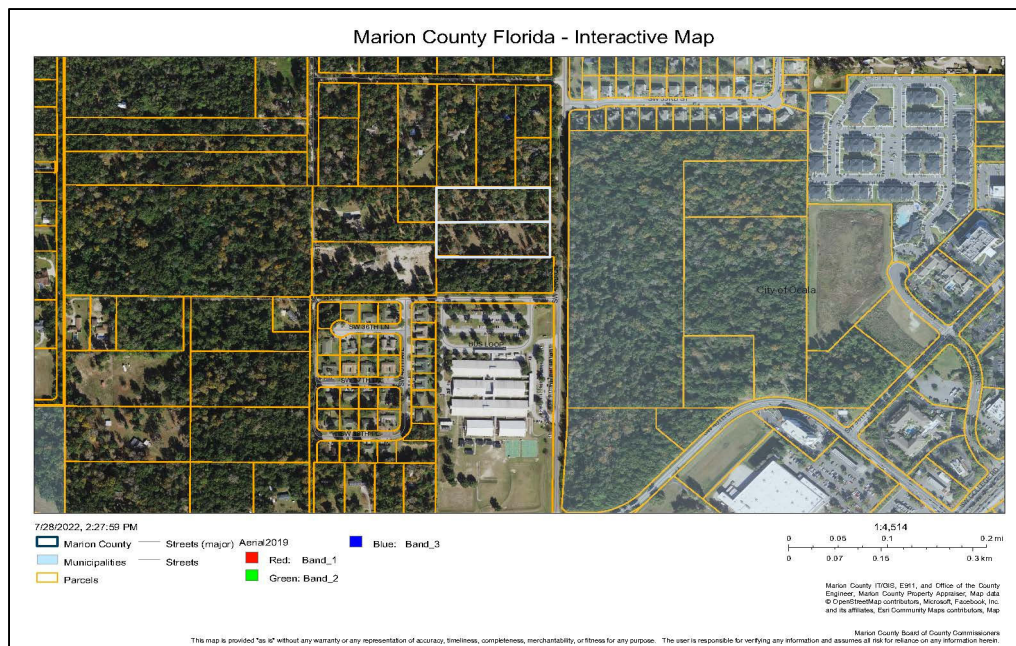


Table 1
SUBJECT PROPERTY AND ADJACENT PROPERTY CHARACTERISTICS

Direction of Adjacency	Future Land Use Map Series Designation	Zoning Classification Map	Existing Use/MCPA Property Class
Site	High Residential	Multi-family Residential (R-3) Proposed	Vacant
North	Medium Residential	Mixed Residential (R-4)	(00) Vacant Residential (01) Improved Residential
South	Public	Mixed Residential (R-4)	(54-59) Timber
East	(City of Ocala)	(City of Ocala)	(54-59) Timber
West	High Residential	General Agriculture (A-1) and Multi-family Residential (R-3)	(01) Improved Residential

B. *Will not adversely affect the public interest.*

1. Transportation impacts. These include roadways, public transit, and other mobility features.

- a. Roadways. Figure 1 shows the subject property has direct access onto SW 43rd Court. This corridor is a two-lane local road that dead ends to the north of the subject parcel. There are no counts taken on this road at this time. However, this corridor will be lengthened and widened to a four-lane facility when the City of Ocala commences construction in the near future. Once completed, this corridor will be part of the NW/SW 49th / NW/SW 44th Ave facility that will eventually extend from Marion Oaks Boulevard to CR 326. Further, upon completion this corridor will be classified as an Urban Minor Arterial with an approximate capacity of 35,820 trips per day.

The applicant did not provide a trip generation study. Consequently, Growth Services Department staff used the Institute of Transportation Engineers (ITE) Trip Generation Handbook, 10th Edition, to estimate the number of trips that could be generated. Professional planning practice requires that when considering the transportation impacts of a rezoning, the most intense development allowed within the zoning district must be used. The most intense land use for transportation purposes is at 8 du/acre is low-rise multi-family housing, which generates 0.56 PM peak-hour trips. Based on a maximum 46 dwelling units, 26 PM peak hour trips would be generated.

- b. Public transit. Fixed-route services (SunTran) are not available near this location.
- c. Other mobility features. Sidewalks are currently located around Saddlewood Elementary. Marion County will be constructing sidewalks on SW 38th/SW 40th Street as part of road widening project and the widening and new construction of a new four-lane section of SW 44th Avenue from SW 20th Street to SR 200 will commence within the next three months. Sidewalks and bicycle lanes will be constructed as part of that road construction project also.

2. 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 an average household size of 2.4 people, the current zoning would allow for forty-four rental units generating up to approximately 12,144 gallons per day. Thus, it is concluded the application's **sanitary sewer impacts would not adversely affect the public interest.**

3. 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 an average household size of 2.4, the

current zoning would allow for forty-four rental units using approximately 15,480 gallons per day. Thus, it is concluded the application's **potable water impacts would not adversely affect the public interest.**

Marion County Utilities (DRC Comment): *Marion County Utilities service area and currently outside calculated connection distance of 14,080' Closest water is 17,200 and closest sewer force main is 18,549' however MCU public utility improvements between now and site plan application may trip a connection requirement, by owner funded offsite main construction - additional comments based on current conditions will be made when site plan is ready to present through Development Review. DO NOT ASSUME connection to the City of Ocala as the closest public utility will be made. IF connection to the City is allowed by MCU, a pre-annexation agreement will be required by the City prior to connection, and eventual annexation on the City's timeline.*

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 an average household size of 2.4, the current zoning would allow for forty-four rental units generating approximately 655 pounds of solid waste per day. The County has identified and arranged for short-term and long-term disposal needs by obtaining a long-term contract reserving capacity with a private landfill in Sumter County. Based on the above, it is concluded the application's **solid waste impacts would not adversely affect the public interest.**
5. Fire rescue/emergency services. The City of Ocala Fires Rescue Station #6 – CSR 200 is located approximately 2.35 miles southwest of the subject parcel. 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 application's fire rescue/emergency impacts **would not adversely affect the public interest.**
6. Law enforcement. The Marion County Sheriff's Department – Southwest Substation – SR 200 is located approximately 7.5 miles northeast of the subject parcel. 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, it is concluded the application's **law enforcement impacts would adversely affect the public interest.**
7. Public schools. Public educational institutions serving this area of Marion County include:
 - Saddlewood Elementary School - 3700 SW 43rd Court
0.05 Miles south
 - Liberty Middle School – 4773 SW 95th Street
6.10 Miles south

- West Port High School – 3195 SW 80th Avenue
3.2 Miles east

In summation, staff finds that non-conformance with the law enforcement level of service standard are outweighed by conformance with the six other public facility and services level of service standards, and therefore, staff concludes that when weighting the totality of the circumstances, **the public interest is not adversely affected.**

C. *Comprehensive Plan consistency.*

1. FLUE Policy 1.1.3: Accommodating Growth, provides “The County shall designate on the Future Land Use Map sufficient area in each land use designation to distribute development to appropriate locations throughout the county. Changes to the Future Land Use Map shall be considered in order to accommodate the existing and projected population and its need for services, employment opportunities, and recreation and open space while providing for the continuation of agriculture activities and protection of the environment and natural resources.”

Analysis: The FLUMS designates this parcel as High Residential. The proposed rezoning is consistent with the 2045 FLUMS and the land use of the surrounding properties.

2. 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 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 August 29, 2022 Planning and Zoning Commission and, therefore, the application is consistent with this FLUE Policy 5.1.3.

3. 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.

4. 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: The (DRC) comments letter on the proposed amendment stated there are no traffic concerns with the request. Growth Services Department

staff used the Institute of Transportation Engineers (ITE) Trip Generation Handbook, 10th Edition, to estimate the number of trips that could be generated from the rezoning. Professional planning practice requires that when considering the transportation impacts of a rezoning amendment, the most intense development allowed within the zoning district should be analyzed, which would be a multi-family dwelling, which generates less than fifty peak hour trips daily trips. Based on the above findings, it is concluded the application is **consistent** with TE Policy 2.1.4

5. TE Objective 3.1 on Financial feasibility of development provides “To encourage development within the Urban Growth Boundary where infrastructure can be provided in a financially feasible manner.”

Analysis: The subject property is located inside the UGB and, based on the maximum number of potential trips, the proposed rezoning would not put the nearby roads over capacity. Based on the above, it is concluded the application is **consistent** with TE Objective 3.1.

6. TE Objective 3.1.2 on Adequate Rights of Way/Encroachment provides “The County shall ensure adequate rights-of-way for roadway, Transit, bicycle and pedestrian pathways, and protect existing and future rights-of-way from building encroachment.”

7. **Analysis:** The existing corridor is a two-lane local road that will be widened and extended in the coming months. This is a City of Ocala maintained corridor and ROW acquisition has already occurred in preparation for construction. Based on the above potential number of trips that could be generated and the planned widening of the corridor, it is concluded the application is **consistent** with TE Objective 3.1.2.

8. TE Objective 2.2. on Access Management provides “To maintain the intended functionality of Marion County’s roadway network, access management standards shall be established which provides access controls and manage the number and location of public roadways, private roadways, driveways, median openings, and traffic signals.”

Analysis: The subject property will contain less than fifty residential dwelling units so only one access point will be required. The subject property has a frontage of ± 420 lineal feet on SE 43rd Court, a City of Ocala maintained road. The sole access point will be located at the north/south midpoint of the property, approximately 200 feet from the north and south property boundaries. Only one other driveway currently exists in close proximity to the proposed access point for this parcel, approximately 270 feet to the north. Based on the above findings, staff concludes the application is **consistent** with TE Objective 2.2

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 make a recommendation to the Board of County Commissioners 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, adopt the findings and conclusions contained herein, and make a recommendation to the Board of County Commissioners to **DENY** the rezoning amendment.
- C. Enter into the record the Staff Report and all other competent substantial evidence presented at the hearing, identify any additional data and analysis needed to support a recommendation on the proposed Ordinance, and make a recommendation to the Board of County Commissioners to **TABLE** the application for up to two months in order to provide the identified data and analysis needed to make an informed recommendation on the proposed Ordinance.

VI. STAFF RECOMMENDATION

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

- A. Will not adversely affect the public interest based upon staff finding that non-conformance with the law enforcement level of service standard are outweighed by conformance with the six other public facility and services level of service standards, and therefore, staff concludes that when weighting the totality of the circumstances, the public interest is not adversely affected.;
- B. Is consistent with the following Comprehensive Plan provisions;
 - 1. FLUE Policies 1.1.3., 5.1.3., and 5.1.4;
 - 2. TE Objectives 2.2, 3.1, and TE Policy 2.1.4
 - 3. SSE Policy 1.1.1
 - 4. PWE Policy 1.1.1
 - 5. SWE Policy 1.1.1
- C. Is compatible with the surrounding uses because the maximum allowable densities on the property are consistent with the maximum allowable densities on properties located to the west and buffers, screening and other development standards can be applied to mitigate any potential incompatibilities with properties to the north and south.

VII. PLANNING & ZONING COMMISSION (P&ZC) RECOMMENDATION

At their August 29, 2022 public hearing, the P&ZC recommended 7-0 to approve the application based on the findings and conclusions in Section VI of the Staff Report.

VIII. BOARD OF COUNTY COMMISSIONERS ACTION

To be determined.

IX. LIST OF ATTACHMENTS

- A. Rezoning application
- B. Property Record Card
- C. Site Plan
- D. Site Photos
- E. Deed
- F. DRC Comments