



**Marion County
Board of County Commissioners**

Growth Services

2710 E. Silver Springs Blvd.
Ocala, FL 34470
Phone: 352-438-2600
Fax: 352-438-2601

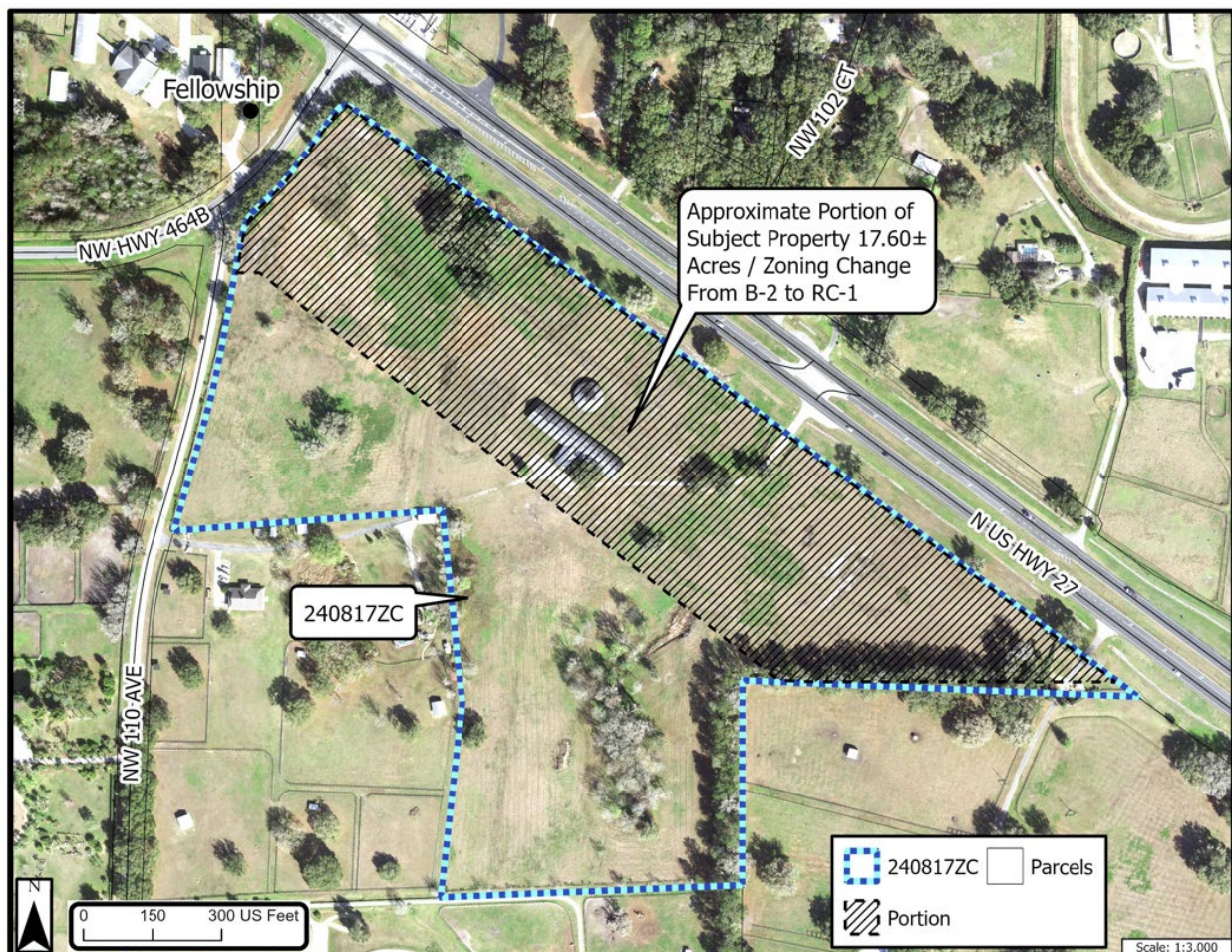
**PLANNING & ZONING SECTION
STAFF REPORT**

| | |
|---------------------------------------|--|
| P&Z Date: 07/29/2024 | BCC Date: 08/20/2024 |
| Case Number | 240817ZC |
| CDP-AR | 31619 |
| Type of Case | Rezoning from Community Business (B-2) to Rural Commercial (RC-1). |
| Owner | Meridian Land Holdings, LLC. |
| Applicant | Austin T. Dailey, Esq. with Klein & Klein, LLC. |
| Street Address/Site Location | 5465 NW 110 th Avenue, Ocala, FL 34482 |
| Parcel Number(s) | 12550-000-00 |
| Property Size | ±17.60-acre portion of an overall ±34.31-acre property |
| Future Land Use | Rural Land (RL) and Rural Activity Center (RAC) |
| Existing Zoning Classification | General Agriculture (A-1) and Community Business (B-2) |
| Overlays Zones/Special Areas | Farmland Preservation Area (FPA), Secondary Springs Protection Zone (SSPZ) |
| Staff Recommendation | Denial |
| P&Z Recommendation | Approval (5-2) |
| Project Planner | Kathleen Brugnoli, Planner II |
| Related Cases | Concurrent Applications - 24-S07: Small Scale Land Use Amendment to Rural Activity Center (RAC) and 240816ZC: Rezoning to Rural Activity Center (RAC). |

I. ITEM SUMMARY

Austin Dailey with Klein & Klein, on behalf of Meridian Land Holdings, LLC., filed a rezoning application to change a ± 17.60 -acre portion of an overall ± 34.31 -acre parcel from Community Business (B-2) to Rural Commercial (RC-1). The Parcel Identification Number for the property is 12550-000-00; the site is addressed as 5465 NW 110th Avenue, Ocala, and the legal description is provided within the application (see Attachment A). The subject property at the southern corner of the intersection of N US Hwy 27 and NW Hwy 464B. The site is located within the Farmland Preservation Area (FPA) and the Secondary Springs Protection Zone (SSPZ). The application proposes rezoning the ± 17.60 -acre portion for all uses permitted with the intention of developing a farm supply store.

Figure 1
General Location Map



II. STAFF SUMMARY RECOMMENDATION

Staff recommends **DENIAL** of the rezoning application. Staff does not believe RC-1 zoning would be appropriate for the area provided that there's an existing Rural Activity Center (RAC) at the intersection to accommodate commercial development.

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 (16 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 12, 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 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.

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. *How is the request compatible 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 a general location aerial displaying existing and surrounding site conditions.

Figure 2 shows the subject property has both Rural Activity Center (RAC) land use as well as Rural Land (RL) use. The RAC land use is confined to the area surrounding the intersection as is expected with a designated RAC area. All other surrounding areas are designated as Rural. The properties in the area are outside the Urban Growth Boundary (UGB) and within the Farmland Preservation Area (FPA) as well as the Secondary Springs Protection Zone (SSPZ).

Figure 2
FLUMS Designation

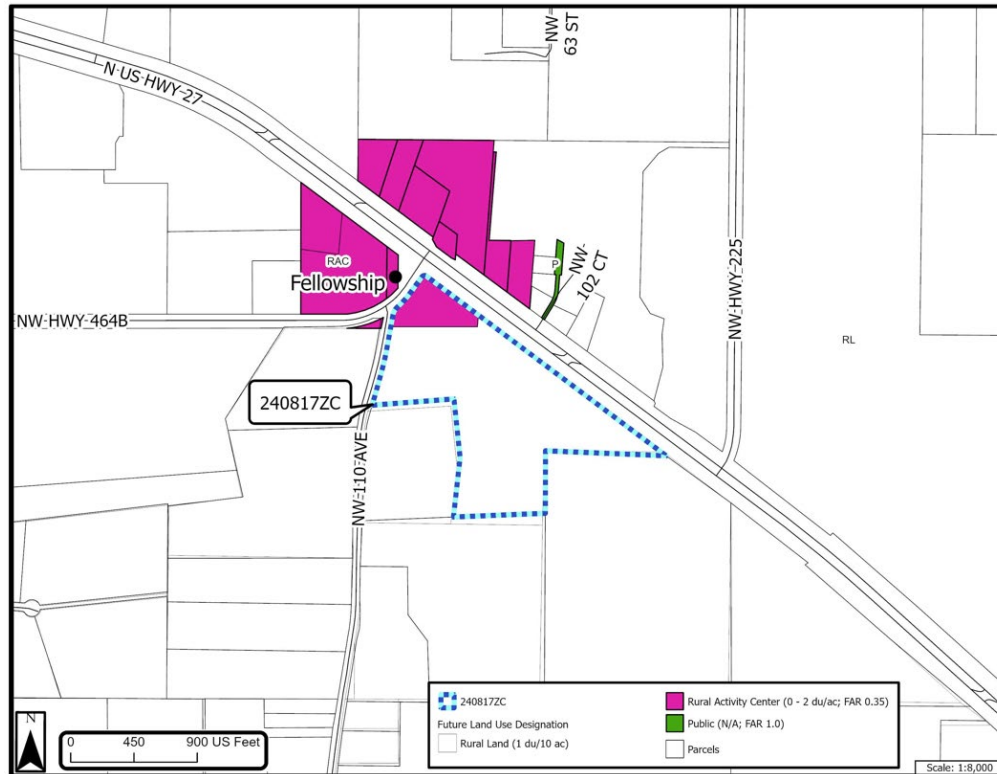


Figure 3 displays the zoning for the subject property in relation to the existing zoning of the surrounding properties and Figure 4 shows the proposed zoning. Along the roadway corridor and intersection exists a mix of Business zonings and Rural Activity Center zoned properties. Land Development Code 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." The subject parcel is not just near the RAC area, the northernmost point of the property has a RAC land use designation, a land use that has historically been designated to this portion of the overall property. A rezoning to RC-1 would undermine the intent of the area and the RAC node.

Figure 3. Zoning Classification

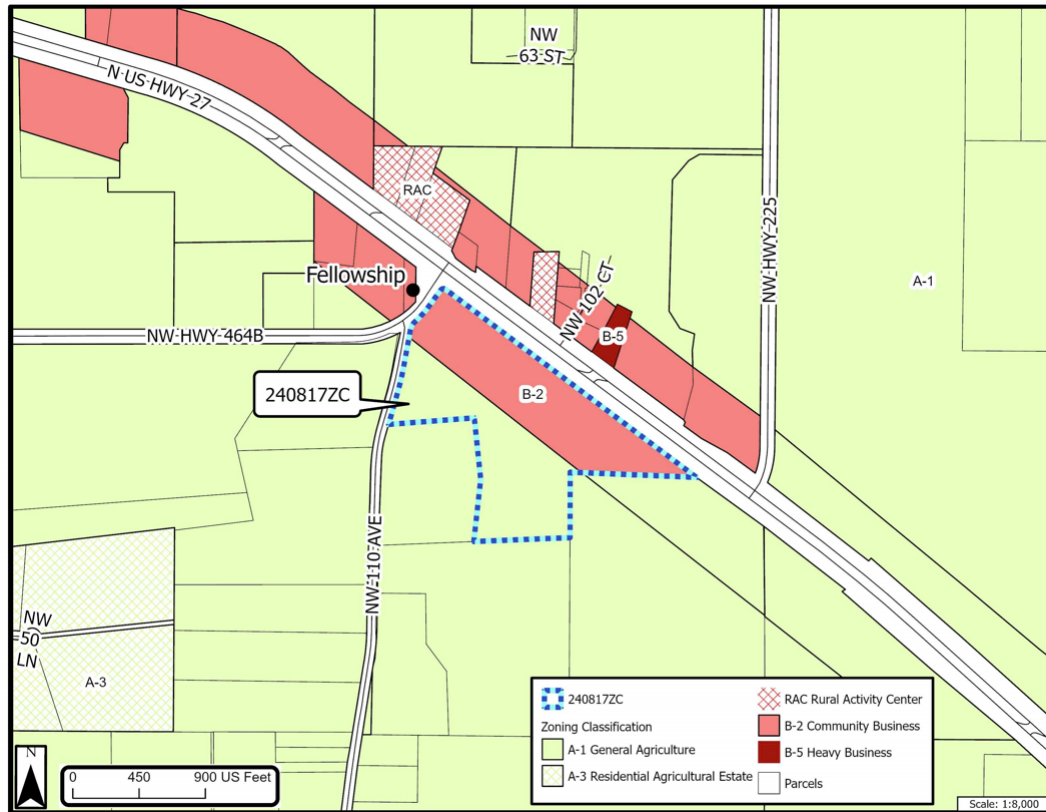
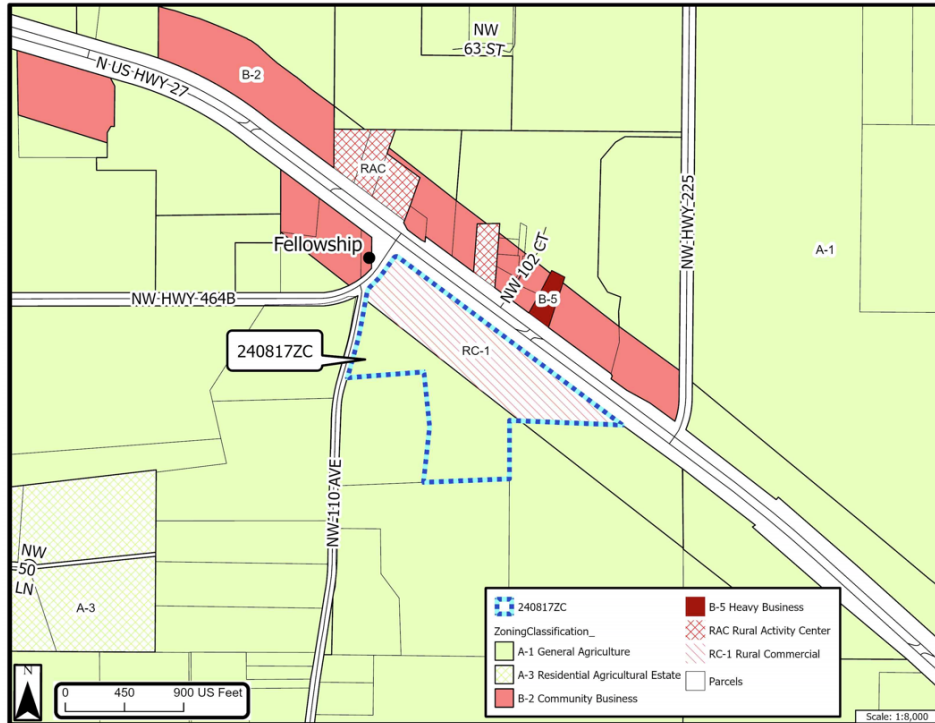


Figure 5 displays the subject and surrounding properties' existing uses as established by the Marion County Property Appraiser Office's Property Code (PC). The north and northeast reflect commercial and private institution uses with agriculture and residential in all other areas.

**Figure 4.
Proposed Zoning Classification**



**Figure 5.
Existing Use per Property Appraiser Property Code**

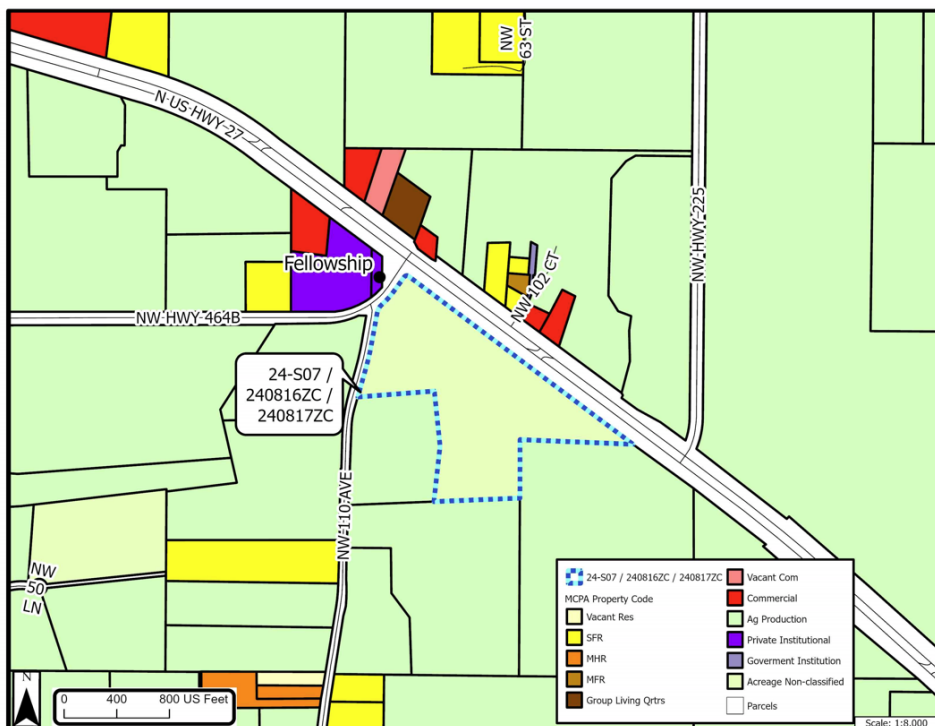


Table A displays the information of Figures 2, 3, and 5 in tabular form. Consistent with LDC Section 2.7.3.D, staff conducted a site visit and finds the subject property has an existing barn on-site near the center of the property. The parcel is predominantly open pasture area with a few spots where old growth trees are densely packed within a small area and along the northeastern right-of-way (Attachment B). All properties sitting south of the subject property are Agricultural in use with parcels to the west being the same. Parcels to the north and northeast, a mix of Private Institutional (Fellowship Baptist Church), Animal Rescue, and Commercial; and parcels to the east being a mix of residential, agriculture, and uses of service to agriculture uses; FL. Vet Association being among the parcels to the east.

| TABLE A. Adjacent Property Characteristics | | | |
|---|--|---|---|
| Direction | FLUM Designation | Zoning Classification | Existing Use per Property Appraiser Code |
| North | Rural Activity Center (RAC) | Rural Activity Center (RAC) Community Business (B-2) | Charitable Services Commercial Store Grazing Land |
| South | Rural Land (RL) | General Agriculture (A-1) | Grazing Land |
| East | Rural Activity Center (RAC) Rural Land (RL) | Rural Activity Center (RAC) Community Business (B-2) Heavy Business (B-5) | Improved Residential Professional Services Grazing Land |
| West | Rural Activity Center (RAC) Rural Land (RL) | General Agriculture (A-1) | Grazing Land |

Based on the above findings, the proposed rezoning application is **not compatible** with the existing and future surrounding land uses. While the request for RC-1 is allowed as a portion of the property is RL with a Business zoning, the parcel is not entirely this zoning and land use. RC-1 with RAC land use would be creating a conformity issue as these two are not compatible with one another based on planning and zoning principles.

How does the request affect the public interest?

1. Transportation impacts. These include roadways, public transit, and other mobility features.
 - a. Roadways. NW Hwy 464B to the north, NW 110th Avenue to the west and N. US Hwy 27 to the east.
 - b. Public transit. There are no fixed route services in the area.
 - c. Other mobility features. No sidewalks currently exist along any of the roadways listed as contiguous to this parcel. Upon development, sidewalks may be required or the developer may elect to provide for a fee-in-lieu of construction, as permitted by the LDC. 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 within Marion County Utilities' Service Area but 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 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 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. 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 and the application is **consistent** with this section.
8. Law enforcement. The nearest Sherriff substation is located approximately 8.4 miles northeast of the subject property at 8311 N. Hwy 441. 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 adversely affect the public interest.**
9. Public schools. The following figures are provided for the 60th day of enrollment for the 2023-2024 school year: Fessenden Elementary (102.57%), Howard Middle (65.21%), West Port High School (116.83%). While there are areas of overcrowding, overall, there is capacity within Marion County Schools. Based on the above findings, the proposed development would not adversely affect public interest. Therefore, it is concluded that the application is **consistent** with this section.

In summation, when weighing the totality of the circumstances, **the public interest is not adversely affected.**

B. *How is this request consistent with the Comprehensive Plan?*

1. 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 Hwy. 27 from B-2 to RC-1; approximately 17.6 acres. The rezoning would leave the “rear” western portion of the property as A-1. The area surrounding already includes a node of RAC designated properties 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 Hwy. 27 rather than development at the existing commercial node. Additionally, this change in zoning would allow a zoning unlike anything in the area, thereby creating an issue of spot zoning as well.

2. 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 granted RC-1, spot zoning would be introduced in the area that would not match the existing zoning in the area or the commercial node already established. The proposed rezoning is **not consistent** with FLUE Policy 3.1.4.

3. 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 **not consistent** with FLUE Policy 4.1.1.

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: In this situation, the LDC appears to be the more stringent regulation as the intent of RC-1, as listed, is to address inconsistencies with parcels that have a Rural land use and Commercial zoning designation. This is not the situation with the subject parcel and would **not be 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 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.

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, therefore, the application is being processed **consistent** with FLUE Policy 5.1.4.

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 not adversely affect the public interest as the impacts to public utilities and infrastructure would be minimal.
- B. Is not consistent with the Comprehensive Plan because it is not in conformance with:
1. FLUE Policies 1.1.7, 3.1.4, 4.1.1, and 4.1.2
- C. Is not compatible with the surrounding uses. RC-1 within a RAC node would be creating a conformity issue as there should be one or the other present, not both. The RAC is existing, RC-1 would be spot zoning and dissimilar to the zoning in the immediate area.

VII. PLANNING & ZONING COMMISSION RECOMMENDATION

Approval (5-2).

VIII. BOARD OF COUNTY COMMISSIONERS ACTION

To Be Determined

IX. LIST OF ATTACHMENTS

- A. Rezoning application filed
- B. Site and Area Photographs
- C. DRC Comments
- D. RAC Statement of Need
- E. Surrounding Property Owner