



**Marion County
Board of County Commissioners**

Growth Services

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

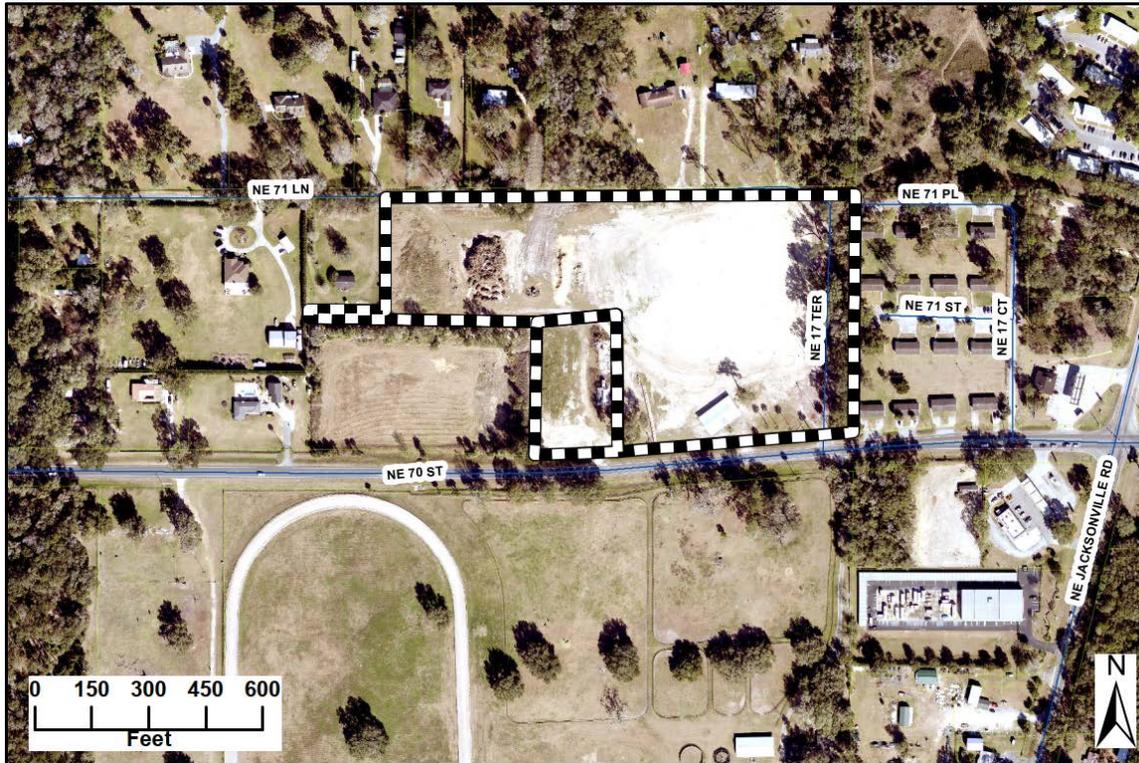
	P&ZC 04/24/2023	Date:	BCC 5/16/2023	Date:
Case Number:	230504SU			
CDP-AR:	29803			
Type of Case:	Special Use Permit: To develop a private baseball facility.			
Owner	Donna F. Kelley			
Applicant	Tillman & Associates Engineering			
Street Address	7020 NE 17 th Ter (on HWY 326 just west of NE Jacksonville Rd).			
Parcel Number	14848-006-00 and 14848-008-00			
Property Size	±15.46 acres			
Future Land Use	Low Residential (LR)			
Zoning Classification	General Agriculture (A-1)			
Overlay Zone/Scenic Area	Primary Springs Protection Zone			
Staff Recommendation	Denial			
P&ZC Recommendation	Approval with Alternate Conditions			
Project Planner	Kenneth Weyrauch			
Related Case(s)	<p><u>Zoning Code Case 906614</u>- Removed trees from property and potential commercial events without a SUP (12/19/2022).</p> <p><u>Building Safety Code Case 881488</u>- Converting barn into batting cage, stadium lights, dugout building structures without applicable building permits (3/22/2022).</p>			

I. ITEM SUMMARY

Tillman & Associates Engineering, LLC, on behalf of the owners, has filed an application for a Special Use Permit (SUP) to allow for a private baseball facility in General Agriculture (A-1) (see Attachment A). Figure 1 is an aerial photograph showing the location of the subject property. The Parcel Identification Numbers associated with the property are 14848-006-00 and 14848-008-00, the street address is 7020 NE 17th Terrace, and the legal description is displayed on the deed included as part of the application. The subject property is located within the Urban Growth Boundary and is situated within the Primary Springs Protection Overlay Zone. The Special Use Permit is required because private parks and recreational uses are not a permitted use within A-1. Public parks and recreational activities are however permitted within A-1.**At the Planning and Zoning Commission hearing, the applicant's agent agreed to the following condition changes. Hours of operation are Monday through Thursday until 8 p.m., portable restrooms for up to 9 months until the permanent restrooms are built, and no tournaments. Staff has provided two conditions relating to tournaments, one from the Planning and Zoning Commission and one from Staff. If the SUP is approved, the Board of County Commissioners may decide that tournaments are permitted by way of Special Event Permits. Special Event Permits allow for up to 4 events per year, each event is submitted individually and reviewed by County Departments to ensure the event will not adversely impact the surrounding area.

***On May 8th, 2023, Staff met with the applicant's agent and the Marion County Attorney. A Public Park is a permitted use in A-1 as per Section 4.2.3.B of the Marion County Land Development Code (LDC). The proposed use is a park by definition but is anticipated to operate in a private manner and owned by a private individual. People will not be able to simply enter the property and begin to use the facilities located on the property. Individuals using the property will be paying customers of the applicant who are paying to practice or be trained by a hired coach. Because the facility is a private park it was determined that the use is similar enough to the permitted use of public park to allow the request to proceed as a Special Use Permit request. More information has been added to the Special Requirements portion of the report.

Figure 1
Aerial Photograph of Subject Property



II. STAFF SUMMARY RECOMMENDATION

Staff recommends **Denial** specified in Section VI.B. of this Staff Report. The recommended conditions are being imposed to address compliance with the requirements in Land Development Code (LDC) Sections 2.8.2.D and 2.8.3.B.

III. NOTICE OF PUBLIC HEARING

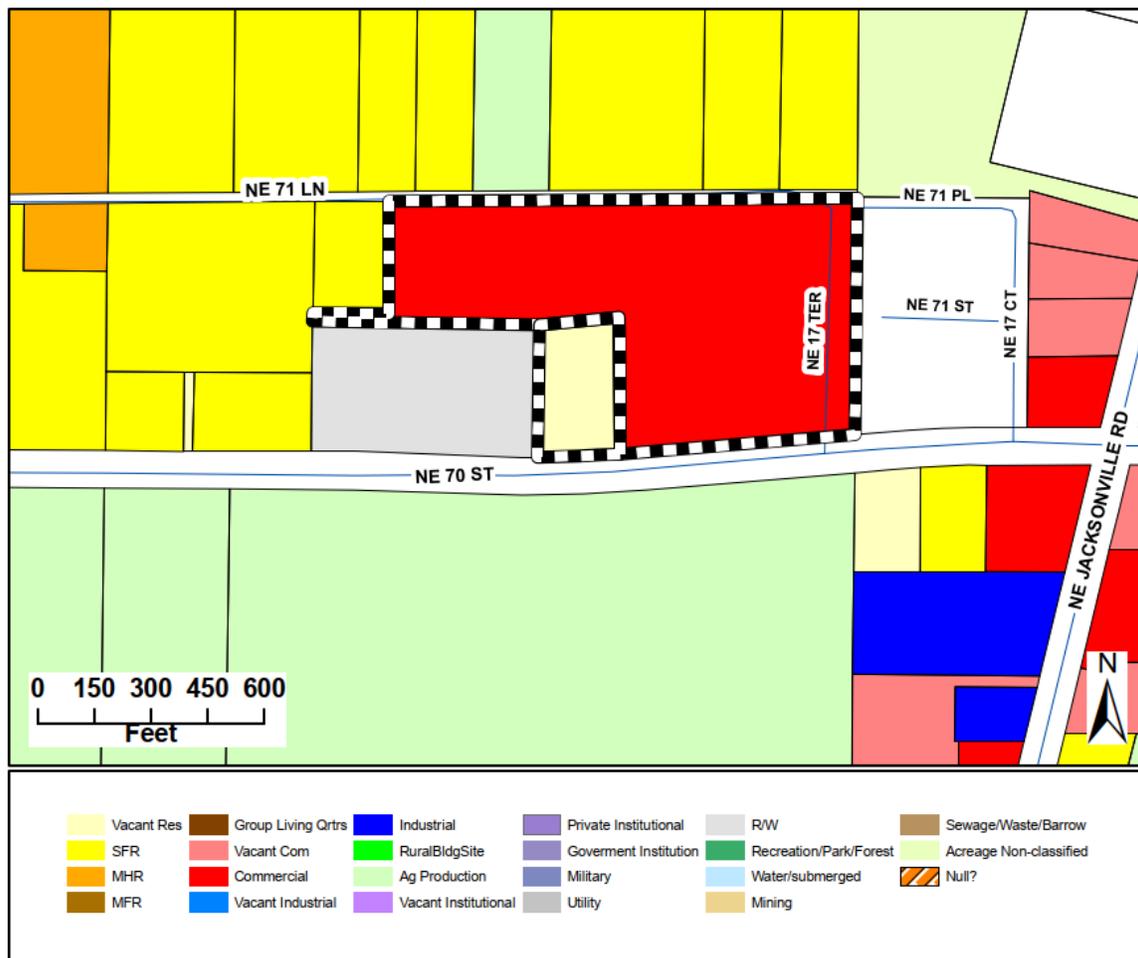
The Growth Services Director has interpreted the requirements of LDC Sections 2.7.3.C and 2.7.3.B to apply to SUP applications. LDC Section 2.7.3.C requires notice of public hearing be mailed to all property owners within 300 feet of the subject property and notice was mailed to 15 owners on April 07, 2023. 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 April 13, 2023, and consistent with LDC Section 2.8.3.E. due public notice was published in the Ocala Star-Banner on April 10, 2023. Evidence of the above-described public notices are on file with the Growth Services Department and is incorporated herein by reference.

IV. BACKGROUND/CHARACTER OF THE AREA

- A. *Existing site conditions.* The submitted site plan shows the property has three (3) baseball fields with stadium lighting, dugouts, nets, and batting cages. None of the structures on the site have permits. The site does have both a Zoning Code

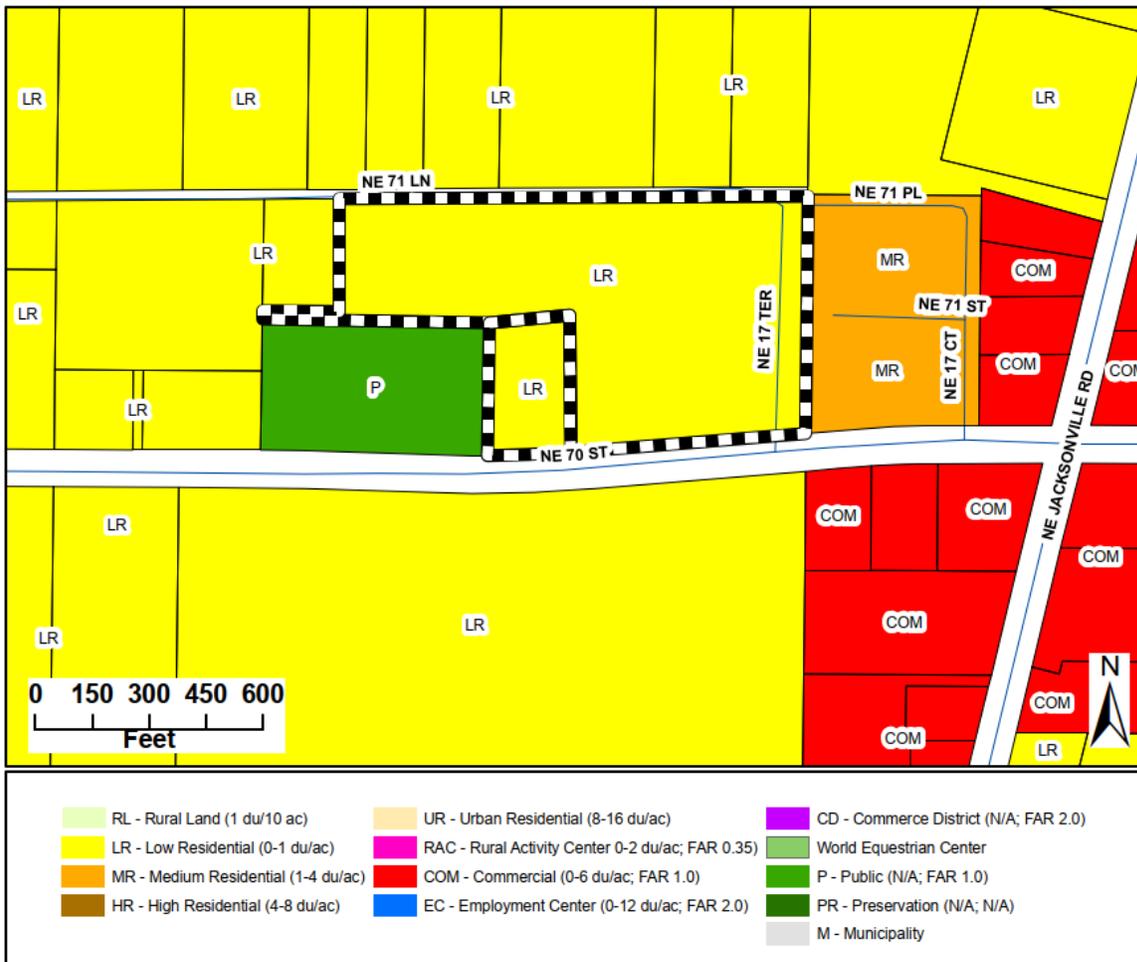
Enforcement case and a Building Safety Code Enforcement case related to the activities on the property. The Zoning code case was opened on December 19, 2022, while the Building Safety case was opened on March 22, 2022. The submission of the Special Use Permit application puts the Zoning Code Enforcement case on hold pending the outcome of the SUP. However, this submission has no bearing on the Building Safety Code case. According to the Marion County Property Appraiser, the subject property's primary use is considered commercial which is inconsistent with the Future Land Use Map (FLUMS) and the current A-1 Zoning Classification.

Figure 2
Existing Conditions Map



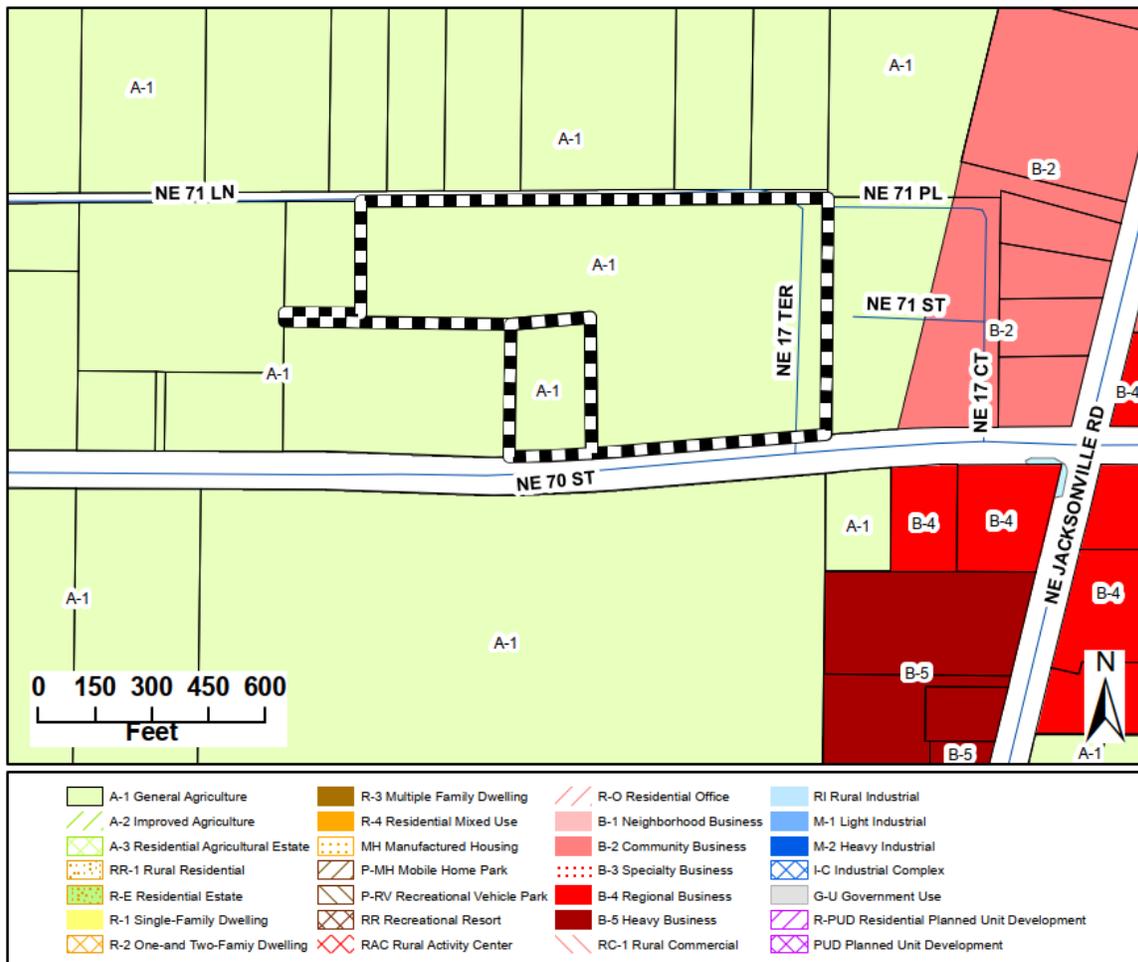
- B. *FLUMS designation.* Figure 3 is the FLUMS and it shows the subject property and abutting properties, to the north and south, are designated Low Residential (LR), which allows a maximum intensity of 0-1 dwelling units per acre. This is the subject properties initial FLUMS. To the east there is a large parcel with Medium Residential FLUMS and a commercial node beyond that to the east. To the west, is a drainage retention area that has a FLUMS of Public.

**Figure 3
FLUMS Designations**



C. *Zoning district map.* Figure 4 shows the subject property, and the surrounding properties are classified as General Agriculture (A-1). The A-1 Zoning Classification is the original zoning for the subject property.

Figure 4
Zoning Classification



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 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 conceptual plan shows access to the subject property is provided by a gravel drive way on NE 70th Street, an arterial road maintained by the State of Florida (see Attachment A). The property is addressed off of NE 17th Terrace, a County maintained local subdivision road that provides access to the subject property and properties to the north of the subject property. The Office of the County Engineer’s traffic department (OCE-Traffic) states that the use will likely

generate less than 50 peak hour trips. Any connection to NE 70th Street will require permitting with the Florida Department of Transportation (FDOT).

- A site plan shall be submitted to and approved by the Development Review Committee before baseball activities may commence on the property. Any improvements required to the
- A driveway permit from FDOT is required and driveway improvements shall be made before baseball activities may commence on the property.

- 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 conceptual plan shows a proposed grass parking area but does not provide a breakdown of the number of parking spaces to be provided or how the spaces will be delineated. The plan also does not show where any paved ADA parking is proposed.

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

Analysis: The Findings of Facts states that the applicant shall ensure that the garbage is collected and transported to a designated recycling facility in a timely manner (see Attachment A).

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

Analysis: The Findings of Facts states that there is an existing septic tank and well on site and that portable toilets may be utilized on a temporary basis during special events (see Attachment A).

- Permanent restroom facilities shall be constructed on the site, included on the site plan and with all required permits.

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

Analysis: The Findings of Facts, in Attachment A, states that the existing vegetation along the eastern boundary is to remain and that the grazing area on the western portion of the property will be the buffer to the west. The applicant also states a 25' easement to the north separates the subject property from the parcels to the north. Staff finds that this separation area is not an easement but a 25' wide County maintained right of way where NE 71st Lane is, a local subdivision road. Staff has made several visits to the site since this application was submitted and several visits were made before the application was submitted. No livestock is on the property, so the term grazing land does not make sense. If this Special Use Permit is approved, to mitigate any negative impacts of buffering, staff recommends the following condition.

- Modified Type C Buffers shall be installed and maintained along the north, south, and western boundaries of the subject property. The buffer shall contain at least two shade trees and three accent/ornamental trees for every 100 lineal feet or fractional part thereof. Shrubs and groundcovers, excluding turfgrass, shall comprise at least 50 percent of the required buffer and form a layered landscape screen with a minimum height of three feet achieved within one year and a minimum height of five feet within three years.
- The trees on the eastern boundary of the property shall remain and be maintained. A hedge shall be installed and maintained just inside the fence on the eastern boundary. The hedge shall reach a minimum height of five feet within three years.

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 Conceptual Plan shows at least six light poles with stadium lighting on them (see Attachment A). The Findings of Facts in Attachment A, states that temporary signage will be used during special events. Staff finds that all of the improvements on the Conceptual Plan, including the stadium lights, currently exist without permits. If the SUP is approved then the lights will be required to have permits and be consistent with the Marion County Land Development Code. The lights will not be allowed to cast glare on adjacent properties or Right of Way. If this Special Use Permit is approved, to mitigate any negative impacts of signs and exterior lighting, staff recommends the following conditions.

- Any signs will be temporary and in connection to a Special Event Permit.
- Exterior lighting shall adhere to Section 6.19 of the Marion County Land Development Code. All stadium lights shall be off by 10 p.m. daily.

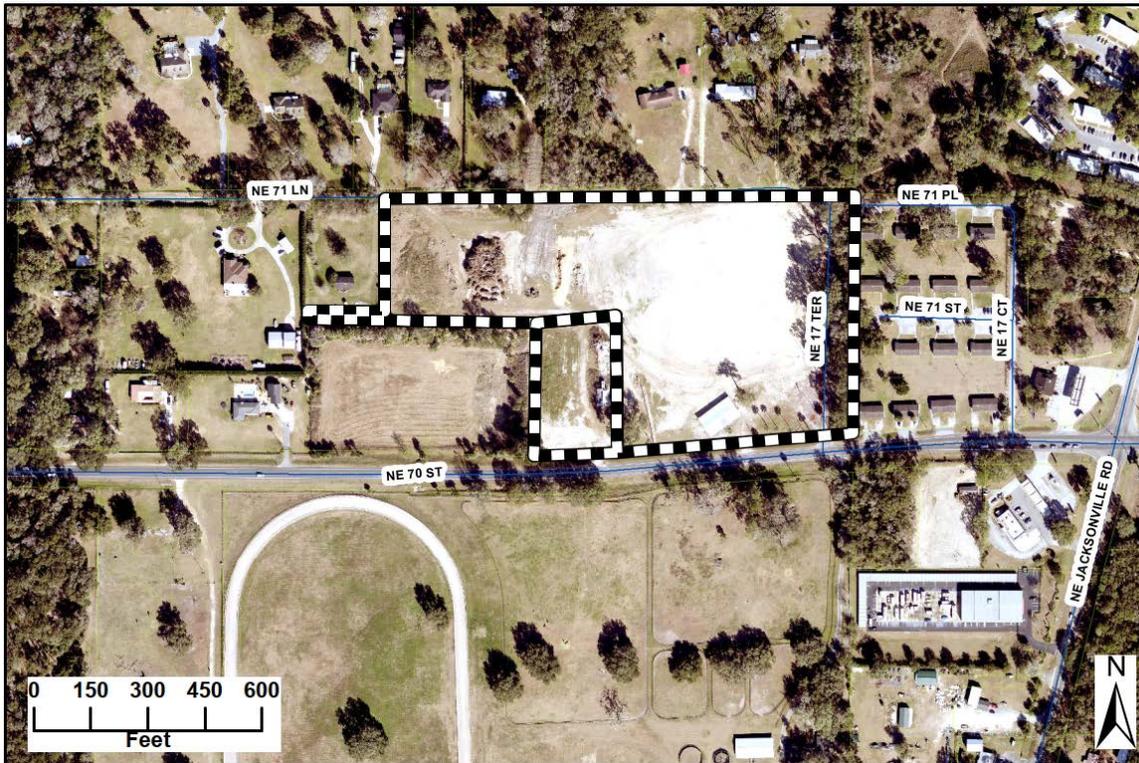
G. *Provision for **required yards and other green space**.*

Analysis: The proposed use is a private park with baseball fields. If the SUP is approved, limiting the uses to the uses on the Conceptual Plan with the addition of permanent onsite restroom will allow for ample green space. To ensure the site is limited if the SUP is approved, staff recommends the following condition.

- The site shall be developed and operate consistent with the Conceptual Plan and the required buffers and onsite restrooms. Any other expansions of the site will require a new SUP.

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

Figure 5
Adjacent Uses



Analysis: 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 properties. Figure 5 is an aerial photograph showing the subject property and adjacent properties and existing subdivisions within the area. The proposed SUP is requesting a private park for three (3) baseball fields with stadium lighting, dugouts, and batting cages. The subject property is surrounded by residential uses with multifamily uses to the east. Sportsplexes and parks are not uncommon uses adjacent to residential as a community use. Here the park is not open to the public or considered part of any existing community. If the SUP is approved and the structures all were permitted and the buffers were installed, the park could be viewed as compatible with the surrounding area.

- 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 is concerned that the parking, lighting, and noise produced from the proposed may be a nuisance to the surrounding properties. Staff is also concerned about the applicant's willingness to comply with conditions imposed if the SUP is approved. There have been multiple code cases ongoing for over a year. The applicant had been

informed early in the process that a SUP would be required for the proposed use and the applicant did not submit an application for a SUP until February 24, 2023. There are concerns with lighting and noise throughout the week, however, if the SUP is approved, there may be flexibility to allow organized baseball tournaments on the weekends by way of Special Event Permit. Special Event Permits are limited to 4 per year. If the SUP is approved, a two year time limit would allow the applicant ample time to get an approved site plan, finish the permits for the structures on the site and operate the baseball fields to prove the intended use of the site will not adversely impact the surrounding area. In order to address the special requirements of the requested Special Use Permit for a private park with baseball fields and associated uses on A-1 zoned property then Staff recommends the following conditions be imposed:

- A change of use permit will be required before the proposed use starts.
- The proposed use is subject to all Marion County Noise Ordinances, including plainly audible.
- Hours of operation for organized baseball activities shall be limited to Monday through Thursday from 8 a.m. until 8 p.m. However, tournaments may be held on the weekends by way of Special Event Permit and limited to the hours of 8 a.m. until 8 p.m.
- All stadium lighting shall be shutdown by 8 p.m. daily.
- The Special Use Permit shall run with the existing applicant. This special use permit shall automatically become null and void should the subject property be transferred to another person.
- The Special Use Permit shall expire on May 16, 2025.

J. *Consistency with the Comprehensive Plan.*

1. 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 requires a Special Use Permit for a private park in A-1 zoning. A public park is a permitted use in A-1. 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 provided conditions to address the ten (10) requirements are imposed.

VI. ALTERNATIVE RECOMMENDATIONS

- A. Enter into the record the Staff Report and all other competent substantial evidence presented at the hearing, adopt the findings and conclusions contained herein, and make a recommendation to the Board of County Commissioners to **DENY** the special use permit application.

- B. Enter into the record the Staff Report and all other competent substantial evidence presented at the hearing, and make a recommendation to the Board of County Commissioners to adopt a proposed Ordinance to **APPROVE AS CONDITIONED** the special use permit application.
- C. 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 of County Commissioners to adopt a proposed Ordinance to **APPROVE WITH AMENDED CONDITIONS** the special use permit application.
- D. 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.

VII. STAFF RECOMMENDATION

- A. Staff recommends the Planning and Zoning Commission enter into the record the Staff Report and all other competent substantial evidence presented at the hearing, and make a recommendation to the Board of County Commissioners to adopt a proposed Ordinance to **Deny** the special use permit application.
- B. To address compliance with LDC Sections 2.8.2.D and 2.8.3.B, the following conditions are imposed: (Black are original conditions, green are conditions added by the Planning and Zoning Commission, blue are conditions altered or added by staff after meeting with the applicant's agent on 5/8/202).
 1. A site plan shall be submitted to and approved by the Development Review Committee before baseball activities may commence on the property. **Any improvements required to the site shall be completed before any organized baseball activities may be conducted.**
 2. A driveway permit from FDOT is required, and driveway improvements shall be made before baseball activities may commence on the property.
 3. Permanent restroom facilities shall be constructed on the site, included on the site plan and with all required permits. **However, portable restrooms may be used for up to 9 months until permanent restrooms are built.**
 4. Modified Type C Buffers shall be installed and maintained along the north, south, and western boundaries of the subject property. The buffer shall contain at least two shade trees and three accent/ornamental trees for every 100 lineal feet or fractional part thereof. Shrubs and groundcovers, excluding turfgrass, shall comprise at least 50 percent of the required buffer and form a layered landscape screen with a minimum height of three feet achieved within one year and a minimum height of five feet within three years.
 5. The trees on the eastern boundary of the property shall remain and be maintained. A hedge shall be installed and maintained just inside the fence on the eastern boundary. The hedge shall reach a minimum height of five feet within three years.

6. Any signs will be temporary and in connection to a Special Event Permit.
7. Exterior lighting shall adhere to Section 6.19 of the Marion County Land Development Code. **All stadium lights shall be off by 8 p.m. daily.**
8. The site shall be developed and operate consistent with the Conceptual Plan and the required buffers and onsite restrooms. Any other expansions of the site will require a new SUP.
9. A change of use permit will be required before the proposed use starts.
10. The proposed use is subject to all Marion County Noise Ordinances, including plainly audible.
11. **Any concessions sold on the site shall be limited to food and drink only and limited to times of organized baseball use on the property. No new structures shall be constructed for concessions. Roadside vendors are allowed as per Section 4.3.12 of the Marion County Land Development Code.**
12. Hours of operation for organized baseball activities shall be limited to **Monday through Thursday from 8 a.m. until 8 p.m.** However, tournaments may be held on the weekends by way of a Special Event Permit and limited to the hours of 8 a.m. until 8 p.m. **(This conflicts with Condition 14, BOCC will decide if approval is granted)**
13. **Maintenance activities may take place during daylight hours, Monday through Saturday.**
14. **No tournaments shall take place on the property, not even with a Special Event Permit.(This is from P&Z).**
15. The Special Use Permit shall run with the existing applicant. This special use permit shall automatically become null and void should the subject property be transferred to another person.
16. The Special Use Permit shall expire on May 16, **2025**.

VIII. PLANNING AND ZONING COMMISSION RECOMMENDATION

Approval with alternative conditions provided above in green. New additions to the report and conditions from Staff are in blue.

IX. BOARD OF COUNTY COMMISSIONERS ACTION

To be determined.

X. LIST OF ATTACHMENTS

- A. SUP application was filed on February 24, 2023.
- B. Site Photos.
- C. DRC Comments.