



**Marion County
Board of County Commissioners**

Growth Services

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**PLANNING & ZONING SECTION
STAFF REPORT**

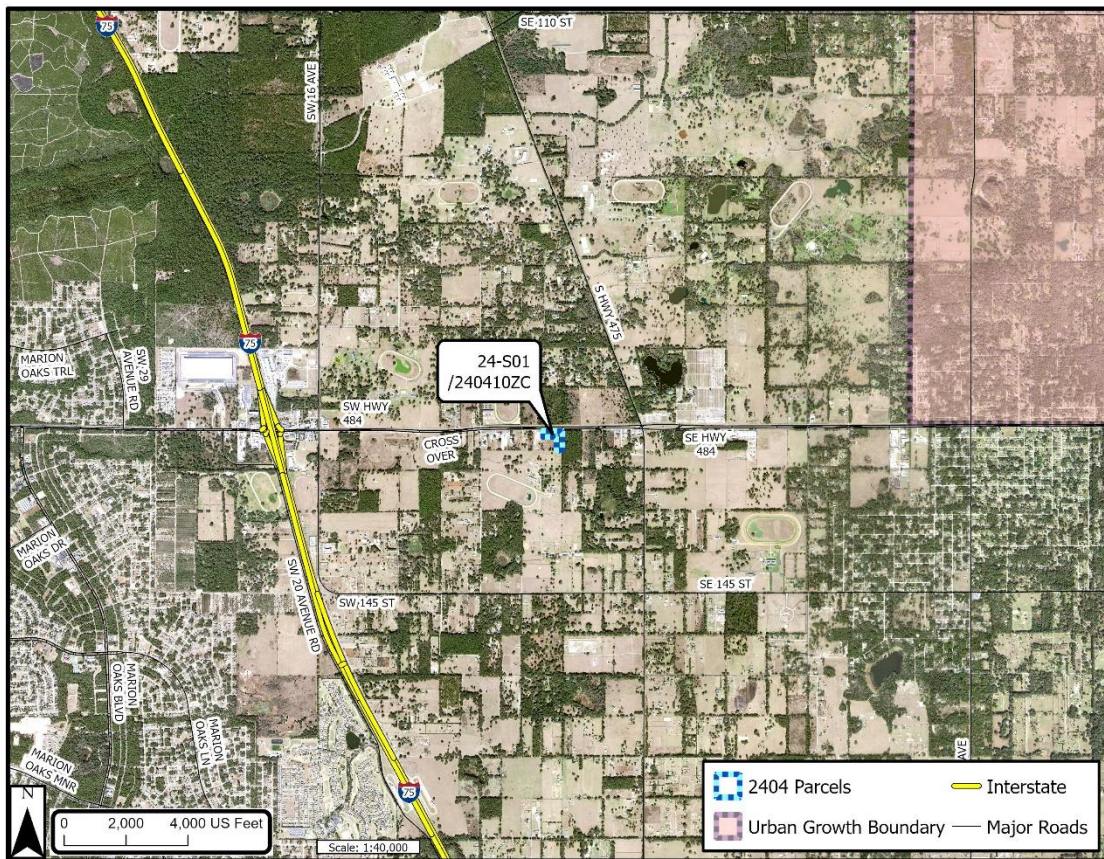
Hearing Dates:	P&Z Date: 3/25/2024, at 5:30 PM	BCC Date: 4/17/2024, at 1:00 PM
Case Number	240410ZC	
CDP-AR	31103	
Type of Case	Rezoning from General Agriculture (A-1) to Heavy Business (B-5)	
Owner	Richard Bernasol	
Applicant	Travis Aldana	
Street Address/Site Location	CR 484, E of I-75; no address assigned	
Parcel Number(s)	41489-000-00	
Property Size	±5.39-acres	
Future Land Use	Public (P)	
Existing Zoning Classification	General Agriculture (A-1)	
Overlays Zones/Special Areas	Outside the Urban Growth Boundary (UGB), Inside the Secondary Springs Protection Zone (SSPZ)	
Staff Recommendation	DENIAL	
P&Z Recommendation	Approval, 6:0	
Project Planner	Eryn Mertens, Planner II	
Related Cases	24-S01	

This report has been updated for the second hearing before the BCC.

I. ITEM SUMMARY

Travis Aldana, as agent for Richard Bernasol, filed a rezoning application to change ± 5.39 acres of a parcel from General Agriculture (A-1) to Heavy Business (B-5) (see Attachment A). The Parcel Identification Number (PID) for the overall property is 41489-000-00 and it is located on CR 484, east of I-75; no address has been assigned to the property. The legal description is contained within the site deed provided in the Application. The site is located outside of the Urban Growth Boundary (UGB), but inside the Silver Springs Secondary Springs Protection Zone (SSPZ), and while it is technically in the Marion County Utilities' Utility Service Area, services to this site are currently unavailable, and connection distance would be determined during a formal Site Plan review.

Figure 1
General Location Map



II. STAFF SUMMARY RECOMMENDATION

Staff recommends **DENIAL** of the rezoning application. The rezoning will establish a zoning district inconsistent with the site's land use and allow for development of a commercial parcel that is inconsistent with the Rural Activity Center (RAC) which is less

than 1500 feet from this property to the east, and is currently 0.06% developed. The rezoning would also continue the pattern of proliferation of urban sprawl located on this stretch of CR 484, further congesting this road near I-75.

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 (6 owners) within 300 feet of the subject property on March 8, 2024. Consistent with LDC Section 2.7.3.B., public notice was posted on the subject property on March 5, 2024, with a correction made on the timing of the second (BCC) hearing posted on the subject property on March 27, 2024. Consistent with LDC Section 2.7.3.E., due public notice was published in the Ocala Star-Banner on March 11, 2024, with a correction published April 2, 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.

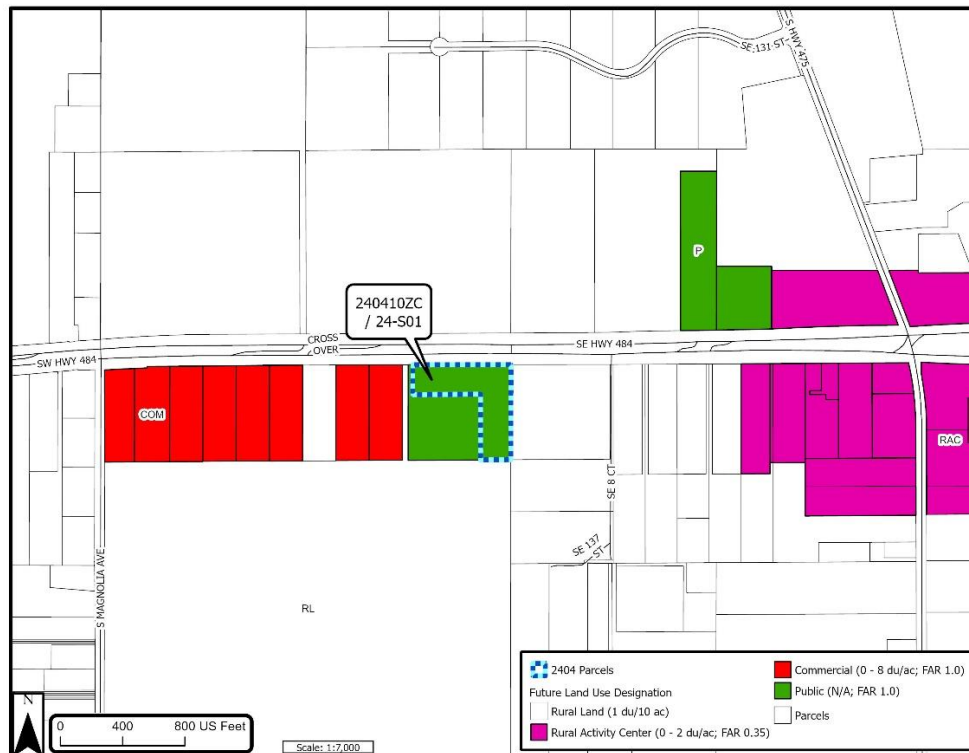
- A. *Compatibility with surrounding uses.* Compatibility is defined in Chapter 163.3164(9) of the Florida Statutes, under the Community Planning Act, as “a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition.” Figure 1 is a general location aerial displaying the area surrounding the subject property. Figure 2 is an aerial displaying a closer view of existing and surrounding site conditions.

Figure 3 shows the current FLUMS designations of the subject and surrounding properties. The area is largely Rural Land. To the east is a RAC which provides a node designed for Commercial Development, which today offers a total of 756,049 GSF of space for Commercial uses to occur in this rural area. Of the 756,049 GSF offered at this RAC, only 8 properties have been developed, totaling 43,666 SF (0.06% developed). Also displayed in Figure 3 is a mix of Commercial (COM) to the east of the subject property, and Rural Land (RL).

Figure 2
Property Aerial



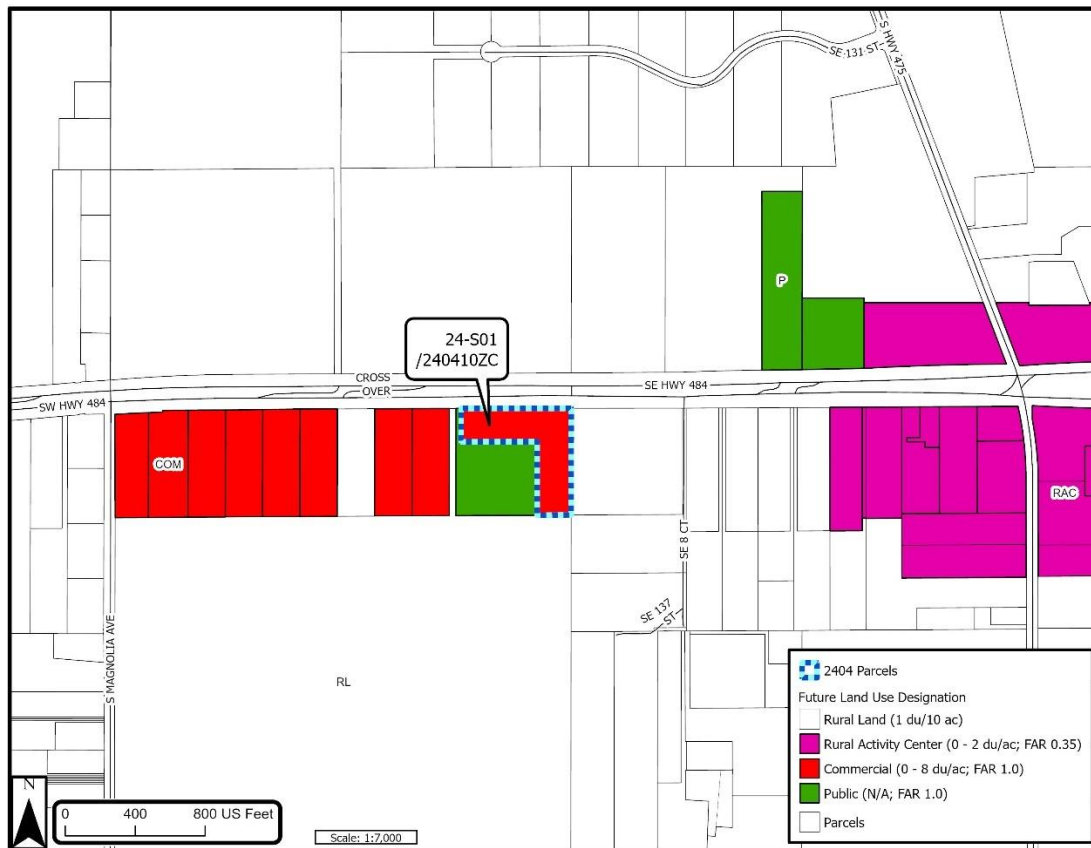
Figure 3
Current FLUMS Designation



A COM designation at the subject property would accommodate both neighborhood and community commercial uses, along with residential uses between 0-8 dwelling units per acre or a FAR of 1.0 and can accommodate single-family, multi-family, and commercial uses contingent on its zoning.

Figure 4 displays the proposed FLUMS designation in the companion request for a Small-Scale Comprehensive Plan Amendment to change the land use from Public (P) to Commercial (COM) for the subject property in relation to the existing FLUMS of the surrounding properties. Staff has recommended denial of that request, and therefore, granting the rezoning request would give the property a zoning classification which is inconsistent with its land use.

Figure 4
Proposed FLUMS Designation



Adjoining properties to the east are Rural Land, and to the west is a flag for the Water Retention Area parcel to the south with a Public future land use, and west of that flag is a Rural Land flag for Abracadabra Farm (122.49 acres). There are a few properties further west stretching to the corner which are Commercial in use with the exception of a church on Rural Land, zoned Rural Commercial (RC-1). Those Commercial properties have a zoning of B-5.

The application for rezoning indicates the site will be used for “commercial development”, and applicant has indicated that the site is intended to be utilized for “commercial warehouse for storage” (See Figure 8). The application is for a straight rezoning, which if granted, would allow the property owner all uses permitted within B-5 zoning, including commercial warehouse and storage”.

Figures 5 and 6 display the current and proposed zoning classifications of the subject and surrounding properties. Figure 7 provides an aerial image of the subject property and immediate surrounding area, while Figure 9 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 3, 5, 7 and 9 in tabular form. Consistent with LDC Section 2.7.3.D, staff conducted a site visit and finds the subject property is vacant, undeveloped and heavily treed.

Figure 5
Current Zoning Classification

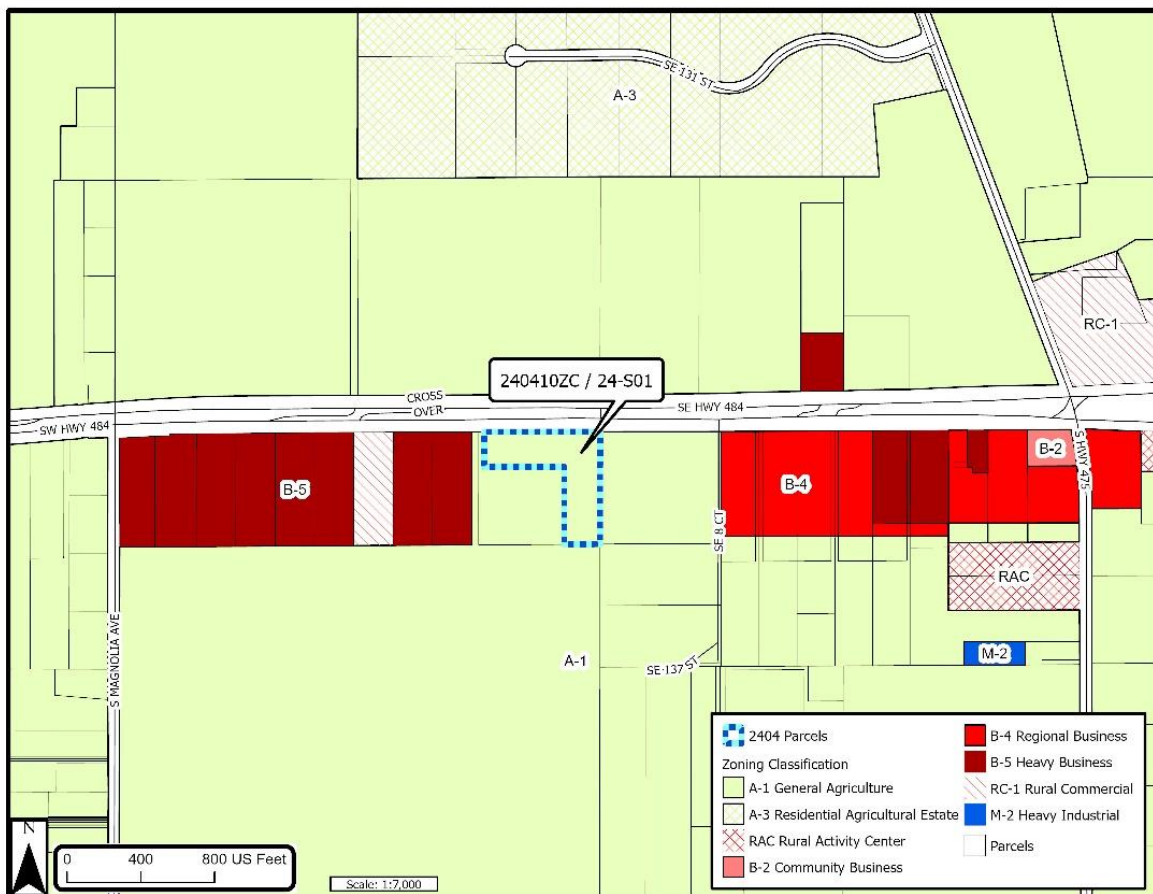


Figure 6
Proposed Zoning

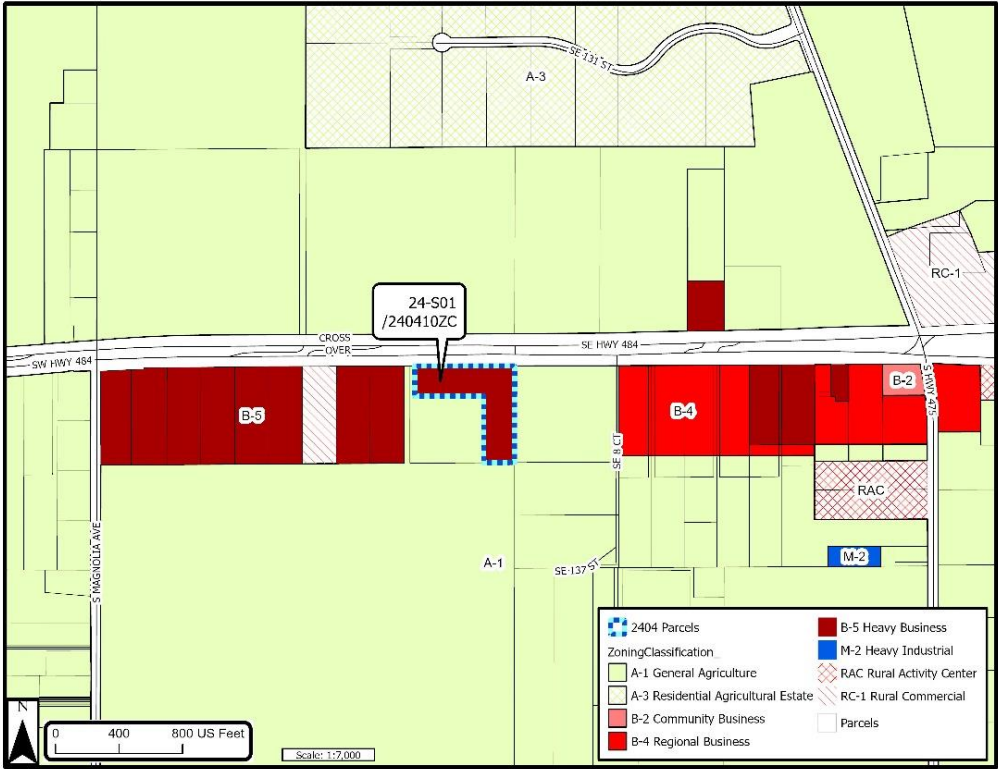


Figure 7
Property Aerial



Figure 8
Concept Plan submitted by Applicant (comparable project)



Figure 9
Existing Use per Property Appraiser Property Code

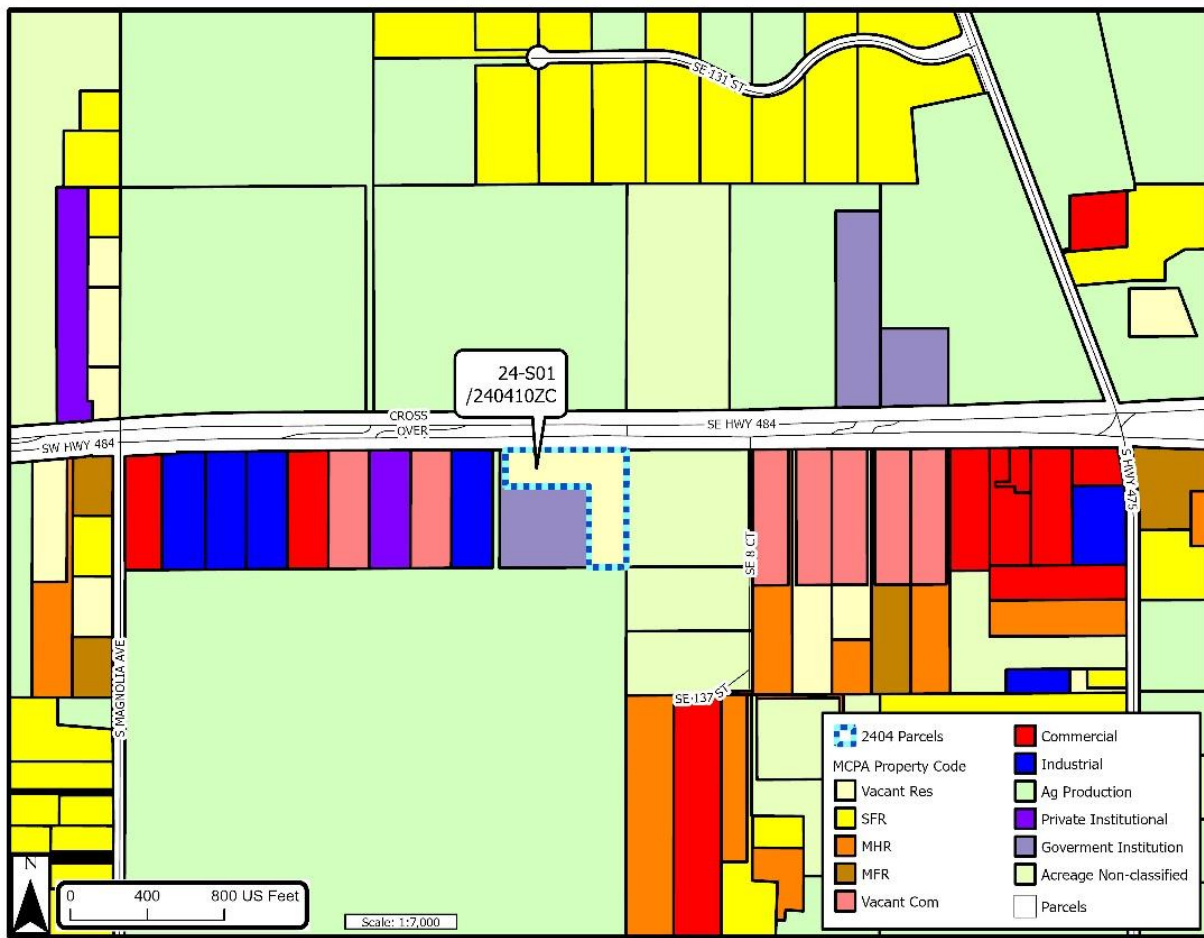


TABLE A. Adjacent Property Characteristics			
Direction	FLUM Designation	Zoning Classification	Existing Use per Property Appraiser Code
North	Rural Land (RL)	General Agriculture (A-)	Timberland
South	Rural Land (RL)	General Agriculture (A-1)	Grazing Land
East	Rural Land (RL)	General Agriculture (A-1)	Acreage not classified; monopole tower
West	Public (P); Rural Land (RL)	General Agriculture (A-1)	County Property, Grazing Land

Properties west of the flags that immediately border the subject property, which stretch westward toward I-75 to S Magnolia Ave have had similar requests to this one over the years:

- 1) For parcel 44617-001-00, Travis Aldana was successful in **2021** to secure an approval of a land use change from Rural Land to Commercial to be compatible with a B-5 zoning which that 3-acre parcel already carried (Land Use Amendment 22-S11). **Staff recommended denial** as the property, like the subject property in this case, is surrounded by large tracts of General Agriculture (A-1) with Rural Land future land use designations, citing the County's policy to *discourage scattered and highway strip commercial development*. See, *Policy 1.1.7* in the Marion County Comprehensive Plan. This is only one reason which staff cited as support for denying the land use change request. Additional reasoning included the location of the property subject to that 2021 request; it is about 2.15 miles outside of the Urban Growth Boundary, and the proposed Commercial designation is considered urban area land use, which is not consistent with Comprehensive Plan *Policy 2.1.7* regarding the conversion of rural lands, and *Policy 2.1.22*, regarding Commercial land use, and thus, approving that application *could encourage urban sprawl*. Our Traffic Division of the Office of the County Engineer made some comments on the Development Review Committee Letter which noted specific concerns as to *high traffic impact* compared to the existing rural land use. *Access onto CR 484* was also cited to be of considerable concern, and thus is one way that request was predicted to adversely affect the public interest. The **Board ultimately approved** the requested land use change.
- 2) Approximately one (1) year after that application was approved (**2022**), an application was then submitted, also represented by Travis Aldana, seeking a future land use change for two (2) parcels; one neighboring the 2021 request property, and the other, two parcels west. At that point, those parcels were bordering the previously approved Commercial land use change (with B-5 zoning) to the east of the eastern parcel subject to that application, and a Policy

1.20 commercial property operating as the Thoroughbred Hardware and Feed store, which is located west of the western parcel subject to that application. Sandwiched between the two parcels subject to the 2022 application is a church, which at the time of the 2022 application, had an RC-1 zoning classification on Rural Land and was permitted to operate as a church under a 2012 Special Use Permit. There was a companion request in 2012 to change from B-5 to RC-1, which was approved, as well.

For this 2022 request, The Traffic Division noted the following concerns:

- a. "...potential to have a high traffic impact compared to the existing rural land use. At a FAR of .25, the potential traffic generated from this site for a shopping center is 234 peak hour trips. However, it appears a Commercial land use allows a FAR of 1.0. This has the potential to generate up to 1,960 trips.
- b. Access onto CR 484 is also a concern. This is a high speed rural arterial roadway where there is a need to minimize access points onto the road for safety and operational reasons.
- c. There is already a driveway located next to this parcel which would provide a driveway spacing of less than 200 feet which is far less than the required 660 feet for this roadway.
- d. In addition, approving a commercial use for this parcel increases the likelihood of commercial uses being approved for the adjacent parcels which all have only 200 feet of frontage on CR 484.
- e. Without a coordinated access management plan, multiple commercial driveways may end up within 800 feet of each other. Considering all the existing driveways west of Magnolia Avenue to SE 8th Court, there could end up being between 6-7 driveways (including SE 8th Court) within a distance just under 1,500 feet which is an average spacing that is less than 250 feet on a high speed rural arterial roadway."

Staff recommended approval of this request *but was unable to find that it was compatible with the surrounding land uses*. Ultimately, the **Board approved** the 2022 request.

Now, in **2024**, the instant rezoning site is also along CR 484, and in continuing the strip commercial along this arterial road, is seeking a change from A-1 to B-5 to place another commercial storage facility outside the area designated for commercial development. The site is a little more than 2 miles outside the Urban Growth Boundary, and a few hundred feet outside a Rural Activity Center, which is really where the County has stated is where commercial development such as this should be encouraged.

Of note, two parcels west of the western parcel subject to the 2022 application, is a storage facility known by the Marion County Property Appraiser's office as Neighborhood Storage #19, which offers 259 storage units for rent by the community.

The proposed rezoning would conflict with FLUE Policy 1.1.7, in our Comprehensive Plan, which requires the County to discourage strip commercial such as this.

Further, it conflicts with FLUE Policy 2.1.21 regarding Rural Activity Centers by diluting their effectiveness. RACs are where the County has elected to encourage commercial development in rural areas. Allowing the strip commercial just outside of the RAC to continue expanding would be the antithesis of what the County has set forth in our Comprehensive Plan as applicable to guiding commercial growth in our county, especially that rural areas.

It would also contradict FLUE Policy 2.1.6 with regard to the protection of our rural areas, in that there is no infrastructure established in the area with regard to utilities.

The proposed rezoning also conflicts with FLUE Policy 3.1.1, which speaks to the purpose for establishing the Urban Growth Boundary: “[the UGB] reinforces the preferred land use patterns of Marion County through policies that are designed to effectively discourage the proliferation of urban sprawl.”

Premature urbanization of this rural area fails to promote the County’s objectives to guide growth in our community in a mindful way, and it instead encourages the proliferation of urban sprawl. Simply owning property and wanting your property to have commercial entitlement, doesn’t make it an appropriate place for commercial uses, or that now is the most appropriate time to bring more commercial entitlement to this location in our community. In addition to the failure to demonstrate how this request is consistent with our Comprehensive Plan, our Land Development Code, or Florida Statutes, as well as failing to show it is compatible with the surrounding area (more so than inside the RAC next door, or inside the UGB just over 2 miles down the street), there has been no demonstration that there is a need for more commercially-entitled land, here.

The request is opposite to several County objectives and policies as established in the Comprehensive Plan, and is allowing the continuation of this pocket of urban sprawl.

Based on the above findings, staff concludes the proposed rezoning application **is not compatible with the existing and future surrounding land uses** because: the proposed rezoning would allow for premature urbanization of the area; encourage the continued proliferation of commercial uses outside the UGB, outside the neighboring RAC, and outside utility service areas; and encourage continued strip commercial on an arterial highway, in an area surrounded by large agricultural/rural properties, and thus encourage urban sprawl. To preserve the County’s objectives in preserving properties like this one, and to maintain the effectiveness of the nearby RAC, Staff recommends that the Board consider ending this pocket of strip commercial with the most recent 2022 request, and prevent further commercial expansion, here, now.

B. *Effect on the public interest.*

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

The following comment is provided on the DRC Comments Letter by the Traffic Division of the Office of the County Engineer (See Attachment B):

“Recommend denial. B-5 zoning allows for any type of commercial development including very high traffic generating uses like a shopping center. No detailed traffic information has been provided even though it is now required with any re-zoning, so a detailed analysis can't be provided. However, the change from A-1 zoning to B-5 zoning will significantly increase the traffic generating potential from this site.

This site is also located along CR 484 which is a high-speed arterial roadway and will require another commercial driveway to be placed in close proximity to other driveways and nearby approved commercial [sic] properties. There is also no proposal for mixed use or cross access which would help reduce the use of the arterial roadway. So, local traffic between this and neighboring developments will have to use CR 484, increasing the impacts to this high-speed arterial roadway.

There appears to be plenty of undeveloped B-4 and B-5 land to the east and west of this site. Perhaps those areas should be allowed to develop first before adding more potential traffic to an arterial roadway.”

Based on the above findings, staff agrees with the concerns of the Office of the County Engineer, and concludes 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 150 gallons per person per day for residential demand and approximately 2,750 gallons per acre per day for nonresidential demand. Based on a commercial calculation, the proposed rezoning could result in a potential demand of 7,288 gallons per day.

The following comment is provided on the DRC Comments Letter (see Attachment B), and reflects concerns from Marion County Utilities:

“PROPOSED CONDITION - Marion County Utilities service area with available sewer force main within ~6000LF and water main within ~2700LF. Connection requirements cannot be established with the site plan proposed; commercial connection is determined by business type. DO NOT ASSUME well & septic will be permitted if changes approved. Subject to connection requirements in accordance with LDC 6.14.2, which would require extensive offsite main extensions at developer's expense.”

Based on the above findings, staff concludes the rezoning's potable water impacts would **potentially 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 a commercial calculation, the proposed rezoning would result in a potential demand of 5,300 gallons per day.

Based on the above findings, including the concerns expressed by Marion County Utilities, staff concludes the rezoning's sanitary sewer impacts **would potentially 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. Marion County has not established a solid waste commercial/industrial level of service standard as such operations provide for disposal with acceptable haulers, particularly as commercial storage facilities (assuming this is the use that is submitted for formal review – this is a straight rezoning and no formal review is required; property owner would be entitled to any and all uses permitted in the B-5 zoning classification) may also opt for a dumpster form of collection. Based on the above, it is concluded the rezoning solid waste impacts **would potentially not adversely affect the public interest.**

5. Recreation. Recreation Element Policy 1.1.1. adopts a level of service standard (LOSS) of two (2) acres per 1,000 persons. Marion County has not established a recreation non-residential level of service. As such, a formal demand rate is not provided; however, staff notes that Marion County formally has ample Federal, State, and County-owned lands available for recreational activity and exceeds the currently established LOS standard. Based on the above, it is concluded 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 following comment is provided in the DRC Comments Letter (see Attachment B) and reflects concerns posed by the Stormwater Division of the Office of the County Engineer:

“Stormwater is not opposed to the rezoning. The applicant proposes to rezone from A-1 to B-5. Parcel# 41489-000-00 is currently zoned A-1 and is a total of 5.39 acres in size. There are no FEMA Special Flood Hazard Areas or Flood Prone Areas on the property. Per the MCPA, this parcel currently has 0 SF of impervious coverage. This site will be subject to a Major Site Plan when its existing and proposed impervious coverage exceeds 9,000 SF impervious coverage.”

Based on the above, it is concluded the rezoning stormwater/drainage impacts **would potentially not adversely affect the public interest.**

7. Fire rescue/emergency services, and Law enforcement. The County's Belleview Fire Station #18 is located ± 6.7 miles northeast of the site at 11941 SE 55th Ave. The Sheriff's Marion Oaks District Office is located ± 4.8 miles to the west at 280 Marion Oaks Lane. Site development will be required to address public safety requirements. Public safety service response times will vary based on whether the response units are at the stations or on the road, and service may also be provided by other surrounding facilities. Final conformance with all public safety needs will be coordinated with any site development proposals as part of the development review processes for the site, consistent with Marion County's Land Development Regulations.

Based on the above, it is concluded the rezoning fire rescue/emergency, and law enforcement impacts **would not adversely affect the public interest.**

8. Public schools. The proposed rezoning's commercial nature is not expected to generate a student population in a structured form. Based on the non-residential aspect of this request, it is concluded that the **would not likely adversely affect the public interest.**

In summation, staff finds that the proposed zoning change **will adversely affect the public interest** due to the transportation impacts projected.

C. *Comprehensive Plan consistency.*

1. **FLUE Policy 1.1.7: Discourage Scattered and Highway Strip Commercial Development**, provides "[t]he 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 rezoning request proposes to conflict with this policy. Staff finds the future site redevelopment will be **inconsistent** with FLUE Policy 1.1.7.

2. **FLUE Policy 2.1.22: Commercial (COM)** is intended to provide for mixed-use development focused on retail, office, and community business opportunities to meet the daily needs of the surrounding residential areas; and allows for mixed residential development as a primary use or commercial uses with or without residential uses. The density range shall be up to eight (8) dwelling units per one (1) gross acre and a maximum Floor Area Ratio of 1.0, as further defined in the LDC. This land use designation is allowed in the Urban Area and allows for campgrounds and recreational vehicle parks (RVP).

Analysis: Staff finds the proposed rezoning will establish a site zoning inconsistent with the site's current Public future land use designation. Staff recommends the Board deny the proposed Commercial land use designation in the companion application request, and the B-5 proposed rezoning is located outside the urban area, which makes it inconsistent here. Staff therefore concludes the proposed rezoning is **inconsistent** with FLUE Policy 2.1.22.

3. **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 March 25, 2024 Planning and Zoning Commission and, therefore, the application is **consistent** with this FLUE Policy 5.1.3.

4. **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.

5. **FLUE Policy 7.4.3 (P/SSPZ) Permitted Uses** provides that the County shall implement and maintain an 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 Secondary SPZ that will establish specialized stormwater design standards, particularly depending on soil and subsurface characteristics of the site. Staff notes that compliance with SSPZ requirements will seek to address potential adverse impacts wherein site use would be **consistent** with FLUE Policy 7.4.3.

6. **Transportation Element (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: Staff defers to OCE-Traffic, and concludes based on the concerns expressed in the DRC Comments Letter (Attachment B) that the proposed rezoning will be **inconsistent** with TE Policy 2.1.4.

Based on the above findings, staff concludes the proposed rezoning **is inconsistent 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, *adopt* the findings and conclusions contained herein, and **APPROVE** the rezoning amendment.
- B. 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 **APPROVE** 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 decision on the proposed Ordinance, and **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 **DENY** the proposed rezoning because the application:

- A. Will **adversely affect** the public interest;
- B. Is **inconsistent** with the Comprehensive Plan provisions because it is in conformance with:
 - 1. FLUE Policies 1.1.6, 2.1.22, 3.1.1, 5.1.3., and 5.1.4,
 - 2. TE Policy 2.1.4; and
- C. Is **incompatible** with the surrounding uses.

VII. PLANNING & ZONING COMMISSION RECOMMENDATION

Approval, 6:0. Item was considered on March 25, 2024, at 5:30 PM.

VIII. BOARD OF COUNTY COMMISSIONERS ACTION

To be determined. Scheduled for April 17, 2024, at 1:00 PM.

IX. LIST OF ATTACHMENTS

- A. Rezoning application
- B. DRC Staff Review Remarks
- C. Site Photographs