



**Marion County  
Board of County Commissioners**

Growth Services

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**PLANNING & ZONING SECTION  
STAFF REPORT**

<b>P&amp;Z Date: 08/26/2024</b>	<b>BCC Date: 09/17/2024</b>
<b>Case Number</b>	240907ZC
<b>CDP-AR</b>	31705
<b>Type of Case</b>	<b>Rezoning</b> from Community Business (B-2) to Heavy Business (B-5) for Construction Equipment Sales.
<b>Owner</b>	US 441 Development LLC
<b>Applicant</b>	Ed Abshier
<b>Street Address/Site Location</b>	9946 South US 441, Belleview, FL
<b>Parcel Number(s)</b>	36862-000-00
<b>Property Size</b>	±2.54 acres
<b>Future Land Use</b>	Commercial (COM)
<b>Existing Zoning Classification</b>	Community Business (B-2)
<b>Overlays Zones/Special Areas</b>	Urban Growth Boundary (UGB), Primary Springs Protection Zone (PSPZ)
<b>Staff Recommendation</b>	<b>APPROVAL</b>
<b>P&amp;Z Recommendation</b>	<b>APPROVAL (CONSENT)</b>
<b>Project Planner</b>	Kenneth Odom, Senior Planner/Transportation Planner
<b>Related Cases</b>	None

## I. ITEM SUMMARY

Ed Abshier, agent for US 441 Development LLC, filed a rezoning application to change a  $\pm 2.54$ -acre parcel from Community Business (B-2) to Heavy Business (B-5) on June 26, 2024 (see Attachment A). The Parcel Identification Number for the property is 36826-000-00; the site address is 9946 South US 441, Belleview, FL and the legal description is provided within the application (see Attachment A). The site is located within the Primary Springs Protection Zone (PSPZ) as well as the Urban Growth Boundary (UGB). The application proposes rezoning the entire  $\pm 2.54$ -acre parcel for all uses permitted within the proposed zoning classification.

**Figure 1**  
**General Location Map**



## II. STAFF SUMMARY RECOMMENDATION

Staff recommends **APPROVAL** of the rezoning application. Staff finds the rezoning is compatible with surrounding land uses, consistent with the Comprehensive plan, and will not adversely affect the public interest.

## 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 (12 owners) within 300 feet of the subject property on August 9, 2024. Consistent with LDC Section 2.7.3.B., public notice was posted on the subject property on August 12, 2024, and consistent with LDC Section 2.7.3.E., due public notice was published in the Ocala Star-Banner on August 12, 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 as well as all surrounding properties designated as Commercial (COM). The property is within the urban growth boundary (UGB) as well as the Primary Springs Protection Zone (PSPZ).

**Figure 2**  
**FLUMS Designation**

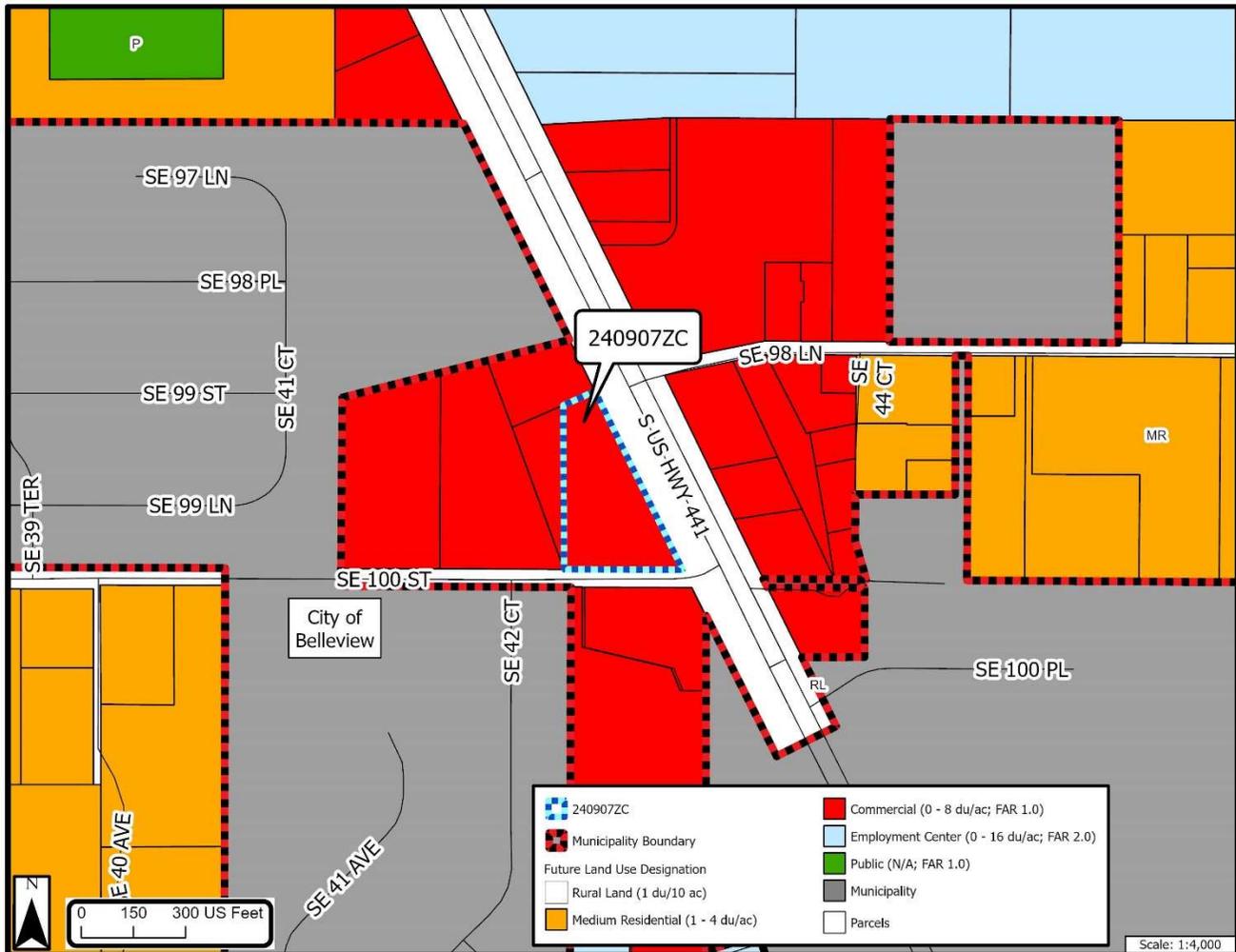


Figure 3 displays the zoning for the subject property in relation to the existing zoning of the surrounding properties and Figure 4 shows the proposed zoning. The subject parcel is surrounded by other commercially zoned parcels of B-2, B-4 and B-5 designations.

The site is located inside the Urban Growth boundary and within the Primary Springs Protection Zone (SSPZ). Higher intensity uses are permitted within the UGB and they currently exist in the immediate area. Dave's towing is immediately to the north of the subject parcel and Belleview Propane Inc. lies to the west. Additionally, Figure 5 displays the subject and surrounding properties' existing uses as established by the Marion County Property Appraiser Office's Property Code (PC). The subject parcel is a central property within a commercial node that encompasses properties on both sides of the US 441 corridor.

**Figure 3.  
Zoning Classification**

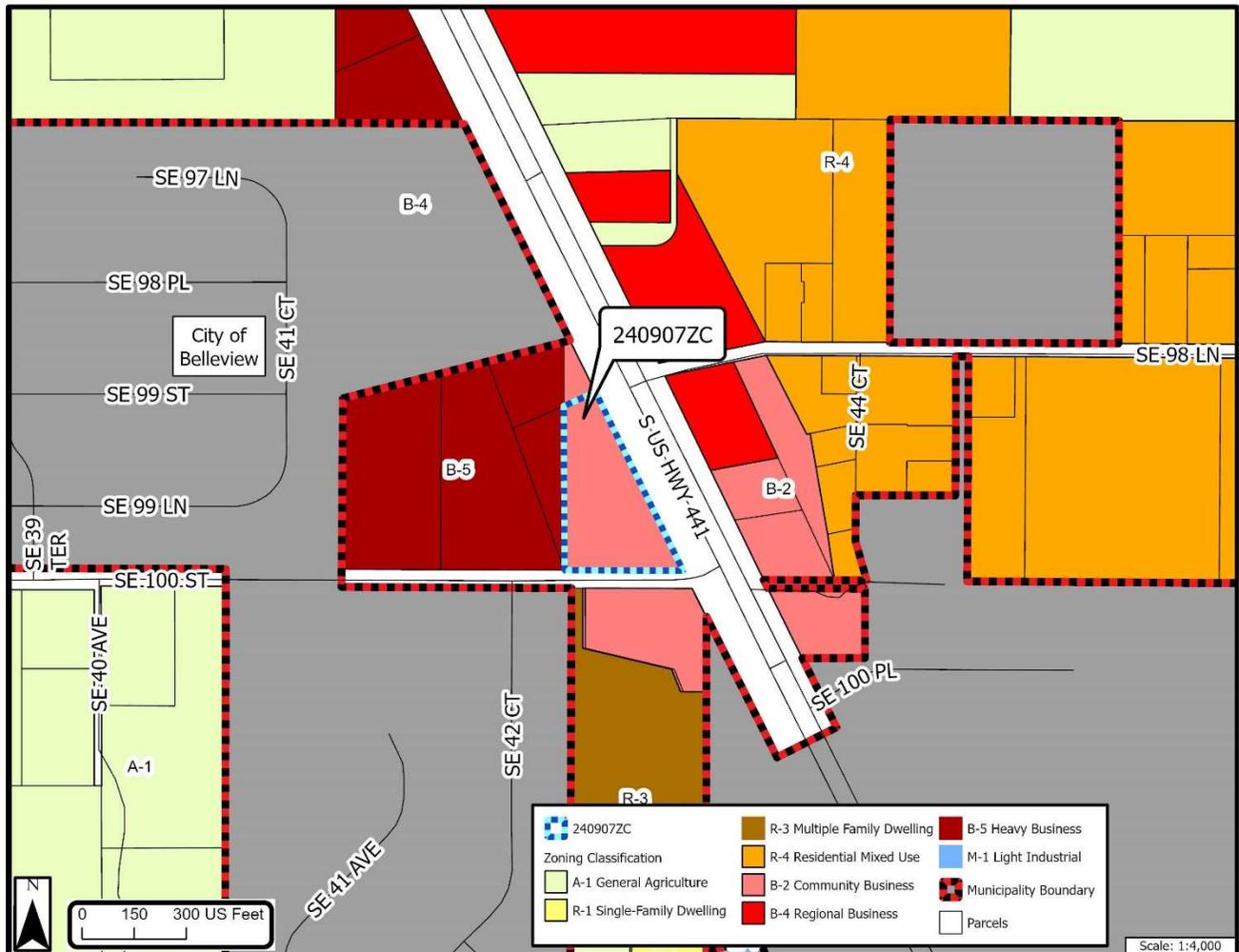
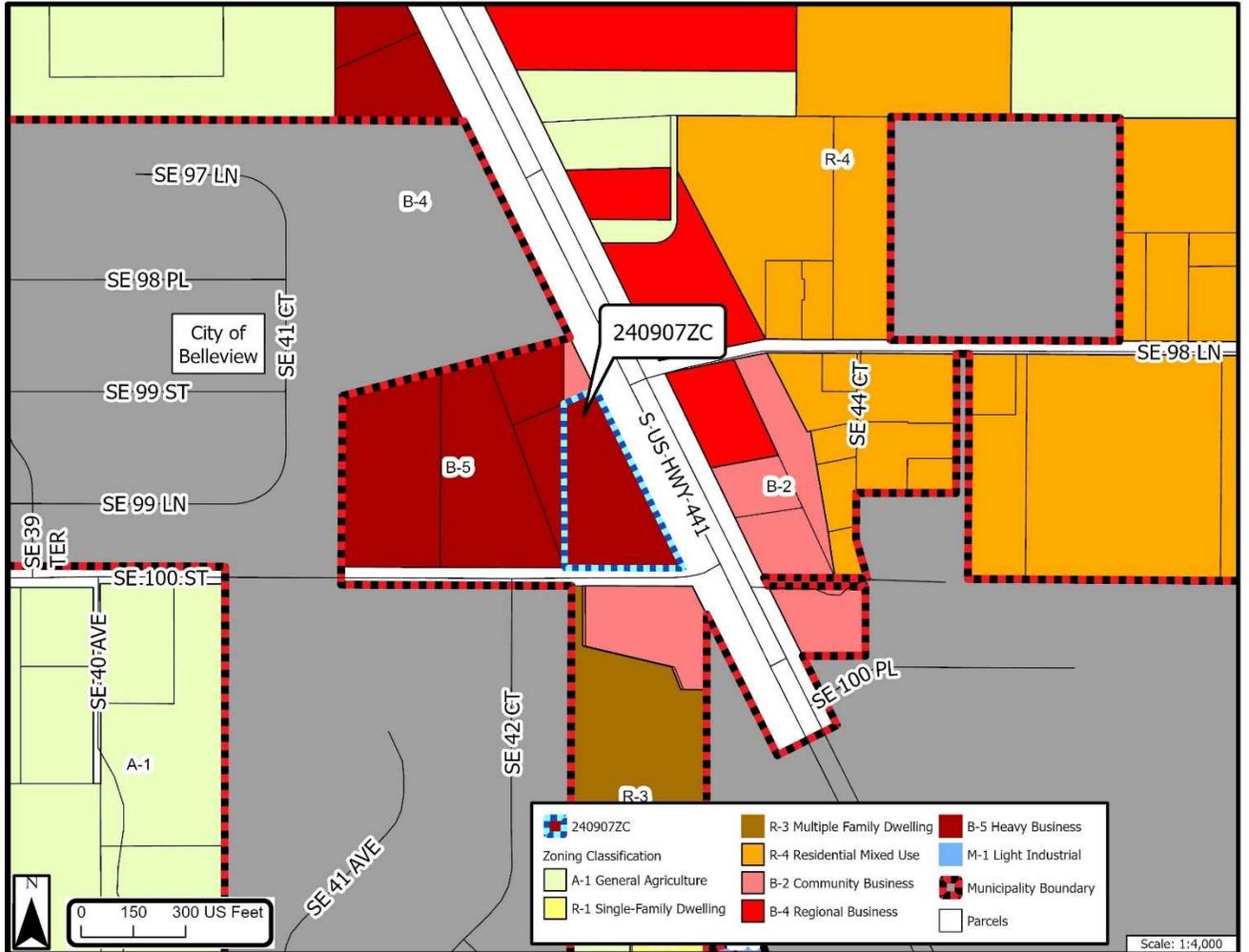


Figure 5 displays the subject and surrounding properties' existing uses as established by the Marion County Property Appraiser Office's Property Code (PC).

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 to be developed with a primary structure and large storage shed currently on-site.

**Figure 4.  
 Proposed Zoning Classification**



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

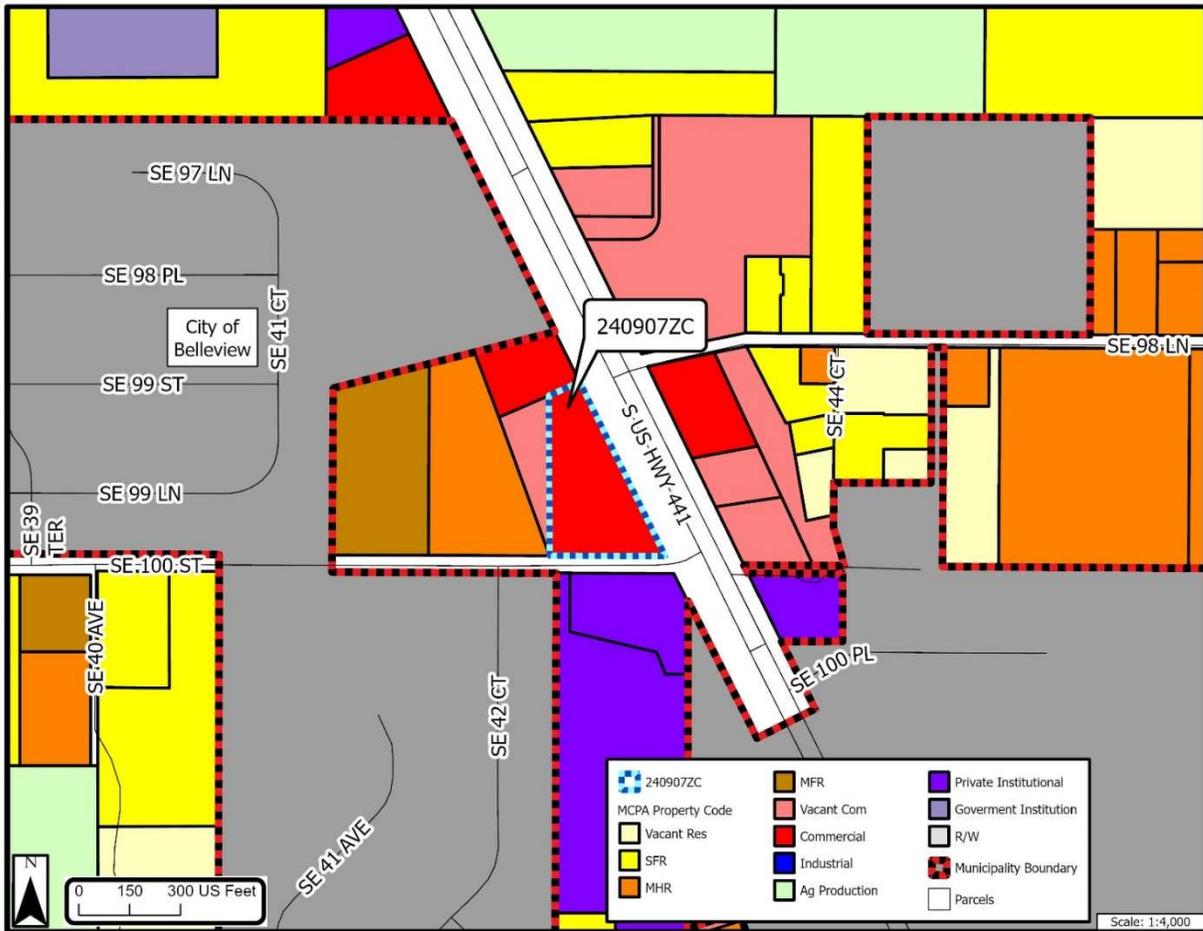


TABLE A. Adjacent Property Characteristics			
Direction	FLUM Designation	Zoning Classification	Existing Use per Property Appraiser Code
North	Commercial (COM)	Heavy Business (B-5) Community Business (B-2)	Commercial/Residential Mixed (12)
South	Commercial (COM)	Community Business (B-2) Multiple Family Dwelling (R-3)	Church (71)
East	Commercial (COM)	Regional Business (B-4) Community Business (B-2)	Professional Services (19)
West	Rural Land (RL)	Heavy Business (B-5)	Vacant Commercial (10) Improve Mobile Home (02)

Based on the above findings, the proposed rezoning application **is compatible** with the existing and future surrounding land uses. The proposed use previously operated at this location under Roman Equipment Inc.

*How does the request affect the public interest?*

1. Transportation impacts. These include roadways, public transit, and other mobility features.
  - a. Roadways. South US 441 as well as NE 100<sup>th</sup> Street to the south.
  - b. Public transit. There are no fixed route services in the area.
  - c. Other mobility features. No sidewalks currently exist along South US Hwy 441, but they are present on SW 100<sup>th</sup> Street. Sidewalks and a multi-use path will be developed by the FDOT in the coming fiscal year. 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.

The property is within the UGB and within the City of Belleview Utilities' Service Area 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 the UGB and within the City of Belleview Utilities' current 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 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 FEMA identified flood plain areas but does contain a Marion County identified flood prone area. Any new development resulting in additional impervious features on 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. The site is officially located in the service district for Marion County's Belleview Marion Fire Station #18, located at 11941 SE 55<sup>th</sup> Avenue Road, approximately 2.18 miles southeast of the subject property. 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, the rezoning **fire rescue/emergency impacts would not adversely affect the public interest.**
8. Law enforcement. The South-Multi District Sheriff's substation is located approximately 2.12 miles northwest of the subject property at 3260 SE 80<sup>th</sup> Street. 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 not adversely affect the public interest.**
9. Public schools. The proposed rezoning is within the district for the following schools with 2023-2024 enrollment: Belleview Elementary, Belleview Middle, and Belleview High School. While there are localized areas of crowding within schools, the county has overall capacity available. Therefore, the application's **public-school impacts would not adversely affect the public interest.**

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?*

**FLUE Policy 1.1.6:** Buffering of Uses, requires new development or substantial redevelopment to provide buffering to address compatibility concerns and reduce potential adverse impacts to surrounding properties as defined in the LDC.

**Analysis:** Some landscaping already exists on the subject parcel and commercial to commercial uses do not require buffering. Type 'C' buffers do not exist on the south and east borders fronting the roadway corridors. However, the applicant is a new tenant where no redevelopment is occurring, thus no update to buffers will be required at this time.

**Policy 2.1.22:** Commercial (COM). This land use designation 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.

**Analysis:** The proposed rezoning will still be compatible site's COM future land use designation. The requested B-5 zoning is being requested in order to assign the correct zoning designation to accommodate the proposed use of heavy equipment sales and rental. Heavy equipment sales and rental previously existed at this location, under a B-2 designation, with no Policy 1.20 letter. The proposed rezoning is **consistent** with FLUE Policy 2.1.18.

**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 26, 2024 Planning and Zoning Commission and, therefore, the application is **consistent** with this FLUE Policy 5.1.3.

**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:** 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.

**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 Countywide Primary Springs Protection Zone (PSPZ) wherein specific design standards, focused on stormwater management, may be required. Approval of the requested B-5 zoning for the subject property will control the range of uses for the site, while remaining eligible uses will require implementation of SPZ design standards, particularly depending on soil and subsurface characteristics and/or FDEP requirements. Compliance with the LDC's site and development standards to stormwater impacts for the site under the B-5 zoning would be **consistent** with FLUE Policy 7.4.3.

**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:** The rezoning site was previously a heavy equipment sales site named Roman Equipment sales. The proposed use after rezoning will be a similar business engaged in rental of the same type of equipment. No new traffic study will be required at this location. Staff concludes the proposed rezoning will be **consistent** with TE Policy 2.1. 4..

Based on the above findings, the proposed rezoning **is 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, adopt the findings and conclusions contained herein, and make a recommendation to **DENY** 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 a recommendation for the approval of the Ordinance, and make a recommendation to adopt a proposed Ordinance to **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 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 **APPROVE** 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 consistent with the Comprehensive Plan provisions because the request is in compliance with all considered elements of the comprehensive plan and land development codes.
- C. Is compatible with the surrounding uses because the proposed would allow rezoning of a parcel to a heavier zoning classification that is consistent with adjacent uses and is identical to the use that was previously operating at this location under Roman Equipment Inc.

## **VII. PLANNING & ZONING COMMISSION RECOMMENDATION**

APPROVAL (CONSENT)

## **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