



**Marion County  
Board of County Commissioners**

Growth Services

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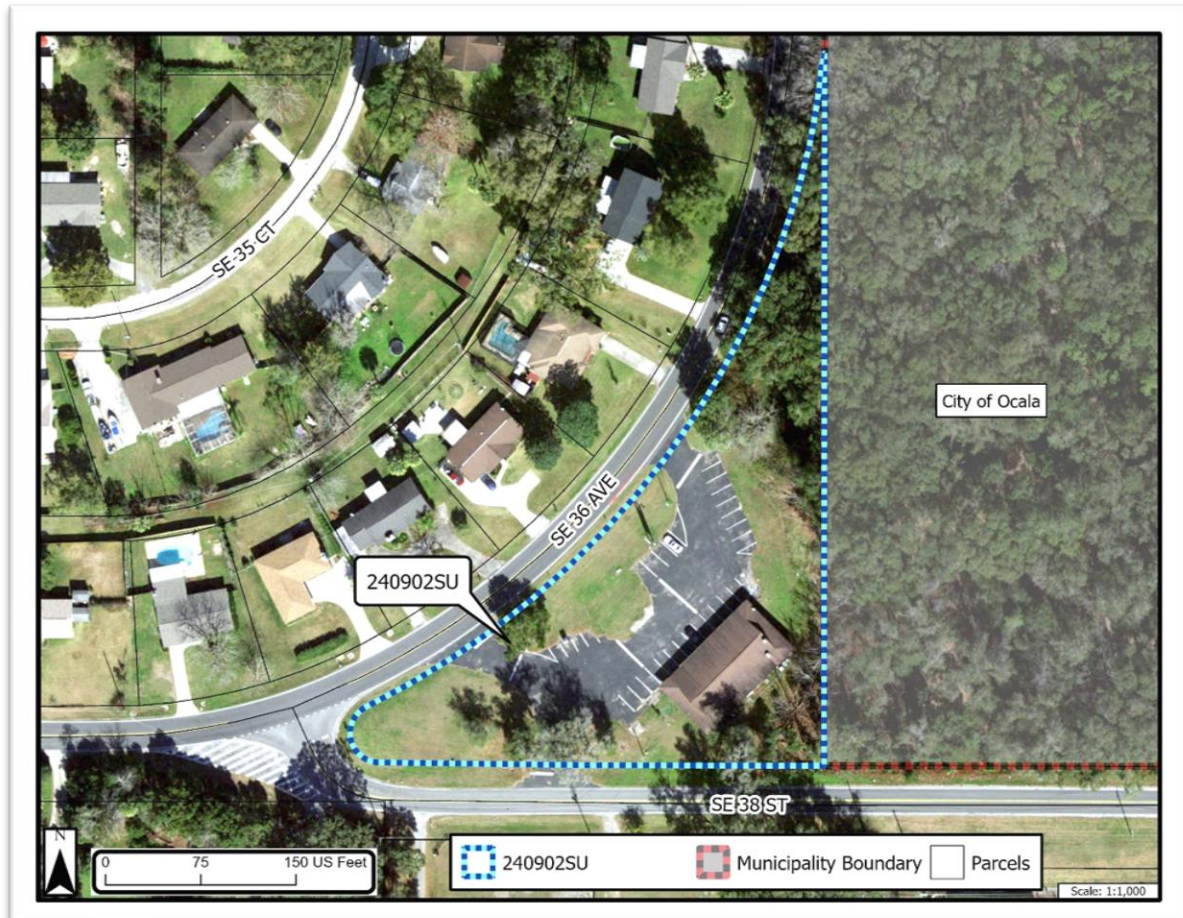
**PLANNING & ZONING SECTION  
STAFF REPORT**

|                                 |   |                                       |
|---------------------------------|---|---------------------------------------|
|                                 | <b>P&amp;ZC Date:</b><br><b>9/30/2024</b>   | <b>BCC Date:</b><br><b>10/15/2024</b> |
| <b>Case Number:</b>             | 240902SU  |                                       |
| <b>CDP-AR:</b>                  | 31701   |                                       |
| <b>Type of Case:</b>            | <b>Special Use Permit: To allow storage of a 10' by 10' chlorine bleach tank outside in B-2 zone.</b> |                                       |
| <b>Owner</b>                    | Dinkins & Dinkins, LLC, c/o Kimberly Davis  |                                       |
| <b>Applicant</b>                | Justin's Belleview Pool Supply, LLC (tenant)  |                                       |
| <b>Street Address</b>           | 3751 SE 36TH AVE, OCALA   |                                       |
| <b>Parcel Number</b>            | 29850-000-06  |                                       |
| <b>Property Size</b>            | ±1.83 acres   |                                       |
| <b>Future Land Use</b>          | Commercial (COM)  |                                       |
| <b>Zoning Classification</b>    | Community Business (B-2)  |                                       |
| <b>Overlay Zone/Scenic Area</b> | Urban Growth Boundary (UGB); Silver Springs Primary Protection Overlay Zone (SSPPOZ)                  |                                       |
| <b>Staff Recommendation</b>     | <b>APPROVAL WITH CONDITIONS</b>   |                                       |
| <b>P&amp;ZC Recommendation</b>  | <b>APPROVAL WITH CONDITIONS, on Consent (7:0)</b>   |                                       |
| <b>Project Planner</b>          | Eryn Mertens, JD  |                                       |
| <b>Related Case(s)</b>          | None  |                                       |

## I. ITEM SUMMARY

Kimberly Davis, on behalf of owner, Dinkins and Dinkins, LLC, and tenant, Justin's Belleview Pool Supply, LLC, has filed an application for a special use permit to allow for the placement of a 14'-tall 10' by 10' containment tank to house chlorine bleach in a B-2 zone (see Attachment A). The Finding of Facts submitted with this application state that the tank will be placed on a pad and screened by a 6' opaque fence. Figure 1 is an aerial photograph showing the location of the subject property. Figure 2 is the Concept Plan submitted by the applicant. Figure 3 is a comparison tank erected by this same applicant within the Ocala city limits. The Property Identification Number associated with the property is 29850-000-06, the street address is 3751 SE 36th Ave, Ocala, and the legal description is displayed on the deed included as part of the application (see description in the deed as labeled "Parcel F"). The subject property is located within the Urban Growth Boundary (UGB), and Silver Springs Primary Protection Overlay Zone (SSPPOZ).

**Figure 1**  
**Aerial Photograph of Subject Property**



**Figure 2**  
**Concept Plan Submitted by Applicant**



### Figure 3 Comparison Tank Photo, located within City of Ocala



*Note.* Photograph was taken on August 12, 2024, by Growth Services planning staff. Location: SB side of SE 36<sup>th</sup> Avenue, just south of Jervey Gantt Park.

## II. STAFF SUMMARY RECOMMENDATION

Staff recommends **Approval** due to the request being consistent with the Marion County Comprehensive Plan, Compatible with the surrounding area, and will not adversely affect the public interest, specified in Section VI.B. of this Staff Report. The recommended conditions address and ensure compliance with the requirements in 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 Land Development Code (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 23 owners on September 13, 2024. 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 9, 2024, and again on September 7, 2024. Finally, consistent with LDC Section 2.8.3.E., due public notice was published in the Ocala Star-Banner on September 16, 2024. Evidence of the above-described public notices are on file with the Growth Services Department and is incorporated herein by reference.

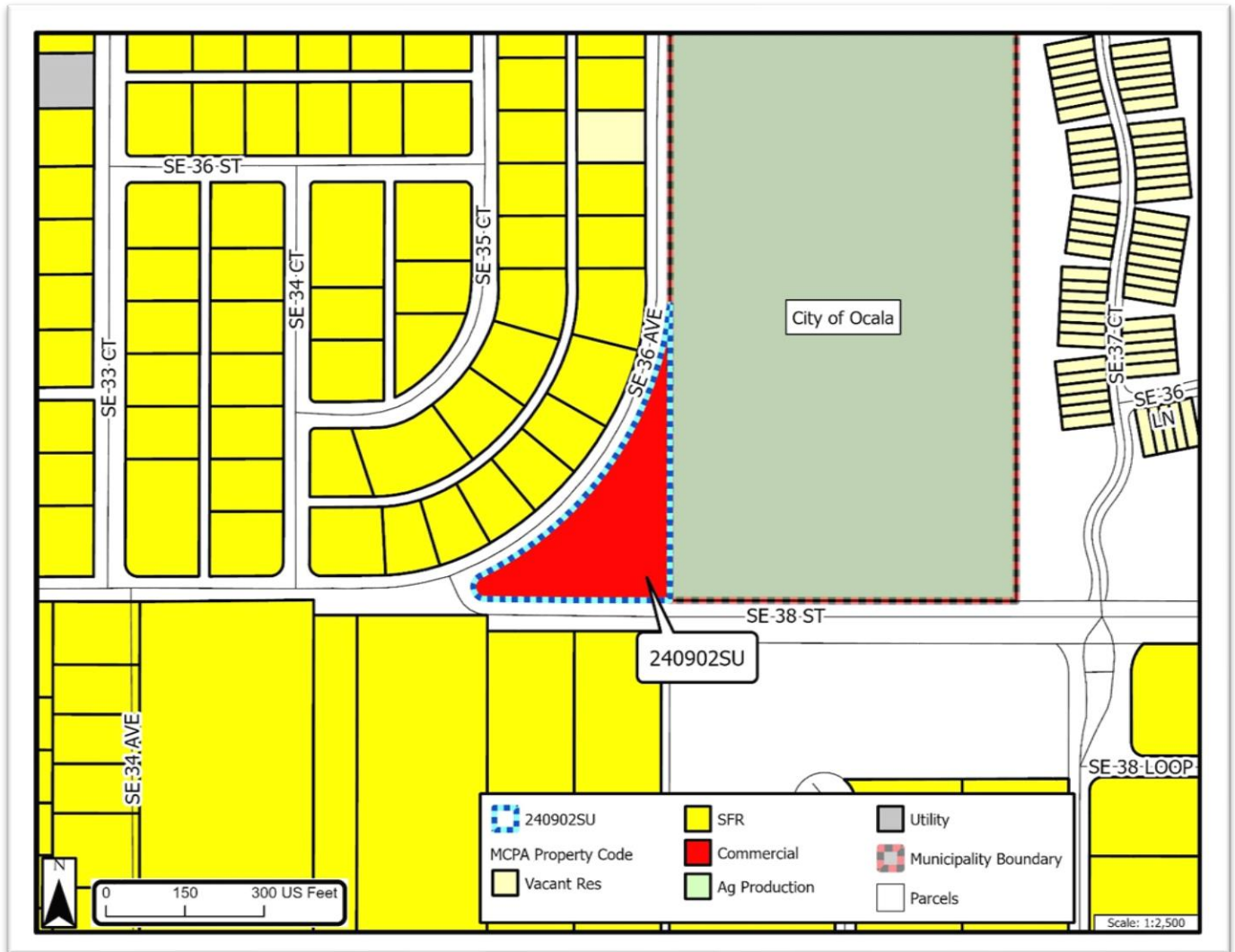
#### IV. BACKGROUND/CHARACTER OF THE AREA

A. *Existing site conditions.* The subject property has one commercial strip mall on site featuring three units for tenancy. The strip mall was built in 1984, and per Marion County Property Appraiser (MCPA) website, has had septic and well since its construction. Table 1 outlines the existing uses of the surrounding area, while Figure 4 illustrates those uses in relation to the subject property. As illustrated, the subject property is currently listed as Community Shopping Center by the MCPA’s office. The eastern boundary of the subject property borders a property within the limits of the City of Ocala (annexed in 2022). The other two units in this building are occupied. Two parcels to the east of the subject site is the Oak Hammock Preserve PUD. The surrounding area is all improved single-family residential with Medium residential (MR) future land use, and mostly Single-Family Dwelling (R-1) zoning, with the exception of one parcel due south with Residential Agricultural Estate (A-3) zoning. Southeast of the subject parcel is the Arbors subdivision, which is all zoned Residential Estate (R-E), with Low Residential (LR) land use.

**Table 1  
Surrounding Property Characteristics**

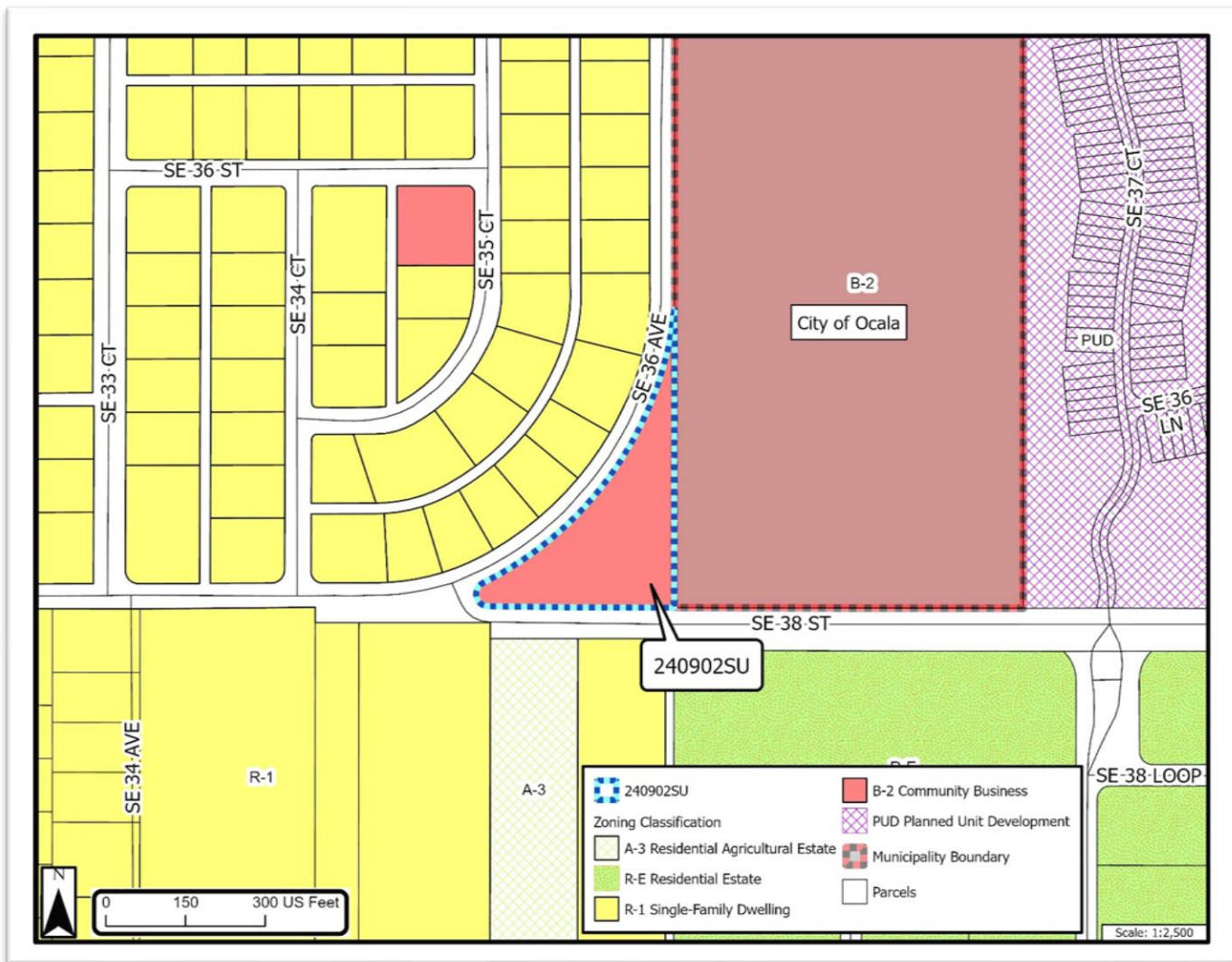
| <b>Direction</b> | <b>FLUMS</b>                    | <b>Zoning</b>   | <b>Existing Use (MCPA)</b>    |
|------------------|---------------------------------|---|-------------------------------|
| North            | Medium Residential (MR)         | Single-Family Dwelling (R-1)  | ROW, Improved Residential     |
| West             | Medium Residential (MR)         | Single-Family Dwelling (R-1)  | ROW, Improved Residential     |
| South            | Medium Residential (MR)         | Single-Family Dwelling (R-1), Residential Agricultural Estate (A-3) | ROW, Improved Residential     |
| East             | City of Ocala, Commercial (COM) | City of Ocala, Community Business (B-2)                             | City of Ocala, Timber Class 4 |

**Figure 4**  
**Existing Uses Map (MCPA)**



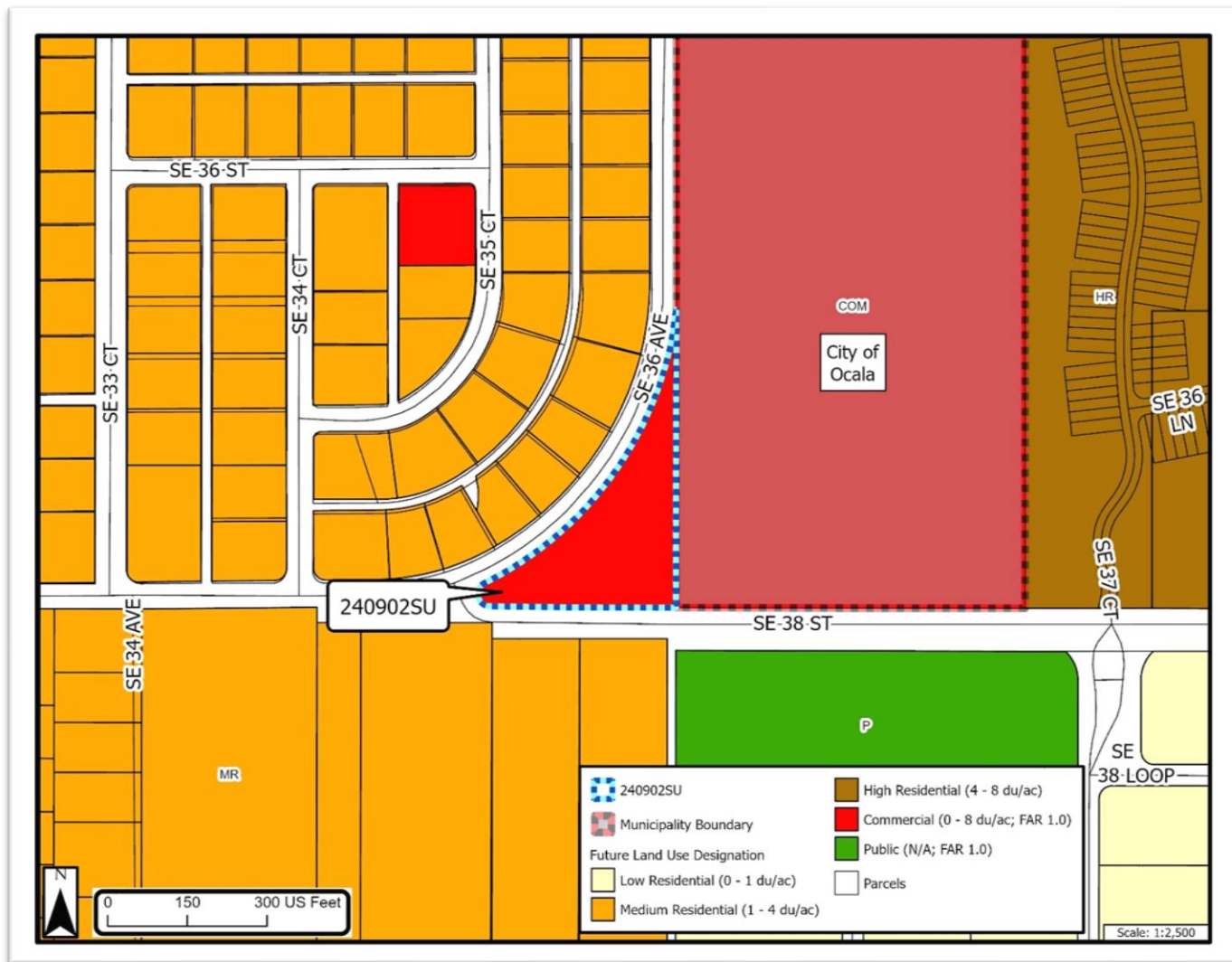
- B. *Zoning district map.* Figure 5, below, shows the subject property is classified as Community Business (B-2), surrounded by Single-Family Dwelling (R-1) parcels to the north, west, and south, with the exception of the one parcel to the south, which is zoned Residential Agricultural Estate (A-3), and the property to the east is inside the City of Ocala.

**Figure 5**  
**Zoning Classification**



C. *FLUMS designation.* Figure 6, below, is the FLUMS, and it shows that the subject property is designated Commercial (COM), which allows a maximum intensity of 1.0 Floor Area Ratio (FAR).

**Figure 6**  
**FLUMS Designations**



## 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. Additionally, 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 Findings of Facts included with the application states that primary access to the subject property is provided from an existing access to SE 36<sup>th</sup> Avenue, a paved, collector road. According to aerials, there are two points of access to the subject parcel on SE 36<sup>th</sup> Ave, with a third access to the parcel from SE 38<sup>th</sup> Street, a paved, major local road. Both of these roads are maintained by Marion County's Office of the County Engineer (OCE). The Office of the County Engineer's traffic department (OCE-Traffic) has no stated traffic concerns with this request. There are no sidewalks or multimodal paths within this area. It's worth noting that on both site visits conducted by staff, the dumpster was observed in the parking lot, partially blocking the access into the property from 38<sup>th</sup> Street, with the assistance of cones (see site photos in Attachment C). It appears this is the new location for the dumpster, instead of on the dumpster pad, which is the site of the proposed chlorine tank. Planning staff has concerns about several issues this arrangement poses to both automotive and pedestrian safety, and these have not been addressed by the applicant. Staff proposes the following conditions to ensure proper traffic flow and control:

- Prior to the commencement of construction of the chlorine tank, Applicant shall restore dumpster to an appropriate location consistent with all applicable regulations.
- Prior to the commencement of construction of the chlorine tank, Applicant shall restore displaced grease trap receptacle to an appropriate location consistent with all applicable regulations.
- A revised major site plan, or waiver, is required before project may commence if, in pursuit of restoring all refuse receptacles to their appropriate and compliant locations, any impervious surface is added to this site.

Staff concludes that, if approved, a special use permit inclusive of the above-recommended conditions, **is consistent** with the requirement to provide for ingress and egress.

- 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 Findings of Fact included with the application states that sufficient parking will be provided on the property (see Attachment A) and will be located in front of the building, with loading areas also in the front of the building, with no excess noise or glare or odor trespass to the surrounding area. Staff proposes the following conditions to ensure compliance with this requirement:

- A revised major site plan or waiver is required before project may commence if, in pursuit of providing sufficient parking ancillary to the requested use, the project requires any new additional impervious surface.

Staff concludes that if approved, a special use permit inclusive of the above-recommended condition, **is consistent** with off-street parking and loading areas requirement. According to the concept plan submitted, the proposal to install a chlorine tank on an existing impervious surface, does not seek to add more impervious surface to a site that already trips the threshold requiring a major site plan review.

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

**Analysis:** The applicant's justification statement on the Findings of Fact included with the application states that a refuse collection service will be provided by a private hauler, and a dumpster is provided on site (see Attachment A). The Findings of Fact fails to address the restoration of the dumpster to a proper location which meets all applicable regulations, including but not limited to proper screening. The proposed use is to install a chlorine tank on a site intended for the dumpster. Staff observed the dumpster now occupying the parking lot, and a grease trap receptacle now occupying the dumpster pad. The Findings of Facts fails to address where the new location for the grease trap receptacle will be, once it is moved to create space for the proposed chlorine tank. Staff recommends the following condition to ensure compliance with this requirement:

- Dumpster, Grease Trap receptacle, as well as any other refuse receptacle, must be provided an appropriate dedicated location which meets all applicable regulations, including but not limited to proper visual screening.

Staff concludes that if approved, a special use permit inclusive of the above-recommended condition **is consistent** with the refuse and service area requirement.

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

**Analysis:** The subject property currently has well and septic on site, per the MCPA website; however, the applicant states on its Findings of Facts, that utilities are provided by City of Ocala. Looking at DRC Comments, Marion County Utilities states that the property is actually located within Marion County Utility Service area, but that the addition of a chlorine tank requires no comment from MCU. Staff concludes that if approved, the special use permit **is consistent** with the existing provision of utilities.

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

**Analysis:** The subject property has operated as a commercial property since it was built in 1984. Aerials indicate that over the years, some of the tree canopy has disappeared on the south side of the building, which, if existing today, would be highly effective in providing screening of the proposed use. Replacing and re-establishing vegetation on the site would help to mitigate the unsightliness of a 14'-

tall chlorine tank which will be visible from all surrounding residential uses to the west and south of the subject site. The applicant states that the chlorine tank area would have a 6' opaque fence around it (see Attachment A). Staff finds this proposal insufficient to screen this use, especially given the lack of right-of-way (ROW) buffer (Type C) on a site which has significant ROW frontage. A site visit was conducted on August 9, 2024, and photos are provided displaying the subject property and surrounding area (see Attachment C). Staff has identified 38<sup>th</sup> Street area to be the area in most need of some additional screening and buffering. The LDC requires a Type C Buffer along 38<sup>th</sup> Street. Staff would support the addition of a series of accent/ornamental trees between the 38<sup>th</sup> Street access drive, and the back edge of the building on the south side of the subject site (see Figure 7, below).

### Figure 7 Area Identified as Priority Need for Screening and Buffering



Staff recommends the following conditions be imposed to ensure compliance with this requirement:

- A 6' opaque fence shall be installed around the chlorine tank area.
- A landscape plan shall be provided prior to the construction of the tank.
- Applicant shall install four (4) accent/ornamental trees on the south side of the project site, consistent with the area indicated in Figure 7, above. Applicant is to work with the County Arborist to determine the appropriate types and suitable mixture of vegetation for this location to satisfy this condition. No waivers shall be granted for this requirement.

Staff concludes that if approved, a special use permit inclusive of the above-recommended conditions, is **consistent** with the screening and buffering requirements.

- 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:** As a commercial property, all signage and exterior lighting is required to comply with the Marion County Land Development Code.

The Findings of Fact included with the application states that no additional signs or exterior lighting other than existing will be provided. Staff has concerns about the security of the proposed chlorine tank, and recommends the following conditions be imposed to ensure compliance with this requirement, while also sufficiently securing the proposed use:

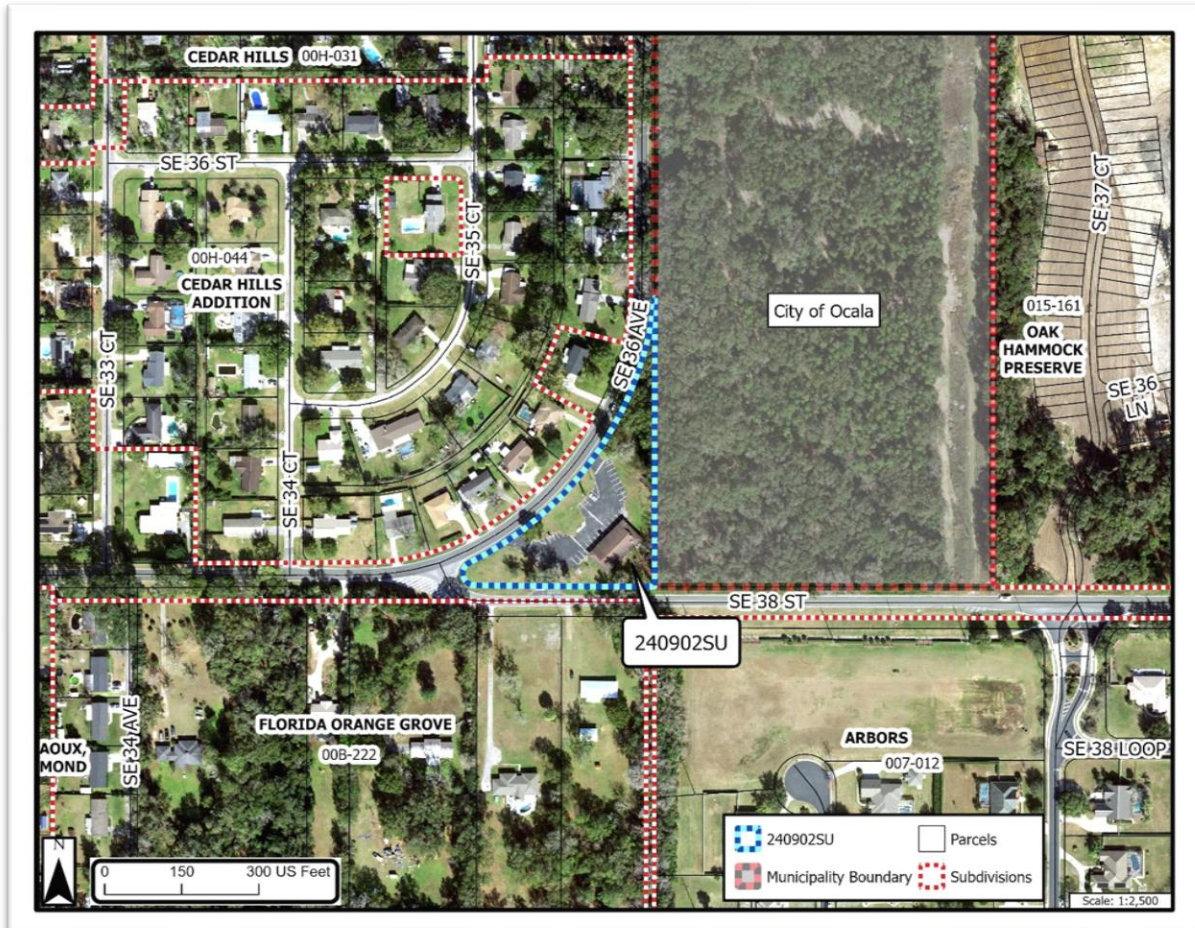
- The chlorine tank shall remain well-lit from dusk to dawn, and in view of operational, monitored security camera on south side of building.
- All lighting shall be arranged to illuminate only the chlorine tank area directly, with the source of the light not aimed or casting light off the property in any way, so as to avoid spillage of light and glare onto adjacent streets and properties.
- To avoid conflicts, locations of light fixtures must be coordinated with the location of all trees and landscaping, whether existing or proposed to meet other screening and buffering conditions provided herein.
- Controls shall be employed that automatically extinguish all outdoor lighting for the chlorine tank area when sufficient daylight is available.

Staff concludes that, if approved, a special use permit inclusive of the above-recommended conditions, is **consistent** with the signs and exterior lighting requirements of this section.

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

**Analysis:** The provided conceptual plan indicates no expansion of the footprint of the exiting improvements on site is being made, and therefore sufficient open space is provided, as it has existed since 1984, when the site was originally improved. If granted, the special use permit would be considered to be **consistent** with this requirement.

**Figure 8**  
**Adjacent Subdivisions**



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

**Analysis:** “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 an aerial photograph displaying existing and surrounding properties. Figure 8 is an aerial photograph showing the subject property and adjacent properties as well as existing subdivisions within the area. The site has operated as a commercial site since 1984, and has a commercial zoning and land use which are consistent with each other. The proposed SUP is requesting to allow the installation and storage of an outside containment tank to house chlorine. To ensure the property maintains compatibility with the adjacent properties, staff recommends the following conditions;

- This site shall be developed consistent with the proposed conceptual plan and the allowance for the installation of a chlorine tank is limited to one tank, only.

Staff concludes that, if approved, a special use permit inclusive of the above-recommended conditions, is **consistent** with this section.

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.

Per the Building Official, "Chlorine is considered a 'strong oxidizer', and needs to be treated cautiously. The Florida Building Code (FBC) has requirements for the storage and handling of hazardous materials considered a high-hazard Group H-2 Use, whereas chlorine would come under FBC Table 307.1(1), Table 414.2.5(5), and Table 414.2.5(2), respectively, as a Class 1 material. [The Applicant] will need to provide specifications on the tank (ASME), the concrete supporting the tanks, and how the tank will be anchored to resist Wind Loads, Chapter 16 of the FBCB."

Given the nature of the hazardous chemical to be stored in the proposed containment tank, staff recommends the following conditions:

- A permit will be required for the chlorine tank from Marion County Building Safety.
- Applicant shall meet all applicable regulations imposed by the Florida Building Code, as well as any applicable Fire Safety regulations.
- Applicant must meet all Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) spill reporting requirements.
- Applicant must meet the Hazardous Substance Tank registration requirement imposed by the state through agencies such as, but not limited to Florida Department of Environmental Protection, and Florida Department of Health, as well as any other applicable state regulations, such as, but not limited to reportable quantities regulations. Tank registration criteria is found in the Florida Administrative Code.

Staff concludes that, if approved, a special use permit inclusive of the above-recommended conditions, is **consistent** with this section.

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 4.2.18.C allows for Special Use Permits within the B-2 zoning classification. B-2 zoning allows for swimming pool supplies under Special Use Permit. Thus, the application is **consistent** with FLUE Policy 2.1.5.

Based on the above findings, staff concludes that if approved, the SUP inclusive of all of the above-recommended conditions, is **consistent** with LDC Sections 2.8.2.D and 2.8.3.B.

## 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 **DENY** the special use permit 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 with amended conditions, and adopt a proposed Ordinance to **APPROVE WITH AMENDED CONDITIONS** the special use permit.
- 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 **TABLE** the application for up to two months in order to provide the identified data and analysis needed to make an informed decision on the proposed Ordinance.

## VII. STAFF RECOMMENDATION

- A. Staff recommends the Board enter into the record the Staff Report and all other competent substantial evidence presented at the hearing, and adopt a proposed Ordinance to **APPROVE AS CONDITIONED** the special use permit to allow the construction of a 14'-tall 10'x10' containment tank to store chlorine.
- B. To address compliance with LDC Sections 2.8.2.D and 2.8.3.B, the following conditions are imposed:
  - 1. Prior to the commencement of construction of the chlorine tank, Applicant shall restore dumpster to an appropriate location consistent with all applicable regulations.
  - 2. Prior to the commencement of construction of the chlorine tank, Applicant shall restore displaced grease trap receptacle to an appropriate location consistent with all applicable regulations
  - 3. A revised major site plan, or waiver, is required before project may commence if, in pursuit of restoring all refuse receptacles to their

appropriate and compliant locations, any impervious surface is added to this site.

4. A revised major site plan or waiver is required before project may commence if, in pursuit of providing sufficient parking ancillary to the requested use, the project requires any new additional impervious surface.
5. Dumpster, Grease Trap receptacle, as well as any other refuse receptacle, must be provided an appropriate, dedicated location which meets all applicable regulations, including but not limited to proper visual screening.
6. A 6' opaque fence shall be installed around the chlorine tank area.
7. A landscape plan shall be provided prior to the construction of the tank.
8. Applicant shall install four (4) accent/ornamental trees on the south side of the project site, consistent with the area indicated in Exhibit A (Figure 7 of the staff report; depicting area identified as priority need for screening and buffering). Applicant is to work with the County Arborist to determine the appropriate types and suitable mixture of vegetation for this location to satisfy this condition. No waivers shall be granted for this requirement.
9. The chlorine tank shall remain well-lit from dusk to dawn, and in view of operational, monitored security camera on south side of building.
10. All lighting shall be arranged to illuminate only the chlorine tank area directly, with the source of the light not aimed or casting light off the property in any way, so as to avoid spillage of light and glare onto adjacent streets and properties.
11. To avoid conflicts, locations of light fixtures must be coordinated with the location of all trees and landscaping, whether existing or proposed to meet other screening and buffering conditions provided herein.
12. Controls shall be employed that automatically extinguish all outdoor lighting for the chlorine tank area when sufficient daylight is available.
13. This site shall be developed consistent with the proposed conceptual plan and the allowance for the installation of a chlorine tank is limited to one tank, only.
14. A permit will be required for the chlorine tank from Marion County Building Safety.
15. Applicant shall meet all applicable regulations imposed by the Florida Building Code, as well as any applicable Fire Safety regulations.
16. Applicant must meet all Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) spill reporting requirements.
17. Applicant must meet the Hazardous Substance Tank registration requirement imposed by the state through agencies such as, but not limited to Florida Department of Environmental Protection, and Florida Department of Health, as well as any other applicable state regulations, such as, but not limited to reportable quantities regulations. Tank registration criteria is found in the Florida Administrative Code.



18. The Special Use Permit shall run with the applicant, Justin's Belleview Pool Supply, LLC; and the owner, Dinkins and Dinkins, LLC, and not the property.
19. The Special Use Permit shall terminate upon any division, subdivision, or transfer of the subject property, or if the applicant vacates the property.
20. The Special Use Permit shall expire on October 14, 2027, and it will be eligible for administrative renewal up to 3 consecutive times for up to 5 years each, by written instrument signed and issued by the Growth Services Director (or a position equivalent to the Growth Services Director at that time), unless:
  - a. There have been unresolved violations of the County Land Development Code, the County Code of Ordinances, The Florida Building Code, any other applicable regulations, and/or the conditions of the Permit,
  - b. Neighboring property owners within 300' of the subject property have complained to the County Code Enforcement, Zoning, Building Safety, or equivalent/similar Departments/Divisions about the uses of the subject property by this Permit, or
  - c. The Growth Services Director determines that renewal should be considered directly by the Board of County Commissioners through the Special Use Permit review process (or review process equivalent at that time).

## **VIII. PLANNING AND ZONING COMMISSION RECOMMENDATION**

Approval with conditions, on Consent (7:0).

## **IX. BOARD OF COUNTY COMMISSIONERS ACTION**

To be determined. Hearing scheduled for October 15, 2024, at 2:00 PM.

## **X. LIST OF ATTACHMENTS**

- A. SUP application received on 6/26/2024.
- B. DRC Comments Letter.
- C. Site Photos.