

Rezoning Application: 23-0082 REMAND

Zoning Hearing Master Date: March 25, 2024

BOCC Land Use Meeting Date: May 7, 2024

**Hillsborough County Florida**

Development Services Department

1.0 APPLICATION SUMMARY

Applicant: C & C Investment Properties of Tampa LLC

FLU Category: Residential -6 (R-6)

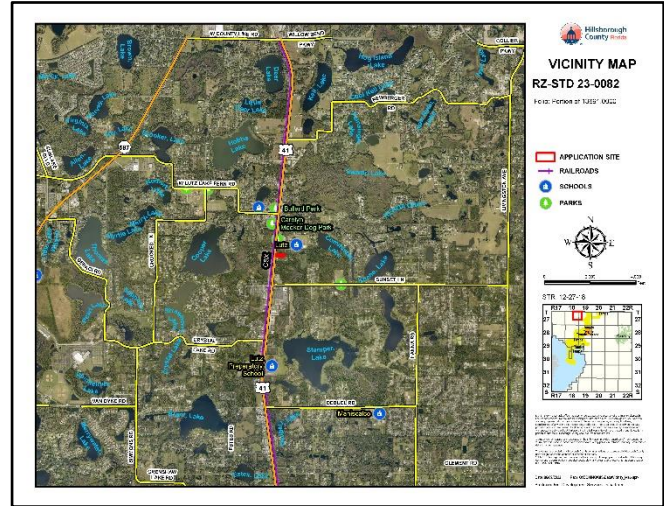
Service Area: Rural

Site Acreage: 1.24+/-

Community Plan Area: Lutz

Overlay: None

Request: Rezone from **Residential- Single-Family Conventional – 6 – (RSC-6)** to **Commercial General with Restrictions (CG - R)**.

**Introduction Summary:**

On November 7, 2023 at the Board of County Commissioners Land Use Hearing Meeting the applicant requested for a remand to address one concern: 1) Meet with FDOT to request and be granted access of US Highway N 41 to subject site. After discussion with FDOT Agency and Transportation staff, the applicant is proposing no changes or confirmation from FDOT. Therefore, Development Services and Transportation staff objections still stand.

Request Summary:

The request is to rezone a portion from the existing **Residential- Single-Family Conventional – 6 (RSC-6)** zoning district to the proposed to **Commercial General Restricted (CG-R)** zoning district. The proposed zoning for CG -R permits Commercial, Office and Personal Services development on lots containing a minimum of 10, 000 square feet (sf). The applicant has proposed restrictions to certain commercial uses and to the location of uses.

Zoning:

Uses	Current RSC-6 Zoning	Proposed CG-R Zoning
	Single-Family Residential (Conventional Only)	General Commercial, Office and Personal Services
Acreage	1.24+/- Acres; 54,014 sq. ft	1.24+/- ac
Density / Intensity	1 dwelling Unit (du)/ 7, 000 sq. ft	0.25 F.A.R.
Mathematical Maximum*	7 dwelling units	13,504 sq. ft

* *Mathematical Maximum entitlements may be reduced due to roads, stormwater and other improvements.*

Development Standards:

	Current RSC-6 Zoning	Proposed CG- Zoning
Density/ Intensity	1 du/ 7, 000 sq. ft	0.27 F.A. R / 13,504 sq. ft
Lot Size / Lot Width	7, 000 sq. ft/ 70'	10, 000 sq. ft/ 75'
Setbacks/Buffering and Screening	25' - Front 7.5' – Sides 25' - Rear	30' – Front (West) 0' – Side (North) 20' – Side (South) 20' Type B Buffering 20' – Rear (East) 20' Type B Buffering
Height	35'	50'

Additional Information:

PD Variations N/A

Waiver(s) to the Land Development Code None

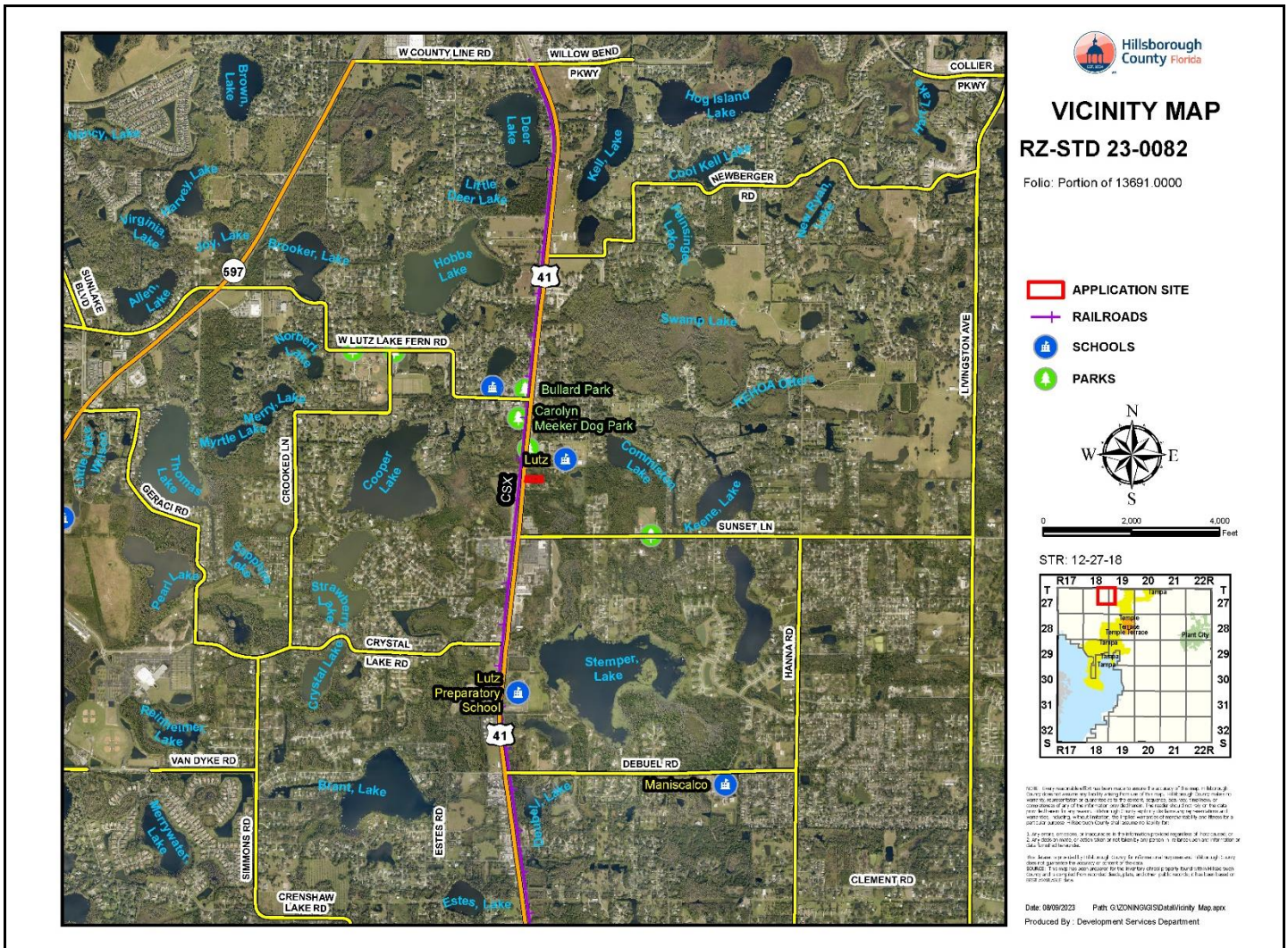
Additional Information:

Planning Commission Recommendation Inconsistent

Development Services Department Recommendation Not Supportable

2.0 LAND USE MAP SET AND SUMMARY DATA

2.1 Vicinity Map

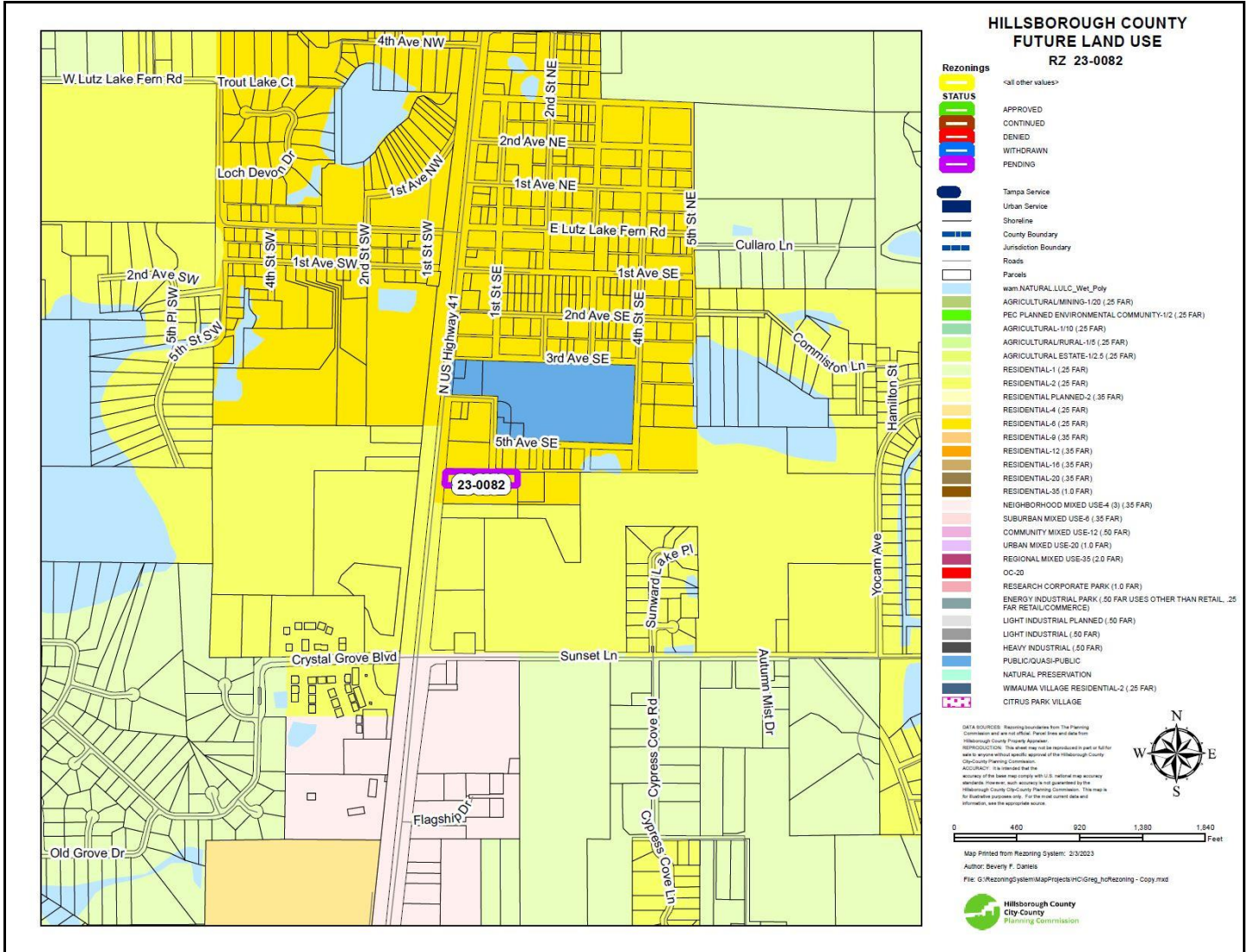


Context of Surrounding Area:

The site is surrounded by properties with Single-Family Residential, Agricultural, Business Professional, Office and Commercial General type uses. The immediate adjacent properties are zoned Residential Single-Family Conventional – 6 (RSC-6) to the north and east; Commercial General (CG) and RSC-6 to the north, and North US Highway 41 to the west. Subject site’s immediate surrounding area consist of properties within the Residential -6 FLU category.

2.0 LAND USE MAP SET AND SUMMARY DATA

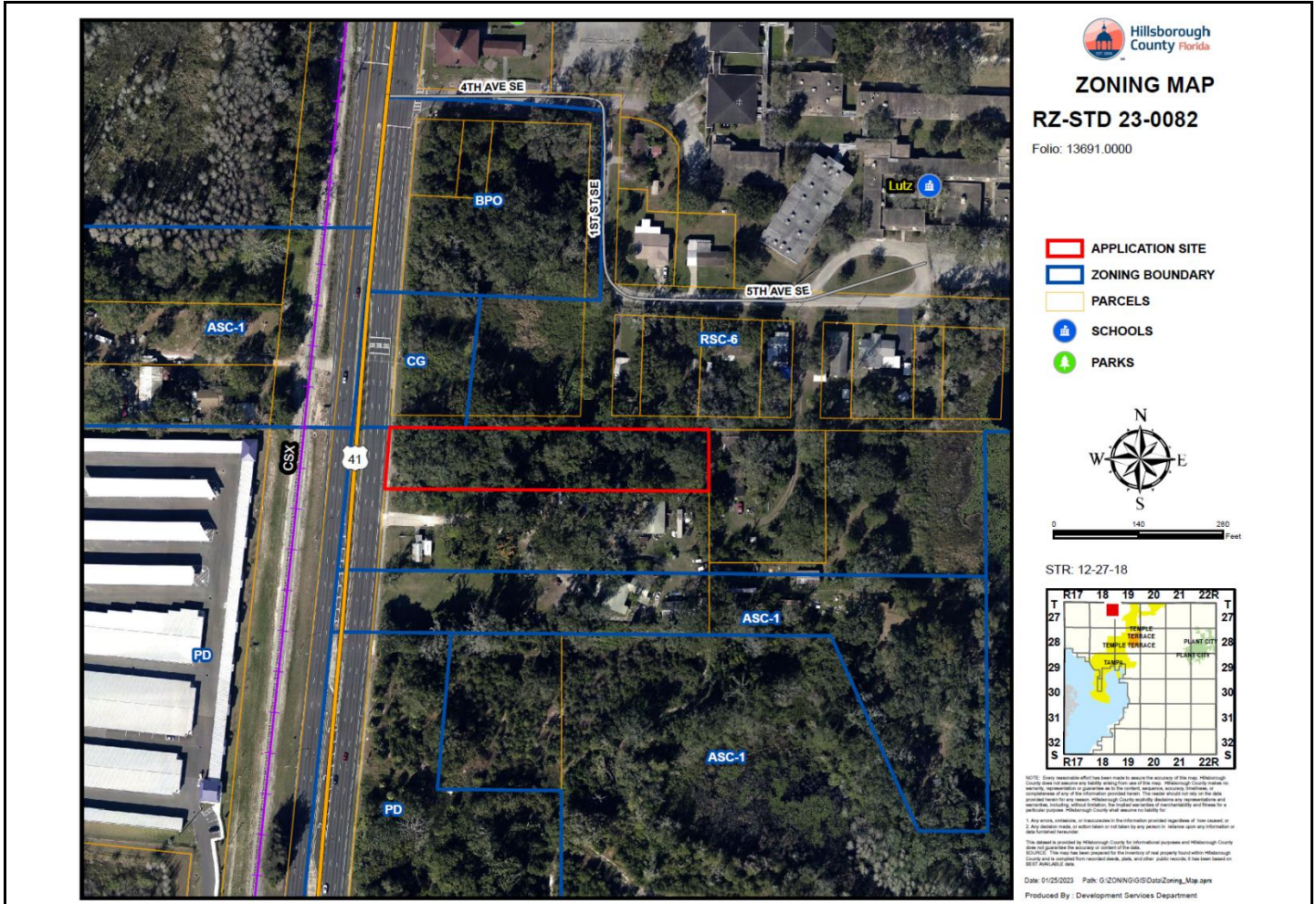
2.2 Future Land Use Map



Subject Site Future Land Use Category:	Residential 6 (Res-6)
Maximum Density/F.A.R.:	6 dwelling unit per Gross Acre (ga)/ 0.25 F.A.R.
Typical Uses:	Residential, community scale retail commercial, office uses, research corporate park uses, light industrial multi-purpose and clustered residential and/or mixed-use projects at appropriate locations. Non-residential land uses must be compatible with residential uses through established techniques of transition or by restricting the location of incompatible uses. Agricultural uses may be permitted pursuant to policies in the agricultural objective areas of the Future Land Use Element.

2.0 LAND USE MAP SET AND SUMMARY DATA

2.3 Immediate Area Map



Adjacent Zonings and Uses

Location:	Zoning:	Maximum Density/F.A.R. Permitted by Zoning	Allowable Use:	Existing Use:
North	CG	0.27 F.A.R.	General Commercial, Office and Personal Services	Vacant
	RSC-6	1 du/ 7, 000 sq. ft	Single-family Residential Conventional uses.	Single Family Residential Home
South	RSC-6	1 du/ 7, 000 sq. ft	Single-family Residential Conventional uses.	Single Family Residential Home
West	N. US Highway 41	n/a	Street	Street
East	RSC-6	1 du/ 7, 000 sq. ft	Single-family Residential Conventional uses.	Single Family Residential Home
	RSC-6	1 du/ 7, 000 sq. ft	Single-family Residential Conventional uses.	Single Family Residential Home

2.0 LAND USE MAP SET AND SUMMARY DATA

2.4 Proposed Site Plan (partial provided below for size and orientation purposes. See Section 8.0 for full site plan)

Not Applicable

3.0 TRANSPORTATION SUMMARY (FULL TRANSPORTATION REPORT IN SECTION 9 OF STAFF REPORT)

Adjoining Roadways (check if applicable)

Road Name	Classification	Current Conditions	Select Future Improvements
US Hwy 41	FDOT Principal Arterial - Urban	6 Lanes <input type="checkbox"/> Substandard Road <input checked="" type="checkbox"/> Sufficient ROW Width	<input type="checkbox"/> Corridor Preservation Plan <input type="checkbox"/> Site Access Improvements <input type="checkbox"/> Substandard Road Improvements <input type="checkbox"/> Other
1 st Street SE	County Local – Portions Rural and Unimproved	2 Lanes <input checked="" type="checkbox"/> Substandard Road <input checked="" type="checkbox"/> Sufficient ROW Width (for Urban)	<input type="checkbox"/> Corridor Preservation Plan <input type="checkbox"/> Site Access Improvements <input type="checkbox"/> Substandard Road Improvements <input checked="" type="checkbox"/> Other - TBD

Project Trip Generation Not applicable for this request

	Average Annual Daily Trips	A.M. Peak Hour Trips	P.M. Peak Hour Trips
Existing	66	5	7
Proposed	4,060	388	300
Difference (+/-)	(+) 3,994	(+) 383	(+) 293

*Trips reported are based on net new external trips unless otherwise noted.

Connectivity and Cross Access Not applicable for this request

Project Boundary	Primary Access	Additional Connectivity/Access	Cross Access	Finding
North		Choose an item.	Choose an item.	Choose an item.
South		Choose an item.	Choose an item.	Choose an item.
East		Choose an item.	Choose an item.	Choose an item.
West		Choose an item.	Choose an item.	Choose an item.
Notes:				

Design Exception/Administrative Variance Not applicable for this request

Road Name/Nature of Request	Type	Finding
	Choose an item.	Choose an item.
	Choose an item.	Choose an item.
Notes:		

4.0 ADDITIONAL SITE INFORMATION & AGENCY COMMENTS SUMMARY

INFORMATION/REVIEWING AGENCY			
Environmental:	Objections	Conditions Requested	Additional Information/Comments
Environmental Protection Commission	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Natural Resources	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	No comments provided
Conservation & Environmental Lands Mgmt.	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	No comments provided
Check if Applicable: <input type="checkbox"/> Wetlands/Other Surface Waters <input type="checkbox"/> Use of Environmentally Sensitive Land Credit <input checked="" type="checkbox"/> Wellhead Protection Area <input type="checkbox"/> Surface Water Resource Protection Area <input type="checkbox"/> Potable Water Wellfield Protection Area <input type="checkbox"/> Significant Wildlife Habitat <input type="checkbox"/> Coastal High Hazard Area <input type="checkbox"/> Urban/Suburban/Rural Scenic Corridor <input type="checkbox"/> Adjacent to ELAPP property <input type="checkbox"/> Other _____			
Public Facilities:	Objections	Conditions Requested	Additional Information/Comments
Transportation			
<input type="checkbox"/> Design Exception/Adm. Variance Requested <input type="checkbox"/> Off-site Improvements Provided <input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	
Utilities Service Area/ Water & Wastewater			
<input type="checkbox"/> Urban <input type="checkbox"/> City of Tampa <input checked="" type="checkbox"/> Rural <input type="checkbox"/> City of Temple Terrace	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	No comments provided
Hillsborough County School Board			
Adequate <input type="checkbox"/> K-5 <input type="checkbox"/> 6-8 <input type="checkbox"/> 9-12 <input checked="" type="checkbox"/> N/A Inadequate <input type="checkbox"/> K-5 <input type="checkbox"/> 6-8 <input type="checkbox"/> 9-12 <input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Impact/Mobility Fees			
N/A			
Comprehensive Plan:	Findings	Conditions Requested	Additional Information/Comments
Planning Commission			
<input type="checkbox"/> Meets Locational Criteria <input type="checkbox"/> N/A <input checked="" type="checkbox"/> Locational Criteria Waiver Requested <input type="checkbox"/> Minimum Density Met <input type="checkbox"/> N/A <input type="checkbox"/> Density Bonus Requested <input type="checkbox"/> Consistent <input type="checkbox"/> Inconsistent	<input checked="" type="checkbox"/> Inconsistent <input type="checkbox"/> Consistent	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

5.0 IMPLEMENTATION RECOMMENDATIONS

5.1 Compatibility

The site is located on the east side of N. US Highway 41 in Lutz. The site is surrounded by properties with Single-Family Residential, Agricultural, Business Professional, Office and Commercial General type uses. The immediate adjacent properties are zoned Residential Single-Family Conventional – 6 (RSC-6) to the north and east; Commercial General (CG) and RSC-6 to the north, and North US Highway 41 to the west. The subject site's immediate surrounding area consists of properties within the Residential -6 FLU category.

The subject site is outside the Urban Service Area with publicly owned and operated potable water facilities available. A 12-inch water main exists adjacent to the site and is located within the east Right-of-Way of N. US Highway 41.

The site does not meet commercial location criteria, and The Planning Commission staff found the request inconsistent due to other compatibility concerns.

The parcel to the immediate north is zoned CG and BPO. The subject parcel is not similar in configuration with the adjacent CG zoned property to the north and is abuts a significant amount of RSC-6 zoned properties. To address the lot's size, lot configuration, transition and compatibility concerns, the applicant has proposed the following: 1) the rear (eastern portion) of 156' be reserved and conditioned only to allow for retention, stormwater and septic tank use, and; 2) that the following uses be prohibited on the subject site: Fast food restaurants with drive thru, Convenience store with or without gas sales, and Motor vehicle repair type uses.

Transportation Review staff have objected to the intensification of the site due to concerns, as outlined in their attached agency comment, that access to US 41 will not be granted by the Florida Department of Transportation (FDOT) and thus access would be via 1st Street SE and 4th Ave SE to the north which as operation/safety issues as also outlined in their agency comment. If direct access to US 41, could be granted in the future in conjunction with above listed proposed site layout and restrictive site uses maybe the request may be more favorable and supportable.

However, without access to US 41, direct access to the site would be restricted to 1st Street SE which is unimproved right-of-way that dead ends into the property along the northern boundary. Parcels on both sides of the unimproved right-of-way are zoned RSC-6. If access were limited to 1st Street SE, staff finds the request not compatible as the proposed commercial use would functionally be at the deadend of a local street immediately bounded by properties zoned RSC-6. If access was assured to be provided to US 41, staff could find the request compatible with the proposed restrictions. However, given the access issues as outlined herein staff continues to have compatible concerns with the subject application.

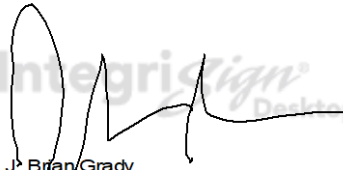
5.2 Recommendation

Based on the above considerations, staff finds the request is not supportable.

The applicant is proposing the following restrictions:

1. The rear (eastern portion) of 156' shall be reserved and conditioned only to allow for retention, stormwater and septic tank use.
2. The following uses shall be prohibited on the subject site: Fast food restaurants with drive thru, Convenience store with or without gas sales, and Motor vehicle repair type uses.

Zoning Administrator Sign Off:



J. Brian Grady
Mon Mar 18 2024 13:06:37

SITE, SUBDIVISION AND BUILDING CONSTRUCTION IN ACCORDANCE WITH HILLSBOROUGH COUNTY SITE DEVELOPMENT PLAN & BUILDING REVIEW AND APPROVAL.

Approval of this re-zoning petition by Hillsborough County does not constitute a guarantee that the project will receive approvals/permits necessary for site development as proposed will be issued, nor does it imply that other required permits needed for site development or building construction are being waived or otherwise approved. The project will be required to comply with the Site Development Plan Review approval process in addition to obtain all necessary building permits for

ZHM HEARING DATE: March 25, 2024

BOCC LUM MEETING DATE: May 7, 2024

Case Reviewer: Isis Brown

7.0 ADDITIONAL INFORMATION AND/OR GRAPHICS

N/A

8.0 PROPOSED SITE PLAN (FULL)

Not Applicable

9.0 FULL TRANSPORTATION REPORT (see following pages)

AGENCY REVIEW COMMENT SHEET

TO: Zoning Technician, Development Services Department
 REVIEWER: James Ratliff, AICP, PTP
 PLANNING AREA/SECTOR: LU/Northwest

DATE: 3/10/2023
 Revised: 8/12/2023
 Revised: 9/12/2023
 Revised for Remand: 3/18/2024

AGENCY/DEPT: Transportation
 PETITION NO: RZ 23-0082

- This agency has no comments.
- This agency has no objection.
- This agency has no objection, subject to the listed or attached conditions.
- This agency objects for the reasons set forth below.

RATIONALE FOR OBJECTION (REVISED FOR REMAND)

1. On April 21, 2023 Florida Department of Transportation (FDOT) staff submitted a letter to Optix advising “the applicant reach out to the District Seven Tampa Operations offices of the Florida Department of Transportation to determine if a Pre-Application meeting is required.”
2. The applicant has initiated permitting activities with FDOT, which is introduced into the record for the purposes of this remand. The applicant emailed staff on 1/9/2024 stating in part “circling back on this application regarding the recently approved FDOT conceptual driveway access point approval...”. To support this assertion the applicant attached a “State Highway Access Connection Completion Review” form from FDOT, which provides a list of additional information and analysis necessary for staff to continue its evaluation of the requested access permit.
3. Transportation Review Section staff contacted the applicant regarding the discrepancy between document provided and claimed conceptual approval, and the applicant indicated that they had been in contact with the District 7 Secretary who allegedly indicated there would be no problems with an access permit in this location.
4. Transportation Review Section staff contacted FDOT staff to determine what the status was. Staff confirmed that they are awaiting additional information, and were unaware of any conversations which may have taken place at the District Secretary level. From their perspective, the required data and analysis is still required in order to determine whether all of the land uses could be supported, and under what conditions such connection could be supported, and what conditions (if any) FDOT will be requesting be included as a zoning restriction (e.g. a restriction on the maximum number of trips which could be generated given a lack of available frontage to construct required turn lanes).
5. Hillsborough County policy is to require all projects which take access to an FDOT roadway and are in the zoning stage of the land development process to obtain detailed comments from FDOT to determine whether access can be supported and, if so, under what conditions.
6. The applicant continues to be unable to provide formal written comments from FDOT indicating their position on the zoning case and any restrictions which may be necessary if access is to be supported.

7. Hillsborough County staff had previously reached out to FDOT to determine whether they could conceptually comment on the application without the having gone through a more detailed review with the applicant. FDOT staff indicated that, “The parcel discussed will not meet the Departments minimum spacing standards for a connection to the state roadway and reasonable and adequate access to the parcel can be made by other means.”
8. FDOT staff also provided information regarding Florida Administrative Code 14-96.009, which states FDOT may issue a permit for connection only upon certain conditions being met, one of which is a determination that “a conforming connection is not attainable at the time of the permit application submittal” and that “denial would leave the property without access to the public road system” (among other factors).
9. The project abuts an unimproved 10-foot-wide County right-of-way which runs east-west along the northern project boundary and is of insufficient width to construct any access facilities. Additionally, staff notes that even if it were wide enough, FDOT may not approve a connection in this area, due to the non-confirming access spacing issues in this area.
10. The project also abuts an unimproved 50-foot-wide right-of-way which runs north-south (i.e. the 1st St. SE right-of-way). This right-of-way is of sufficient width to accommodate an extension of 1st St. SE south to the subject site (thereby providing access to the public roadway system).
11. The applicant has proposed an additional restriction (incorrectly referred to by the applicant as a “Condition”) subsequent to the previous hearing, stating “The proposed condition is to consider approval of this application on the condition that FDOT approves the US 41 access connection.” This could be interpreted two ways:
 - a. The applicant is essentially stating that ‘Access to an FDOT roadway is subject FDOT approval.’ This is true whether or not such condition is placed on the zoning, and does nothing to further the review, analysis and discussion needed to determine what kind of uses and level of intensification may be appropriate (and whether the site has or can obtain the access necessary to support such uses and intensification).
 - b. The applicant is essentially stating that the entire zoning is predicated on being able to obtain approval of an access to US 41. A more direct/clear/appropriate way to accomplish this would be to propose a restriction prohibiting primary and secondary access (except for required cross access that may be required) along the northern boundaries (i.e. ensuring that development had to have access to US 41 and couldn’t take access via the County right-of-way to the north). Such approach could be problematic because it could reduce FDOT’s ability to condition the permit to require Shared Access Facilities to serve this or other projects in the future (which may be a way to provide safer and standards compliance access in the future). This could also not be what the applicant was intending. The applicant may be stating that the entire zoning is contingent upon the approval of an access by FDOT. At worst, such approach sets up a potential taking in the event FDOT denies access to the project (with enhanced land values due to the increased intensification afforded by the zoning action). At best, it could lead to the situation where the property is without land development rights, which is problematic in the context of a Euclidean zoning.

Staff does not find that this proposed restriction to be clearly written or a reason to support what essentially amounts to an “end run” around the typical process and procedures of requiring an application to be vetted by staff (in this case FDOT) and affording them the opportunity to work with the applicant to determine what level and type of development is most appropriate at the land use stage.

12. Given this alternative available access and based on the information available, staff believes that access to the subject site from US 41 may not be permitted, and/or FDOT may not support the project with the uses and intensity proposed by the applicant.
13. Unrelated to this specific project, FDOT has recently expressed to County staff concerns regarding operational/safety issues along this corridor in the immediate vicinity of the project (both to the north and south). Additionally, one intersection which FDOT expressed concerns with was the intersection of 4th Ave. SE and US 41, which carries high volumes of traffic due to that being the sole vehicular access to Lutz Elementary School (see below photo for an illustration of the problem).
14. Based upon what we know today, the project is not likely to be granted access to US 41, all traffic to and from the site would have to travel through the problematic intersection of 4th Ave. SE and US 41.
15. Given the project's inability to provide conforming/safe access to US 41, and the safety and operational problems with other County facilities as noted above, staff believes intensification of uses on the site is inappropriate and cannot be supported.
16. Even if FDOT were grant access to US 41, other issues are present which have not been addressed. Specifically, the remnant portion of the site (i.e. the portion which would remain in the RSC-6 zoning district) would only have access through the CG zoned portion of the site. When that part of the site is subdivided to allow residential development, its access would have to occur through an extension of 1st St. SE or via an exclusive easement access to a new roadway stub built to accommodate shared US 41 access connection (since single-family detached residential uses cannot share a driveway access to commercial uses due to easement and other restrictions within the Hillsborough County Land Development Code). No solutions or restrictions to this issue have been discussed/proposed. Staff notes that this issue is essentially moot at this time given the current understanding that access to US 41 will not be permitted; however, staff has mentioned the issue to make it clear that other issues need to be addressed even if FDOT were to somehow issue alternative findings.
17. Both FDOT's and the County's best opportunity to argue against the appropriateness of such intensification is during the legislative (zoning) stage of the land development process, and the applicant's desire to move forward with the zoning and sort these issues out at the time of site/construction plan review is not a prudent course of action and cannot be supported.
18. Given the above, staff recommends denial of the proposed zoning request.



Photo showing congestion and queuing issues at US 41 and 4th Ave. SE

PROJECT SUMMARY AND ANALYSIS

The applicant is requesting to rezone a +/- 0.824 ac. portion (i.e. the westernmost +/- 370 feet) of a +/- 1.24 ac. parcel from Residential Single-Family Conventional - 6 (RSC-6) to Commercial (CG) with Restrictions (CG-R). The remaining 160 feet of parcel depth (i.e. +/- 0.416 ac.) would remain RSC-6. The applicant is offering to restrict the CG portion such that the following uses would not be permitted:

“fast food restaurants with drive thru, convenience store with or without gas sales, and motor vehicle repair type uses.”

Staff notes that other high trip intensity uses including but not limited to restaurants without drive-up facilities, liquor stores, free-standing bars, lounges, nightclubs and dance halls, drug stores, medical marijuana dispensing facilities, microbreweries, specialty food stores, and walk-in and drive-through banks could still be permitted.

The applicant is also proposing a restriction which states “The proposed condition is to consider approval of this application on the condition that FDOT approves the US 41 access connection.”

Consistent with the Development Review Procedures Manual (DRPM), the applicant was not required to submit a trip generation and site access analysis for the proposed project. Staff has prepared a comparison of the trips potentially generated under the existing and proposed zoning designations, utilizing a generalized worst-case scenario. The information below is based on data from the Institute of Transportation Engineer’s Trip Generation Manual, 11th Edition.

Approved Uses:

Zoning, Land Use/Size	24 Hour Two-Way Volume	Total Peak Hour Trips	
		AM	PM
RSC-6, 7 Single-Family Detached Dwelling Units (ITE LUC 210)	66	5	7

Proposed Uses:

Zoning, Land Use/Size	24 Hour Two-Way Volume	Total Peak Hour Trips	
		AM	PM
PD, 8,973 s.f. Fast-Food Restaurants without Drive-Through (ITE LUC 933)	4,041	387	298
RSC-6, 2 Single-Family Detached Dwelling Units	19	1	2
Subtotal:	4,060	388	300

Trip Generation Difference:

Zoning, Land Use/Size	24 Hour Two-Way Volume	Total Peak Hour Trips	
		AM	PM
Difference	(+) 3,994	(+) 383	(+) 293

TRANSPORTATION INFRASTRUCTURE SERVING THE SITE

US 41 is a 6-lane, divided, principal arterial roadway owned and maintained by the Florida Department of Transportation (FDOT). The roadway is characterized by +/- 11-foot travel lanes in above average condition (in the vicinity of the proposed project). Along the project’s frontage, the roadway lies within a +/- 210-foot-wide combined right-of-way (for the highway and parallel CSX facility which runs along the west side of the roadway in this area). There are +/- 5-foot-wide sidewalks along the east side of the

roadway in the vicinity of the proposed project. There are +/- 4-foot-wide bicycle facilities present along both sides of the roadway in the vicinity of the proposed project.

SITE ACCESS

Generally, for projects with a Euclidean zoning designation, a project’s potential transportation impacts, site access requirements, substandard road issues, site layout and design, other issues related to project access, and compliance with other applicable Hillsborough County Comprehensive Plan, Hillsborough County Land Development Code (LDC) and Hillsborough County Transportation Technical Manual (TTM) requirements are evaluated at the time of plat/site/construction plan review. Given the limited information available as is typical of all Euclidean zoned properties and/or non-regulatory nature of any conceptual plans provided, Transportation Review Section staff did review the proposed rezoning and restrictions to determine (to the best of our ability) whether the zoning is generally consistent with applicable policies of the Hillsborough County Comprehensive Plan, LDC and TTM (e.g. to ensure that the proposed rezoning would not result in a violation of the requirement whereby access to commercial properties cannot be taken through residentially or agriculturally zoned properties), and/or whether, in staff’s opinion, some reasonable level of development under the proposed zoning designation could be supported based on current access management standards (e.g. to ensure that a project was not seeking an intensification of a parcel which cannot meet minimum access spacing requirements).

Transportation Section staff did identify concerns regarding future project access, as noted in the “Rationale for Objection” section hereinabove. Staff notes that, regardless of this review, the developer/property owner will be required to comply will all Comprehensive Plan, LDC, TTM and other applicable rules and regulations at the time of plat/site/construction plan review.

Staff notes that any plans or graphics presented as a part of a Euclidean zoning case is non-binding and will have no regulatory value at the time of plat/site/construction plan review.

ROADWAY LEVEL OF SERVICE (LOS) INFORMATION

Level of Service (LOS) information for adjacent roadway sections is reported below.

Roadway	From	To	LOS Standard	Peak Hour Directional LOS
US 41	Sunset Ln.	County Line Road	D	C

Source: Hillsborough County 2020 Level of Service Report.



**Hillsborough County
City-County
Planning Commission**

Unincorporated Hillsborough County Rezoning	
Hearing Date: March 25, 2024 Report Prepared: March 13, 2024	RZ 23-0082 REMAND Folio: 13691.0000 <i>Southeast of 4th Ave SE and N US Highway 41 Intersection</i>
Summary Data:	
Comprehensive Plan Finding	INCONSISTENT
Adopted Future Land Use	Residential-6 (6du/ga; 0.25 FAR)
Service Area	Rural
Community Plan	Lutz
Request	Rezoning from Residential Single Family Conventional-6 (RSC-6) to Commercial General-Restricted (CG-R)
Parcel Size	1.24 ± acres (54,101 square feet)
Street Functional Classification	US Highway 41 - State Principal Arterial SE 4 th Avenue - Local
Locational Criteria	Does not meet; waiver requested
Evacuation Zone	None



Context

- The 1.24-acre subject property is located approximately 750 feet southeast of 4th Avenue SE and North US Highway 41 Intersection.
- The site is located within the Rural Area and is located within the limits of the Lutz Community Plan.
- The subject property is located within the Residential-6 (RES-6) Future Land Use category, which can be considered for a maximum density of up to 6 dwelling units per gross acre and a maximum intensity of 0.25 Floor Area Ratio (FAR). The RES-6 Future Land Use category is intended for areas that are suitable for low density residential development. Typical uses include, but are not limited to residential, suburban scale neighborhood commercial, office uses, multi-purpose projects and mixed-use development. The specific intent of RES-6 is to designate areas that are suitable for low density residential development.
- The subject site abuts North US Highway 41 directly to the west. Directly to the north, east and south the site is surrounded by the Residential-6 (RES-6) Future Land Use category. Farther north and northeast of the site is the Public Quasi-Public (P/QP) Future Land Use category. Farther south from the site and west of North US Highway 41 is the Residential-2 (RES-2) Future Land Use category, as well as the Neighborhood Mixed Use-4 (NMU-4), the Residential-4 (RES-4) and the Residential-1 (RES-1) Future Land Use categories.
- The area is mostly developed with single-family residential homes, two-family residential homes as well as light industrial, public/quasi-public, educational, light commercial and institutional uses. The property abuts single-family residential to the south, northeast, and northwest across North US Highway 41. Directly north there are vacant uses, further north are public quasi-public institutions uses. Northeast of the site are single-family residential uses and a school used for educational purposes.
- The site is currently zoned as Residential-Single Family Conventional-6 (RSC-6). RSC-6 extends directly south, east, southeast, north, and northeast. Further south and southeast and east there is Agricultural-Single Family Conventional-1 (ASC-1) Planned Development (PD) zoning is found directly west, southwest, and further south. Commercial-General (CG) zoning can be found directly northwest of the site. Further north there is also Business, Professional Office (BPO) zoning.
- The applicant requested a remand at the November 7, 2023 regularly scheduled Land Use Meeting to the March 25, 2024 Zoning Hearing Master to reduce the depth of the CG uses so that the rear of the site will not contain any active uses and for the Florida Department of Transportation to authorize access onto U.S. Highway 41.

Compliance with Comprehensive Plan:

The following Goals, Objectives and Policies apply to this rezoning request and are used as a basis for an inconsistency finding.

FUTURE LAND USE ELEMENT

Rural Area

Objective 4: *The Rural Area will provide areas for long term, agricultural uses and large lot, low density rural residential uses which can exist without the threat of urban or suburban encroachment, with the goal that no more than 20% of all population growth within the County will occur in the Rural Area.*

Policy 4.1: *Rural Area Densities Within rural areas, densities shown on the Future Land Use Map will be no higher than 1 du/5 ga unless located within an area identified with a higher density land use category on the Future Land Use Map as a suburban enclave, planned village, a Planned Development pursuant to the PEC ½ category, or rural community which will carry higher densities.*

Relationship To Land Development Regulations

Objective 9: *All existing and future land development regulations shall be made consistent with the Comprehensive Plan, and all development approvals shall be consistent with those development regulations as per the timeframe provided for within Chapter 163, Florida Statutes. Whenever feasible and consistent with Comprehensive Plan policies, land development regulations shall be designed to provide flexible, alternative solutions to problems.*

Policy 9.1: *Each land use plan category shall have a set of zoning districts that may be permitted within that land use plan category, and development shall not be approved for zoning that is inconsistent with the plan.*

Policy 9.2: *Developments must meet or exceed the requirements of all land development regulations as established and adopted by Hillsborough County, the state of Florida and the federal government unless such requirements have been previously waived by those governmental bodies.*

Neighborhood/Community Development

Objective 16: Neighborhood Protection *The neighborhood is a functional unit of community development. There is a need to protect existing neighborhoods and communities and those that will emerge in the future. To preserve, protect and enhance neighborhoods and communities, all new development must conform to the following policies.*

Policy 16.1: *Established and planned neighborhoods and communities shall be protected by restricting incompatible land uses through mechanisms such as: a) locational criteria for the placement of non-residential uses as identified in this Plan, b) limiting commercial development in residential land use categories to neighborhood scale; c) requiring buffer areas and screening devices between unlike land uses.*

Policy 16.2: *Gradual transitions of intensities between different land uses shall be provided for as new development is proposed and approved, through the use of professional site planning, buffering and screening techniques and control of specific land uses.*

Policy 16.3: *Development and redevelopment shall be integrated with the adjacent land uses through:*

- a) *the creation of like uses; or*
- b) *creation of complementary uses; or*
- c) *mitigation of adverse impacts; and*
- d) *transportation/pedestrian connections*

Policy 16.4: *To prevent the bisecting of established communities, the impact of major roadway and similar corridor projects on existing communities shall be evaluated by citizens and other affected parties through their inclusion in the predesign evaluation of alternatives, including route selection.*

Policy 16.5: *Development of higher intensity non-residential land uses that are adjacent to established neighborhoods shall be restricted to collectors and arterials and to locations external to established and developing neighborhoods.*

Commercial Locational Criteria

Objective 22: *To avoid strip commercial development, locational criteria for neighborhood serving commercial uses shall be implemented to scale new commercial development consistent with the character of the areas and to the availability of public facilities and the market.*

Policy 22.1: *The locational criteria for neighborhood serving non-residential uses in specified land uses categories will:*

- *provide a means of ensuring appropriate neighborhood serving commercial development without requiring that all neighborhood commercial sites be designated on the Future Land Use Map;*
- *establish a maximum square footage for each proposed neighborhood serving commercial intersection node to ensure that the scale of neighborhood serving commercial development defined as convenience, neighborhood, and general types of commercial uses, is generally consistent with surrounding residential character; and*
- *establish maximum frontages for neighborhood serving commercial uses at intersections ensuring that adequate access exists or can be provided.*

Policy 22.2: *The maximum amount of neighborhood-serving commercial uses permitted in an area shall be consistent with the locational criteria outlined in the table and diagram below. The table identifies the intersection nodes that may be considered for non-residential uses. The locational criteria is based on the land use category of the property and the classification of the intersection of roadways as shown on the adopted Highway Cost Affordable Long Range Transportation Plan. The maximums stated in the table/diagram may not always be achieved, subject to FAR limitations and short range roadway improvements as well as other factors such as land use compatibility and environmental features of the site.*

In the review of development applications consideration shall also be given to the present and short-range configuration of the roadways involved. The five year transportation Capital Improvement Program, MPO Transportation Improvement Program or Long Range Transportation Needs Plan shall be used as a guide to phase the development to coincide with the ultimate roadway size as shown on the adopted Long Range Transportation Plan.

Policy 22.7: *Neighborhood commercial activities that serve the daily needs of residents in areas designated for residential development in the Future Land Use Element shall be considered provided that these activities are compatible with surrounding existing and planned residential development and are developed in accordance with applicable development regulations, including phasing to coincide with long range transportation improvements. The locational criteria outlined in Policy 22.2 are not the only factors to be considered for approval of a neighborhood commercial or office use in a proposed activity center. Considerations involving land use compatibility, adequacy and availability of public services, environmental impacts, adopted*

service levels of effected roadways and other policies of the Comprehensive Plan and zoning regulations would carry more weight than the locational criteria in the approval of the potential neighborhood commercial use in an activity center. The locational criteria would only designate locations that could be considered, and they in no way guarantee the approval of a particular neighborhood commercial or office use in a possible activity center.

Policy 22.8: The Board of County Commissioners may grant a waiver to the intersection criteria for the location of commercial uses outlined in Policy 22.2. The waiver would be based on the compatibility of the use with the surrounding area and would require a recommendation by the Planning Commission staff. Unique circumstances and specific findings should be identified by the staff or the Board of County Commissioners which would support granting a waiver to this section of the Plan. The Board of County Commissioners may reverse or affirm the Planning Commission staff's recommendation through their normal review of rezoning petitions. The waiver can only be related to the location of the neighborhood serving commercial or agriculturally oriented community serving commercial zoning or development. The square footage requirement of the plan cannot be waived.

4.1 RURAL RESIDENTIAL CHARACTER

GOAL 7: Preserve existing rural uses as viable residential alternatives to urban and suburban areas.

OBJECTIVE 7-1: Support existing agricultural uses for their importance as a historical component of the community, their economic importance to the County and for the open space they provide.

4.3 COMMERCIAL CHARACTER

GOAL 9: Evaluate the creation of commercial design standards in a scale and design that complements the character of the community.

Policy 9-1.3: New commercial zoning is encouraged to locate at activity centers and commercial redevelopment areas.

Community Design Component

5.0 NEIGHBORHOOD LEVEL DESIGN

5.1 COMPATIBILITY

GOAL 12: Design neighborhoods which are related to the predominant character of the surroundings.

OBJECTIVE 12-1: New developments should recognize the existing community and be designed in a way that is compatible (as defined in FLUE policy 1.4) with the established character of the surrounding neighborhood.

7.0 SITE DESIGN

7.1 DEVELOPMENT PATTERN

GOAL 17: Develop commercial areas in a manner which enhances the County's character and ambiance.

OBJECTIVE 17-1: Facilitate patterns of site development that appear purposeful and organized.

Policy 17-1.4: Affect the design of new commercial structures to provide an organized and purposeful character for the whole commercial environment.

LIVABLE COMMUNITIES ELEMENT: Lutz Community Plan

Commercial Character

The Lutz community desires to retain existing and encourage new commercial uses geared to serving the daily needs of area residents in a scale and design that complements the character of the community. Currently there is approximately 301,559 square feet of commercial approved but not built within the community planning area.

The Lutz community seeks to ensure that commercial development and special uses in the community are properly placed to enhance the utility and historic character of the downtown. The community does not want new commercial and special use development to force the creation of development that does not complement the character of the area. To ensure that new commercial development is consistent with the character of the Lutz community, design guideline standards have been created and adopted into the County’s land development regulations.

These regulations ensure that:

- commercial uses are developed in character and/or scale with the rural look of the community and the environment;
- the Lutz downtown, generally located at the intersection of Lutz Lake Fern Road and US Highway 41, is recognized as community activity center, and defined as an overlay district within the County’s Land development regulations;
- the commercial activity centers identified in the North Dale Mabry Corridor Plan will be maintained (Figure 3 (of the Lutz background documentation));
- new commercial zoning is encouraged to locate at the three existing activity nodes along U.S. Highway 41(Figure 4 (of the Lutz background documentation):
 1. Lutz’s historic downtown area to Newberger Road;
 2. Crystal Lake Road to Sunset Lane; and
 3. Crenshaw Lake Road area.

Staff Analysis of Goals, Objectives, and Policies:

The 1.24 ± acre subject property is located southeast of 4th Avenue SE and North U.S. Highway 41. The site is in the Rural Area and is located within the limits of the Lutz Community Plan. The subject site’s Future Land Use classification on the Future Land Use Map (FLUM) is Residential-6 (RES-6). The applicant is requesting a rezoning from Residential Single Family Conventional-6 (RSC-6) to Commercial General (CG).

The applicant requested a remand at the November 7, 2023, regularly scheduled Board of County Commissioners Land Use meeting to the March 25, 2024, Zoning Hearing Master meeting to reduce the depth of the CG uses so that the rear of the site will not contain any active uses and for the Florida Department of Transportation to authorize access onto U.S. Highway 41. Though the applicant has restricted the access to U.S. Highway 41, which is supportive of policy direction in Future Land Use Element (FLUE) Policy 16.5, significant compatibility concerns still remain with the wide range of CG uses that could potentially locate in close proximity to existing single-family development on a site that does not meet CLC and is not located within a Lutz Community Plan commercial node. Additionally, a CG zoning district is not a site plan controlled district. While adding a restriction to limit

the CG uses closer to US Highway 41 is moving in a direction that is more in line with policy direction regarding compatibility and the transition of uses, monitoring and enforcing a restriction without a site plan is problematic and does not fully address the compatibility issues. In a case such as this, a Planned Development rezoning would be the most detailed and thorough option. In addition, the request still does not align with the vision of the Lutz Community Plan.

Objective 4 of the Future Land Use Element (FLUE) notes that 20% of the growth in the region will occur within the Rural Area. FLUE Policy 4.1 characterizes the Rural Area as low-density, large lot residential uses and long-term agricultural uses that can exist without the threat of urban or suburban encroachment. A rezoning to CG would directly conflict with this policy, as the range of uses would allow for urban encroachment into the residential area located east of the subject site.

The subject site is within the Rural Area and the proposed rezoning does not meet the intent of FLUE Objective 4 and Policy 4.1, as the proposed development is encouraging urbanization of the Rural Area. The subject site is surrounded by single-family residential uses to the south, east, and northeast. The singular Commercial General zoned parcel located directly north of the site is currently vacant and is designated as Residential-6 (RES-6) on the Future Land Use Map. The proposed rezoning from Residential Single-Family Conventional-6 (RSC-6) to Commercial General (CG) would encroach into the existing single family residential areas to the northeast, east and south of the subject site and is therefore not consistent with the direction of this policy. According to FLUE Objective 9 and Policy 9.2, all development proposals must meet or exceed all local, state and federal land development regulations. County Transportation had several objections and recommended denial of the rezoning. Per the Agency Review Comment Sheet, uploaded into Optix on October 30, 2023, the Transportation Division indicated that the parcel discussed will not meet minimum spacing standards for a connection to the state roadway and reasonable and adequate access to the parcel can be made by other means. Furthermore, it was stated that access to U.S. Highway 41 will not be permitted, that the applicant has unresolved transportation comments and also needs further coordination with the Florida Department of Transportation (FDOT). The applicant proposed a condition that was uploaded to Optix on March 11, 2024, to consider approval of this application on the condition that FDOT approves the U.S. Highway 41 access connection. At the time of drafting this report, the transportation concerns were still unresolved.

The proposed rezoning does not meet the intent of the Neighborhood Protection policies that modify FLUE Objective 16. The proposed rezoning would conflict with Objective 16, which strives to preserve, protect, and enhance neighborhoods and that new development must conform to the area. The policies under this Objective aim to establish that communities should be protected from incompatible land uses through mechanisms related to locational criteria, limiting commercial development in residential land use categories, and requiring the use of buffer areas between unlike land uses.

The Community Design Component Goal 12 and Objective 12-1 indicate that new developments should recognize the existing community pattern and be designed in a way that is compatible with the area. The request does not protect existing neighborhoods and is not compatible with the area's single-family residential uses, public/quasi-public institutional uses and nature preservation uses.

Goal 7 of the Community Design Component (CDC), under the Rural Residential Character section, also indicates the need to preserve rural uses as viable residential alternatives to urban and suburban areas. CDC Goal 17, and Objectives 17-1 and 17-1.4 all reflect upon the importance of commercial areas developing in a manner that enhances the character and ambiance of the area. The applicant has provided a list of intended restriction uses for the proposed Commercial General on the subject site. The applicant proposes to restrict the following uses: fast food restaurants with drive thru, convenience store with or without gas sales, and motor vehicle repair type uses. Despite the proposed restrictions, the proposed rezoning from RSC-6 to CG would not reflect a development pattern that is consistent with the character of the surrounding area.

FLUE Objective 22 establishes Commercial Locational Criteria (CLC) for neighborhood serving commercial uses. Policy 22.1 states that non-residential uses provide a means to ensuring appropriate neighborhood serving commercial development be consistent with the surrounding residential character. Policy 22.7 states that neighborhood commercial activities that serve the daily needs of residents in areas must be compatible with the surrounding existing development pattern. The proposed site does not meet Commercial Locational Criteria, as it is located over 1300 feet from the nearest qualifying intersection node at North US Highway 41 and Sunset Lane. Per FLUE Policy 22.8, an applicant may request a waiver to CLC. The applicant submitted a CLC waiver request for review. Staff reviewed the request and did not identify any unique circumstances that would lend support to a waiver request. Although the subject site is abutting CG zoning, the proposed rezoning would allow for the potential of uses that would encroach into the existing single-family residential neighborhood due to the shape and size of the lot. Therefore, staff recommends that the Board deny the waiver request.

The property site is situated within the limits of the Lutz Community Plan. The Lutz Community Plan vision desires to retain existing and encourage new commercial uses that are geared towards serving the daily needs of area residents in a manner that complements the character of their community. Residents also desire to maintain the area as a low density, semi-rural community. The proposed rezoning would directly conflict with the residential character located east of the subject site. The proposed subject site sits outside of the desired area for commercial development, and the commercial zoning nodes where new development is encouraged. The property site is not within the three existing activity nodes along U.S. Highway 41, located at Lutz's historic downtown area to Neuberger Road, Crystal Lake Road to Sunset Lane, or in the Crenshaw Lake Road area. The proposed rezoning conflicts with this policy direction as well as the established Commercial Locational Criteria for non-residential land uses in the RES-6 Future Land Use category.

Overall, the proposed rezoning would not allow for development that is not consistent with the Goals, Objectives, and Policies of the Unincorporated Hillsborough County Comprehensive Plan. The rezoning request is not compatible with the existing residential development pattern in the area.

Recommendation

Based upon the above considerations, the Planning Commission staff finds the proposed rezoning **INCONSISTENT** with the *Unincorporated Hillsborough County Comprehensive Plan*.

HILLSBOROUGH COUNTY FUTURE LAND USE

RZ 23-0082

Rezonings
STATUS

- APPROVED
- CONTINUED
- DENIED
- WITHDRAWN
- PENDING

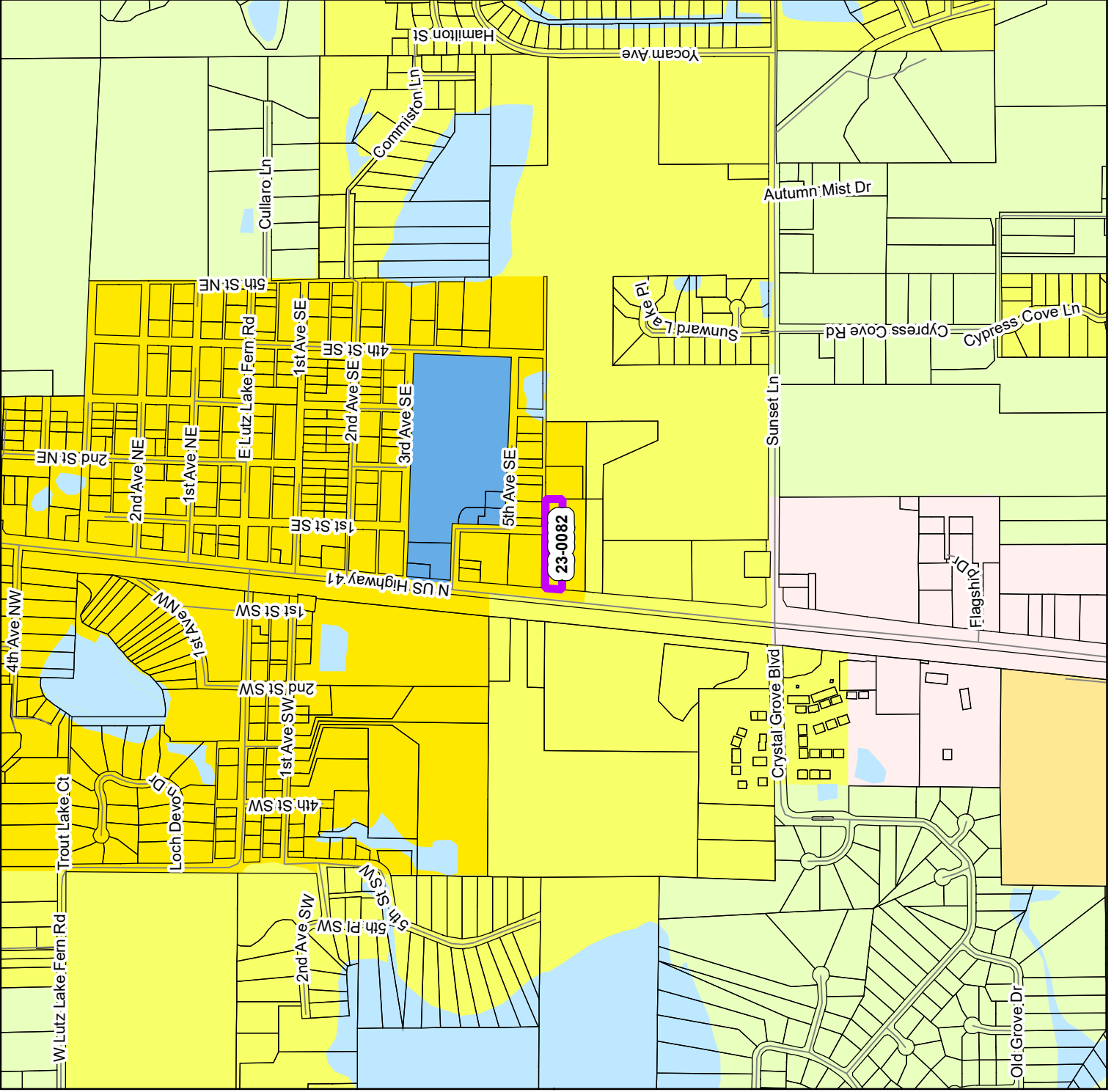
- Tampa Service
- Urban Service
- Shoreline
- County Boundary
- Jurisdiction Boundary
- Reads
- Parcels

- WATER NATURAL LULC, Wet Poly
- AGRICULTURAL/MINING-1/20 (.25 FAR)
- PEC PLANNED ENVIRONMENTAL COMMUNITY-1/2 (.25 FAR)
- AGRICULTURAL-1/10 (.25 FAR)
- AGRICULTURAL/RURAL-1/5 (.25 FAR)
- AGRICULTURAL ESTATE-1/2.5 (.25 FAR)
- RESIDENTIAL-1 (.25 FAR)
- RESIDENTIAL-2 (.25 FAR)
- RESIDENTIAL PLANNED-2 (.35 FAR)
- RESIDENTIAL-4 (.25 FAR)
- RESIDENTIAL-6 (.25 FAR)
- RESIDENTIAL-9 (.35 FAR)
- RESIDENTIAL-12 (.35 FAR)
- RESIDENTIAL-16 (.35 FAR)
- RESIDENTIAL-20 (.35 FAR)
- RESIDENTIAL-35 (1.0 FAR)
- NEIGHBORHOOD MIXED USE-4 (3) (.35 FAR)
- SUBURBAN MIXED USE-6 (.35 FAR)
- COMMUNITY MIXED USE-12 (.50 FAR)
- URBAN MIXED USE-20 (1.0 FAR)
- REGIONAL MIXED USE-35 (2.0 FAR)
- OC-20
- RESEARCH CORPORATE PARK (1.0 FAR)
- ENERGY INDUSTRIAL PARK (.50 FAR USES OTHER THAN RETAIL, .25 FAR RETAIL/COMMERCE)
- LIGHT INDUSTRIAL PLANNED (.50 FAR)
- LIGHT INDUSTRIAL (.50 FAR)
- HEAVY INDUSTRIAL (.50 FAR)
- PUBLIC/QUASH-PUBLIC
- NATURAL PRESERVATION
- WIMAUVA VILLAGE RESIDENTIAL-2 (.25 FAR)
- CITRUS PARK VILLAGE

Map Printed from Rezoning System: 2/3/2023
 Author: Beverly F. Daniels
 File: C:\Rezoning\System\MapProjects\HC\Gis\ReZoning - Copy.mxd

0 460 920 1,380 1,840 Feet

Hillsborough County
City-County
Planning Commission



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