





Interoffice Memorandum

DATE: April 23, 2020

TO: Mayor Jerry L. Demings
-AND-
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director
Planning, Environmental and Development
Services Department 

CONTACT PERSON: **Eric Raasch, DRC Chairman**
Development Review Committee 
Planning Division
(407) 836-5523

SUBJECT: May 5, 2020 – Public Hearing
Planning and Zoning Commission: Board Called Rezoning
Applicant: Mustapha Moutchou
Case # RZ-20-01-070 / District 6

This is a Board-called rezoning hearing in which the applicant is seeking to rezone three parcels totaling 0.97-gross acres located at 6011 Old Winter Garden Road, 130 Condor Road and 134 Condor Road; or generally northwest of the intersection of Old Winter Garden Road and Condor Road, from C-1 (Retail Commercial District) and R-3 (Multiple-Family Dwelling District) to C-1 (Retail Commercial District) and C-2 (General Commercial District). The applicant's intent is to allow for a gas station, auto sales, and auto repair. On January 16, 2020, the Planning and Zoning Commission recommended approval of an alternative staff recommendation of C-1 (Retail Commercial District) for all three parcels, subject to restrictions, in the lieu of the requested C-2 (General Commercial District) zoning.

Finally, the required Specific Project Expenditure Report and Relationship Disclosure Forms have been completed in accordance with the requirements of Article X, Chapter 2, Orange County Code, as may be amended from time to time, and copies of these may be found in the Planning Division for further reference.

ACTION REQUESTED: Make a finding of consistency with the Comprehensive Plan and recommend approval of the C-1 (Retail Commercial District) for all three parcels, subject to the restrictions listed in the staff report. District 6

JVW/EPR/ip
Attachment

CASE # RZ-20-01-070

Commission District: #6

GENERAL INFORMATION

APPLICANT	Mustapha Moutchou
OWNERS	Mustapha Moutchou, Brahim Moutchou
HEARING TYPE	Planning and Zoning Commission
REQUEST	C-1 (Retail Commercial District) and R-3 (Multiple-Family Dwelling District) to C-1 (Retail Commercial District) and C-2 (General Commercial District)
LOCATION	6011 Old Winter Garden Road, 130 Condor Road and 134 Condor Road; or generally northwest of the intersection of Old Winter Garden Road and Condor Road
PARCEL ID NUMBER	25-22-28-7804-00-010, 25-22-28-6424-01-160, and 25-22-28-6424-01-170
TRACT SIZE	0.97-gross acre
PUBLIC NOTIFICATION	The notification area for this public hearing was 500 feet [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. One hundred eighty-seven (187) notices were mailed to those property owners in the mailing area. A community meeting was not required for this application.
PROPOSED USE	Gas station, auto sales, and auto repair

STAFF RECOMMENDATION

PLANNING

Make a finding of inconsistency with the Comprehensive Plan and recommend DENIAL of the requested C-2 (General Commercial District) zoning for Parcel I.D. Numbers 25-22-28-6424-01-170 and 25-22-28-6424-01-160.

ALTERNATIVE RECOMMENDATION

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the requested C-1 (Retail Commercial District), subject to the following restrictions:

Restrictions:

- 1) New billboards and pole signs shall be prohibited; and
- 2) The applicant / developer shall submit a site plan to demonstrate compliance with all Orange County Code requirements (including landscaping and paved surfaces) prior to the accommodation of any non-residential uses; and
- 3) Parcels 25-22-28-7804-00-010, 25-22-28-6424-01-160 and 25-22-28-6424-01-170 shall be aggregated into one (1) lot prior to the issuance of any use permit; and
- 4) Vehicular access shall only be allowed from Old Winter Garden Road, and prohibited from Condor Road; and
- 5) A six (6) foot masonry wall shall be constructed along the northern property line for Parcel I.D. Number 25-22-28-7804-00-010 and 25-22-28-6424-01-160 adjacent to residential uses.

SUBJECT PROPERTY ANALYSIS

Overview

Through this request, the applicant is seeking to rezone three parcels as outlined below:

Parcel ID	Current Zoning	Proposed Zoning
25-22-28-6424-01-160	R-3 (Multiple-Family Dwelling District)	C-1 (Retail Commercial District)
25-22-28-6424-01-170	R-3 (Multiple-Family Dwelling District)	C-2 (General Commercial District)
25-22-28-7804-00-010	Restricted C-1 (Retail Commercial District)	C-2 (General Commercial District)

The proposal is to allow a gas station, auto sales, and auto repair. A proposed zoning map is provided at the end of this report for clarification. Due to the adjacency of single-family zoned property, staff is recommending denial of the proposed C-2 zoning.

The Future Land Use Map (FLUM) designates the subject property as Commercial (C). The area surrounding the subject property is characterized by various commercial and residential uses along Old Winter Garden Road, transitioning to single-family residential neighborhood to the north.

Parcel 25-22-28-7804-00-010 was rezoned from R-3 (Multiple-Family Dwelling District) to C-1 (Retail Commercial District) in 2006 with two (2) restrictions:

- 1) A six (6) foot PVC (vinyl type fence shall be constructed along the northern and eastern property line adjacent to residential uses; and,
- 2) Billboards and pole signs shall be prohibited.

Land Use Compatibility

The C-2 (General Commercial District) zoning would allow for development that is incompatible with the character of the surrounding area and may adversely impact adjacent properties.

Site Analysis

	Yes	No	Information
Rural Settlement	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Joint Planning Area (JPA)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Overlay District Ordinance	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Airport Noise Zone	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Code Enforcement	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Address: 134 Condor Rd, 6011 Old Winter Garden Rd Parcel#: 25-22-28-6424-01-170, 25-22-28-7804-00-010 Incident#: 551938, 557851, 553579 Case#: SM-2020-413756Z Description: Erecting fence without permit; Roof repair without permit; Inoperative vehicles/Automotive sales Inspector: Daniel Long

Comprehensive Plan (CP) Consistency

The underlying CP Future Land Use Map (FLUM) designation of the subject property is Commercial (C). The proposed C-1 (Retail Commercial District) and C-2 (General Commercial District) zoning is consistent with the Commercial FLUM designation, therefore a CP amendment is not necessary. While the proposed C-2 (General Commercial District) zoning is consistent with the Commercial FLUM designation, it is inconsistent with the following Comprehensive Plan provisions:

FLU1.4.2 states that Orange County shall ensure that land uses changes are compatible with and serve existing neighborhoods.

FLU1.4.4 states that the disruption of residential areas by poorly located and designed commercial activities shall be avoided.

FLU8.1.1 states that the zoning and future land use correlation shall be used to determine consistency with the Future Land Use Map. Land use compatibility, the

location, availability and capacity of services and facilities, market demand, and environmental features shall also be used in determining which specific zoning district is most appropriate. Density is restricted to the maximum and minimum allowed by the Future Land Use Map designation regardless of zoning.

OBJ FLU8.2 states that compatibility will continue to be the fundamental consideration in all land use and zoning decisions.

FLU8.2.1 states that land use changes shall be required to be compatible with existing development and development trend in the area. Performance restrictions and/or conditions may be placed on property through the appropriate development order to ensure compatibility. No restrictions or conditions shall be placed on a Future Land Use Map change.

FLU8.2.11 states that compatibility may not necessarily be determined to be a land use that is identical to those uses that surround it. Other factors may be considered, such as the design attributes of the project, its urban form, the physical integration of a project and its function in the broader community, as well its contribution toward the Goals and Objectives in the CP. The CP shall specifically allow for such a balance of considerations to occur.

SITE DATA

Existing Use	Single-Family Dwelling
Adjacent Zoning	N: R-1 (Single-Family Dwelling District) (1957) R-3 (Multiple-Family Dwelling District) (1957) E: C-1 (Retail Commercial District) (1985) W: R-3 (Multiple-Family Dwelling District) (1957) S: R-1 (Single-Family Dwelling District) (1957) <i>*No restrictions apply to the above zoning districts</i>
Adjacent Land Uses	N: Single-Family Dwelling E: Vacant Commercial W: Storm/Retention/Drain S: Cemetery

C-1 (Retail Commercial District) Development Standards

Min. Lot Area:	6,000 sq. ft.
Min. Lot Width:	80 ft. (on major streets, see Article XV) 60 ft. (on all other streets)
Max. Height:	50 ft. (35 ft. within 100 ft. of residential)
Min. Floor Area:	500 sq. ft.

Building Setbacks

Front:	25 ft.
Rear:	20 ft. (20 ft. when abutting residential)
Side:	0 ft. (15 ft. when abutting residential)

Intent, Purpose, and Uses

The intent and purpose of this C-1 (Retail Commercial District) are as follows: this district is composed of lands and structures used primarily for the furnishing of selected commodities and services at retail. This district is encouraged:

- (1) At intersections of collectors and/or arterials;
- (2) Where it will not direct commercial traffic through residential districts;
- (3) Where adequate public facilities and services are available, as defined in the comprehensive policy plan;
- (4) Where compatible with adjacent areas or where buffers can be provided to ensure compatibility; and
- (5) To a limited extent in rural settlements throughout the county to meet the needs of an identified community, or in growth centers as defined in the comprehensive policy plan.

Specific uses shall be identified by the letter "P" in the use table set forth in Section 38-77 of the Orange County Code.

C-2 (General Commercial District) Development Standards

Min. Lot Area:	8,000 sq. ft.
Min. Lot Width:	100 ft. (on major streets, see Article XV) 80 ft. (on all other streets)
Max. Height:	50 ft. (35 ft. within 100 ft. of residential)
Min. Floor Area:	500 sq. ft.

Building Setbacks

Front:	25 ft.
Rear:	15 ft. (20 ft. when abutting residential)
Side:	5 ft. (25 ft. when abutting residential)

Intent, Purpose, and Uses

The intent and purpose of the C-2 zoning district is to provide for the retailing of commodities and the furnishing of several major services, selected trade shops and automotive repairs. This district is encouraged at locations along minor arterial and major arterial roads where general commercial uses would be compatible with the surrounding neighborhood, yet not adjacent to residential uses. This district typically occupies an area larger than that of the retail commercial district, serves a considerably greater population, and offers a wider range of services. This district is only promoted within the urban service area where uses of this intensity have already been established.

Specific uses shall be identified by the letter "P" in the use table set forth in Section 38-77 of the Orange County Code and include new and used automobile sales; car rental and leasing; auto painting and body shops; special trade contractors' offices (storage, equipment yards, and offices with outdoor storage); automobile parking lots and parking garages; outdoor storage and display of equipment, products, and merchandise; landscaping and irrigation businesses; commercial kennels; caterers; etc.

SPECIAL INFORMATION

Staff Comments

	Yes	No	Information
Environmental	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See note below table*
Transportation / Access	<input checked="" type="checkbox"/>	<input type="checkbox"/>	This project is located within the Orange County Alternative Mobility Area. The following is a list of alternative modes within the project area: Existing Orange County maintained sidewalks along Old Winter Garden Road from S. Kirkman Road to S. Hiwassee Road. LYNX bus link#54 - Old Winter Garden Road. There are five (5) bus stops within the project area. A mobility analysis may be required for this project.
Schools	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Parks and Recreation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

*Any miscellaneous garbage, hazardous waste, yard waste (including excess fertilizers, herbicides and pesticides), and construction or demolition debris shall be disposed of off-site according to the solid waste and hazardous waste regulations. Call the Orange County Solid Waste Hotline at 407-836-6601 for information.

The site shall comply with the Florida Department of Environmental Protection (FDEP) regulations: Chapter 62-761, F.A.C. Petroleum Storage Systems (USTs), Chapter 62-762, F.A.C. Petroleum Storage Systems (ASTs), Chapter 62-770, F.A.C. Petroleum Contamination Site Cleanup Criteria, and Chapter 62-777, F.A.C. Contaminant Cleanup Target Levels. Comply with all notification requirements as specified through contact with the Orange County Environmental Protection Division (EPD) at 407-836-1475.

Prior to demolition or construction activities associated with existing structures, provide a Notice of Asbestos Renovation or Demolition form to the Orange County Environmental Protection Division (EPD). For more information, or to determine if an exemption applies, contact the EPD Air Quality Management staff at 407-836-1400.

Any existing septic tanks or wells (potable or irrigation water supply wells) onsite shall be properly abandoned prior to earthwork or construction. Contact the Department of Health (DOH) for the septic system and both DOH and the Water Management District for wells. Refer to Orange County Code Chapter 37 Water and Wastewater, Article XVII Individual On-Site Sewage Disposal for details on Individual On-Site Sewage Disposal. There are specific guidelines and limitations for commercial and industrial uses.

Community Meeting Summary

A community meeting was not required for this request.

Utilities

Water:	Orlando Utilities Commission	
Wastewater:	Orange County Utilities	24-inch forcemain pipe is located within the Old Winter Garden Road right-of-way
Reclaim Water:	Orange County Utilities	Not currently available

State of Florida Notice

Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

Specific Project Expenditure Report and Relationship Disclosure Form

The original Specific Project Expenditure Report and Relationship Disclosure Form are currently on file with the Planning Division.

ACTION REQUESTED

Planning and Zoning Commission (PZC) Recommendation – (January 16, 2020)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the C-1 (Retail Commercial District) for all three parcels, subject to the following restrictions:

- 1) New billboards and pole signs shall be prohibited; and
- 2) The applicant / developer shall submit a site plan to demonstrate compliance with all Orange County Code requirements (including landscaping and paved surfaces) prior to the accommodation of any non-residential uses; and

- 3) Parcels 25-22-28-7804-00-010, 25-22-28-6424-01-160 and 25-22-28-6424-01-170 shall be aggregated into one (1) lot prior to the issuance of any use permit; and
- 4) Vehicular access shall only be allowed from Old Winter Garden Road, and prohibited from Condor Road; and
- 5) A six (6) foot masonry wall shall be constructed along the northern property line adjacent to the residential use.

PLANNING AND ZONING COMMISSION (PZC) PUBLIC HEARING SYNOPSIS

The staff report was presented to the PZC with the recommendation that they make a finding of inconsistency with the Comprehensive Plan and recommend DENIAL of the requested C-2 (General Commercial District). Alternatively, staff recommended to make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the C-1 (Retail Commercial District) zoning for all three parcels, subject to five (5) restrictions.

Staff indicated that one hundred eighty-seven (187) notices were mailed to the surrounding property owners within a buffer extending 500 feet from the subject property, with two (2) responses in opposition to the request and zero (0) in favor. Those opposed stated concerns related to traffic and noise affecting the adjacent residential neighborhood from the proposed uses. One citizen spoke in opposition, citing concerns of incompatibility with the adjacent residents. The applicant was present for the hearing and concurred with staff's alternative recommendation.

A motion was made by Commissioner Wade to make a finding of inconsistency with the Comprehensive Plan and recommend DENIAL of the requested C-2 (General Commercial District) zoning. After a brief discussion, Commissioner Wade amended his motion to deny the C-1 (Retail Commercial District) and the motion failed. Another motion was made by Commissioner Abdallah to support staff's alternative recommendation to make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the C-1 (Retail Commercial District) zoning for all three parcels. Commissioner Dunn seconded the motion and Commissioner Wade opposed. The motion passed on a 5-1 vote.

Motion / Second

Mohammed Abdallah / Jimmy Dunn

Voting in Favor

Mohammed Abdallah, Jimmy Dunn, Diane Velazquez, Gordon Spears, and Eddie Fernandez

Voting in Opposition

JaJa Wade

Absent

Carlos Nazario

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 Subject Property



 Subject Property

Future Land Use Map

FLUM: Commercial (C)

APPLICANT: Mustapha Moutchou

LOCATION: 6011 Old Winter Garden Road, 130 Condor Road and 134 Condor Road; generally located on the northwest corner of Old Winter Garden Road and Condor Road

TRACT SIZE: 0.97-gross acre

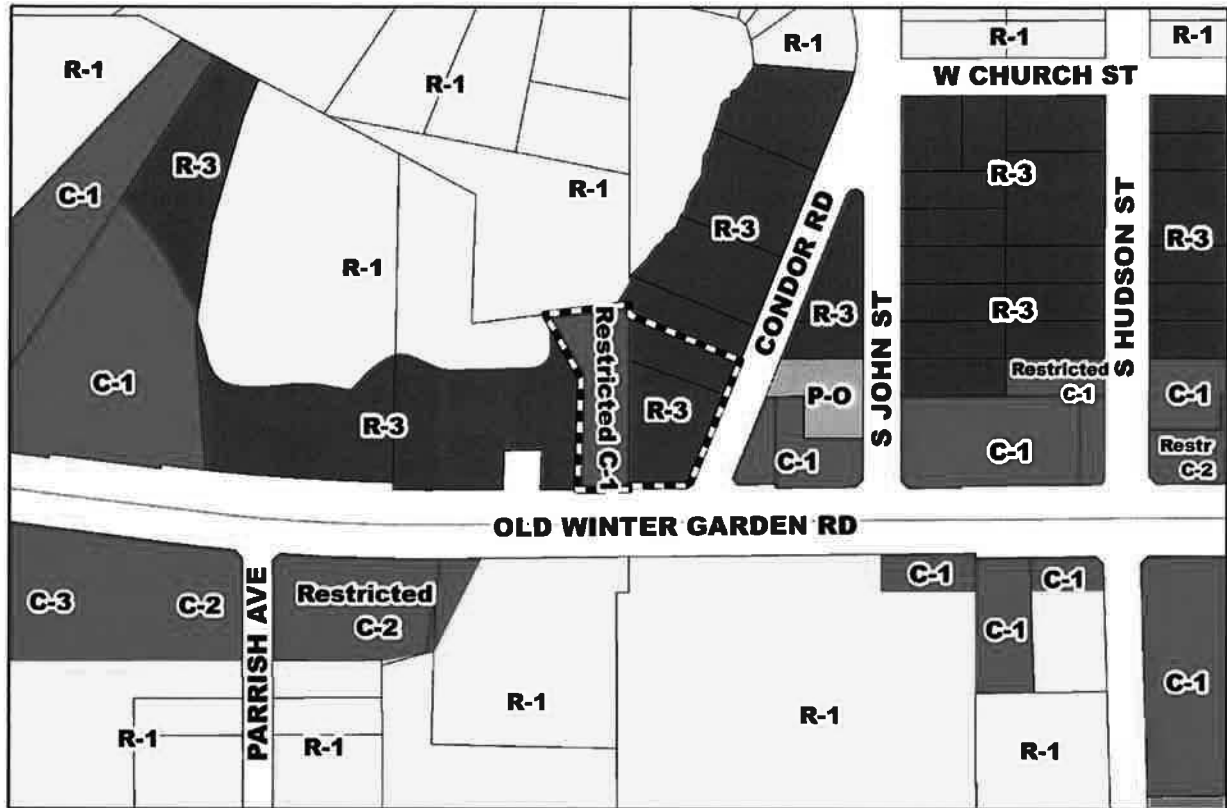
DISTRICT: #6

S/T/R: 28/22/25

1 inch = 205 feet



RZ-20-01-070



Subject Property



Subject Property

Existing Zoning Map

Zoning: C-1 (Retail Commercial District) and R-3 (Multiple-Family Dwelling District) to C-1 (Retail Commercial District) and C-2 (General Commercial District)

APPLICANT: Mustapha Moutchou

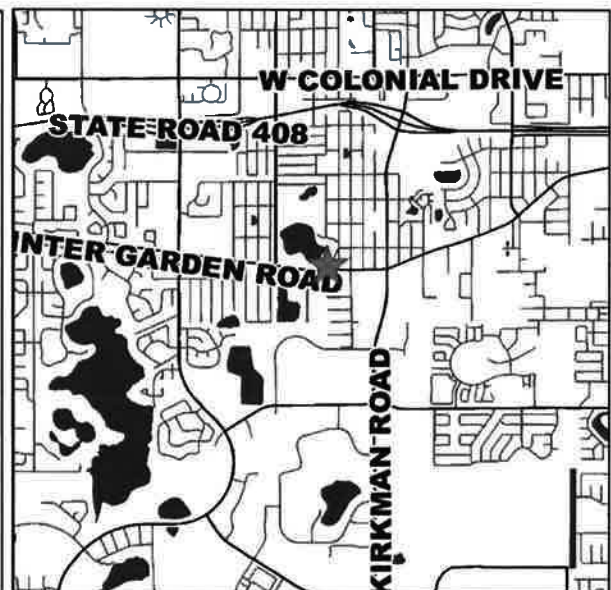
LOCATION: 6011 Old Winter Garden Road, 130 Condor Road and 134 Condor Road; generally located on the north west corner of Old Winter Garden Road and Condor Road

TRACT SIZE: 0.97-gross acre

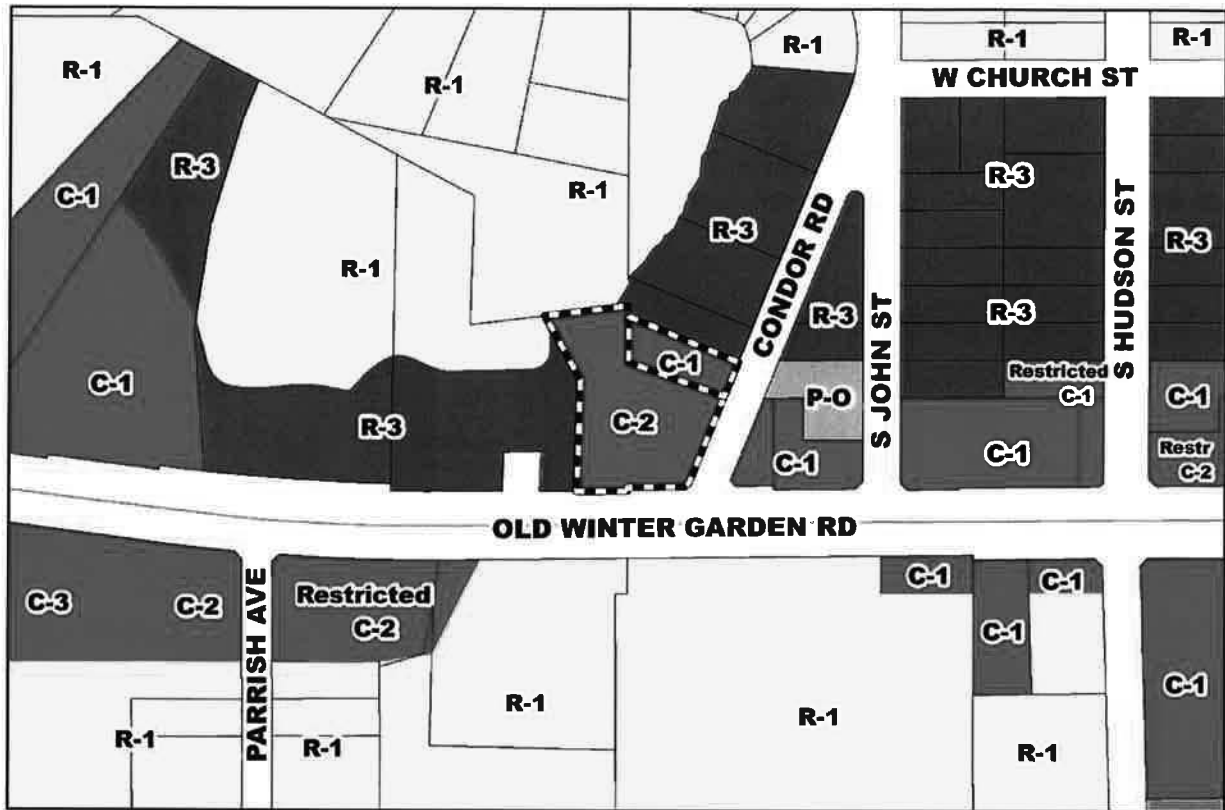
DISTRICT: #6

S/T/R: 28/22/25

1 inch = 210 feet



RZ-20-01-070



Subject Property



Subject Property

Proposed Zoning Map

Zoning: C-1 (Retail Commercial District) and R-3 (Multiple-Family Dwelling District) to C-1 (Retail Commercial District) and C-2 (General Commercial District)

APPLICANT: Mustapha Moutchou

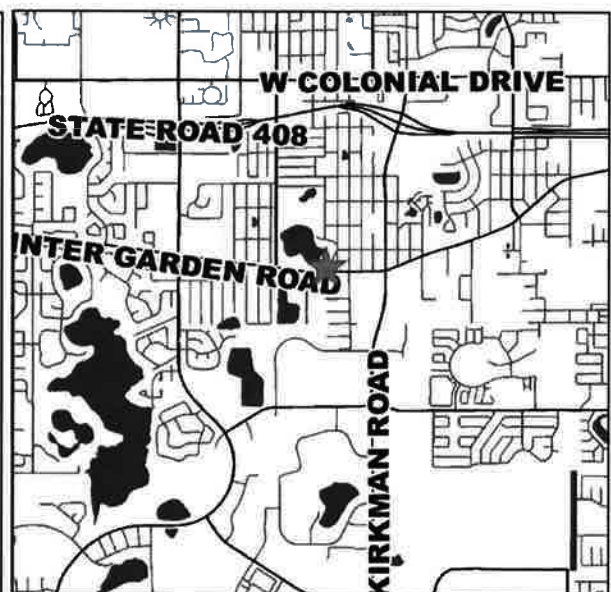
LOCATION: 6011 Old Winter Garden Road, 130 Condor Road and 134 Condor Road; generally located on the north west corner of Old Winter Garden Road and Condor Road

TRACT SIZE: 0.97-gross acre

DISTRICT: #6

S/T/R: 28/22/25

1 inch = 210 feet



RZ-20-01-070

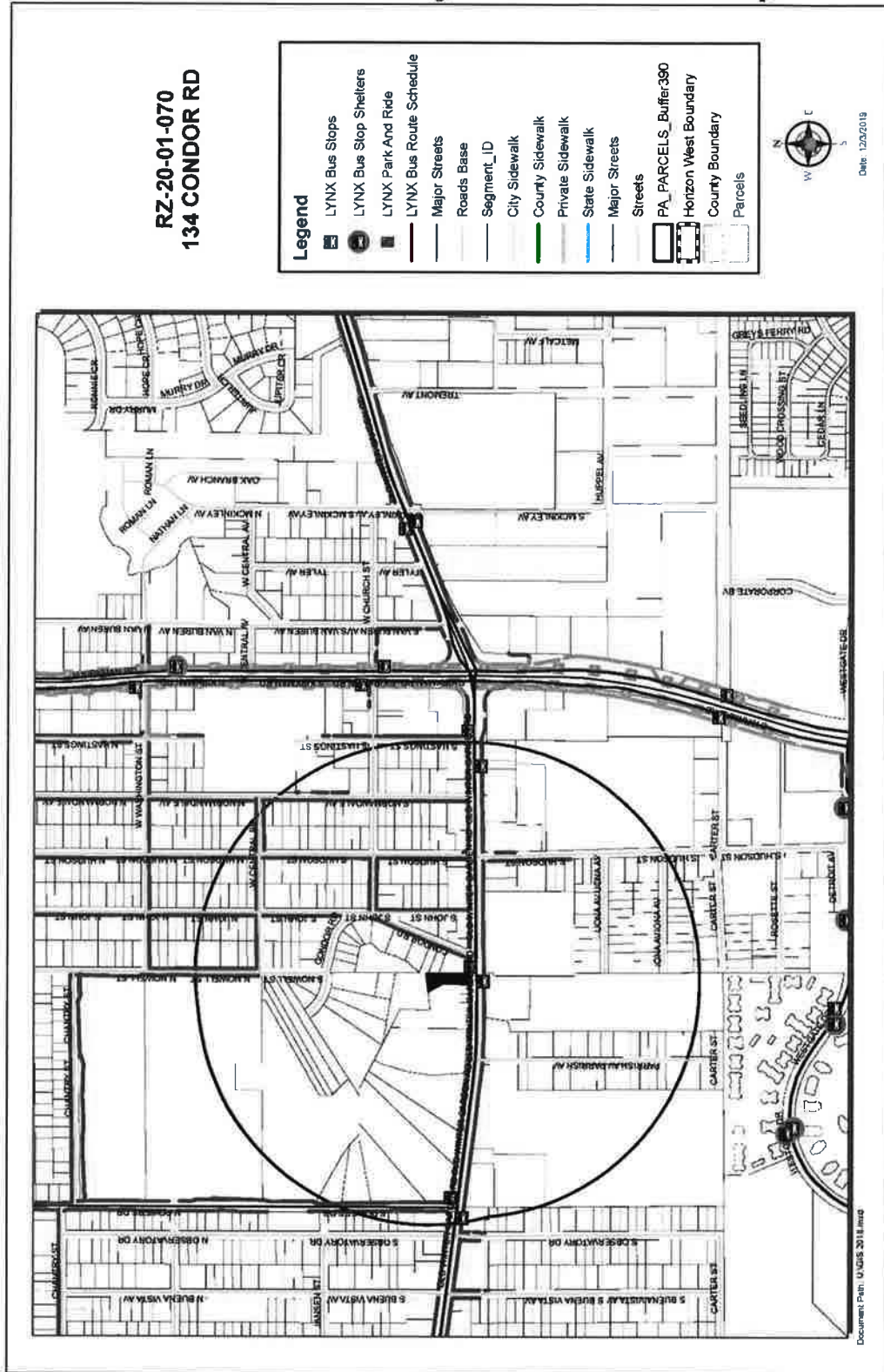


 Subject Property



1 inch = 165 feet

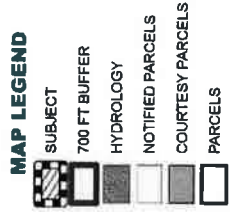
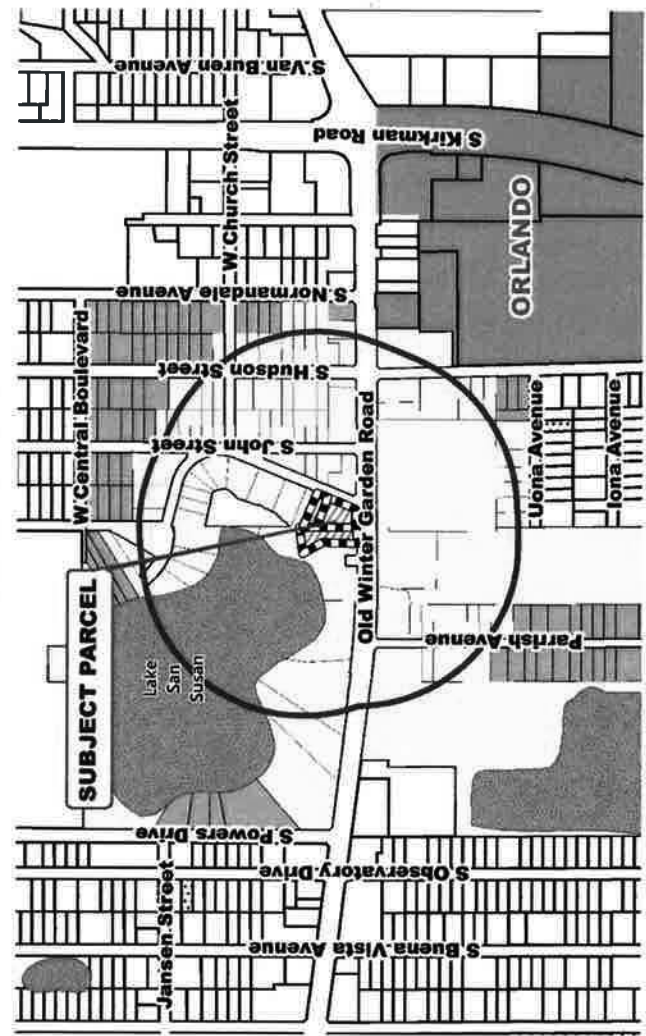
Alternative Mobilty Area Context Map



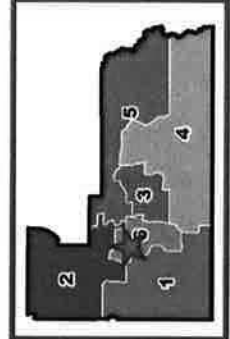
Notification Map

Public Notification Map

RZ-20-01-070



500 : FT BUFFER
 187 : NOTICES
 124 : RESIDENTIAL COUNT



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