



Interoffice Memorandum

DATE: November 16, 2021

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

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

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

SUBJECT: November 30, 2021 – Public Hearing
Planning and Zoning Commission: Board-called Rezoning
Applicant: Abdool Omar Kayam Shadik
Case # RZ-21-08-049 / District 2

This is a Board-called rezoning hearing in which the applicant is seeking to rezone a 0.54-gross acre property located at 5601 Pine Hills Road from R-2 (Residential District) to C-3 (Wholesale Commercial District) in order to construct an auto repair shop. A community meeting was not required for this request.

On September 16, 2021, the Planning and Zoning Commission recommended the approval of C-1 Restricted (Retail Commercial District) zoning, subject to two (2) restrictions, in lieu of the C-3 (Wholesale Commercial District) that was originally requested by the applicant.

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 approve the C-1 Restricted (Retail Commercial District) zoning, subject to the restrictions listed in the staff report.
District 2**

JVW/EPR/SFV
Attachment

GENERAL INFORMATION

APPLICANT	Abdool Omar Kayam Shadik
OWNERS	Abdool Omar Kayam Shadik
HEARING TYPE	Planning and Zoning Commission
REQUEST	R-2 (Residential District) to C-1 Restricted (Retail Commercial District)
LOCATION	5601 N. Pine Hills Road; generally located on the east side of Pine Hills Road, north of Clarcona Ocoee Road.
PARCEL ID NUMBER	31-21-29-0000-00-063
TRACT SIZE	0.54-gross acre
PUBLIC NOTIFICATION	The notification area for this public hearing was 700 feet [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Two hundred sixty-seven (267) notices were mailed to those property owners in the mailing area. Per the district office a community meeting was not required for this application.
PROPOSED USE	Auto Repair

STAFF RECOMMENDATION

PLANNING:

Make a finding of inconsistency with the Comprehensive Plan and recommend DENIAL of the requested C-3 (Wholesale Commercial District) zoning pursuant to Comprehensive Plan policies FLU1.4.2, FLU1.4.4, OBJ FLU8.2 and FLU8.2.1.

PZC RECOMMENDATION:

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the C-1 Restricted (Retail Commercial District) zoning, 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 parking and landscaping) prior to the accommodation of any commercial uses.

SUBJECT PROPERTY ANALYSIS

Overview

The subject property is located on the east side of Pine Hills Road, north of Clarcona Ocoee Road. The applicant has applied to rezone the 0.54-gross acre parcels from R-2 (Residential District) to C-3 (Wholesale Commercial District) zoning in order to construct an auto repair shop.

The land directly adjacent to the east and north of the subject property is an Orange County retention pond. The 23,328 square foot subject parcel is currently undeveloped. The lot measurements are approximately 55 feet in depth on the north side, 73 feet in depth on the south side by 244 feet wide, fronting along N. Pine Hills Road.

A Future Land Use Map Amendment was adopted for the subject property in 2010, which amended the property's designation from Low Medium Density Residential (LMDR) to Commercial (C). The R-2 (Residential District) zoning was established on the property in 1992, which is inconsistent with the underlying Commercial FLUM designation.

During the October 19, 2010, BCC Adoption Hearing (case # 2010-2-S-2-1), the Board of County Commissioners discussed the potential rezoning to fix the inconsistency. The Board suggested a C-1 (Retail Commercial District) zoning could be considered in the future. The residents present at the associated community meeting had no concerns with the Commercial Future Land Use, however, they expressed the desire to limit the approval to neighborhood-serving retail commercial or office uses on the site. The former property owner never submitted the associated rezoning, so the inconsistency still exists today.

The immediate area has no other commercial zoning district adjacent to the subject property. The area can be characterized as developed with single-family to the east, and north and multi-family development to the west.

Staff has concluded the requested C-3 (Wholesale Commercial District) zoning with the proposed auto repair use is not compatible with the surrounding area. Upon completing a full analysis of the request, staff offered an alternative recommendation of C-1 (Retail Commercial District) zoning. This zoning district will address compatibly with the surrounding area. The applicant will need to submit a site plan to demonstrate compliance with all Orange County Code requirements including parking, retention, access and landscaping. The subject property is located within the boundary of Wekiva Study area, and per policy OS1.3.6, 25% of the property is required to be preserved for open space.

Land Use Compatibility

The C-3 (Wholesale Commercial District), zoning would allow for uses that are incompatible with the character of the surrounding area and the proposed use would adversely impact the character of the area.

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"/>	Parcel #: 31-21-29-0000-00-063 Assigned Incident#: 593522 Inspector: Jose Ortiz Description: Property owner using R-2 zoned vacant property for commercial vehicles and equipment storage.

Comprehensive Plan (CP) Consistency

The underlying CP Future Land Use Map (FLUM) designation of the subject property is Commercial (C). The proposed C-3 (Wholesale Commercial District) zoning is consistent with the Commercial FLUM designation and therefore a CP amendment is not necessary. While the proposed C-3 (Wholesale 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 use 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	Undeveloped
Adjacent Zoning	N: OC Retention Pond E: OC Retention Pond W: PD (Planned Development District) (1997) S: OC Retention Pond
Adjacent Land Uses	N: OC Retention Pond E: OC Retention Pond W: Multi-Family Apartments S: OC Retention Pond

**No zoning restrictions apply to the above.*

C-3 (Wholesale Commercial District) Development Standards

Min. Lot Area:	12,000 sq. ft.
Min. Lot Width:	100 ft. (125 ft. on major streets)
Max. Height:	75 ft. (35 ft. within 100 ft. of residential)
Min. Floor Area:	500 sq. ft.

Building Setbacks

Front:	25 ft. (except on major streets as provided in Art. XV)
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-3 district is to implement and be consistent with the commercial land use designation of the Future Land Use Map (FLUM). The C-3 district is composed of land and structures where more intense commercial activity is located. This district must be located away from residential districts because it allows uses that are not compatible with residential districts.

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 storage yards for operable automobiles, trucks, boats, and commercial vehicles (regardless if for sale, lease, or not), new and used automobile sales, recreational and commercial vehicle sales and storage, auto part and tire dealers, outside storage, lumber and building material yards, and the wholesale distribution of goods including industrial machinery equipment, electronics, farm and garden equipment, and furniture.

SPECIAL INFORMATION**Staff Comments**

	Yes	No	Information
Environmental	<input checked="" type="checkbox"/>	<input type="checkbox"/>	*See note below
Transportation / Access	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Based on the capacity database dated July 7, 2021, there is capacity available for this project. This information is dated and available capacities are subject to change at any time. A capacity encumbrance letter application will be required prior to building permit. Based on the size of the development, a traffic study may also be required.
Neighborhood Services	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Parks and Recreation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

*This site is located within the Wekiva Study Area, as established by the Wekiva Parkway and Protection Act, Section 369.316 F.S. Additional environmental regulations may apply. This site is also located within the Priority Focus Area. The Springs and Aquifer Protection Act (section 373.811(2) F.S.) requires treatment of Onsite Sewage Treatment and Disposal System (OSTDS) loads in the Wekiwa Spring and Rock Springs Basin Management Plan (BMAP) of June 2018. Per this requirement, lots less than one acre within the Priority Focus Area must comply with the OSTDS Remediation Plan that requires systems with nitrogen reducing enhancements within the BMAP. Residential lots shall be configured to accommodate requirements of Orange County Code Chapter 37 Water and Wastewater, Article XVII Individual On-Site Sewage Disposal and shall meet the more stringent of the local and state regulations. Any person desiring to construct these systems, modify, or repair, existing systems shall apply for a permit to the Florida Department of Health, Environmental Health Division.

This rezoning request is located southeast of the formally known as Old Bray Dump/Landfill. This is designated as the Orlando Commerce Park ROCC brownfield site.

No activity will be permitted on the site that may disturb, influence, or otherwise interfere with: areas of soil or groundwater contamination, or any remediation activities, or within the hydrological zone of influence of any contaminated area, unless prior approval has been obtained through the Florida Department of Environmental Protection (FDEP) and such approval has been provided to the Environmental Protection Division of Orange County. An owner/operator who exacerbates any existing contamination or does not properly dispose of any excavated contaminated media may become liable for some portion of the contamination pursuant to the provisions in section 376.308, F.S.

The on-site soil types and soil based upon the USDA Soil Conservation Service classification system indicate there are hydric soils present. If the applicant feels that this land is exempt from the conservation area determination then the steps as outlined in code 15-380 shall be followed and a binding determination of exemption obtained from EPD.

Community Meeting Summary

A community meeting was not required for this request.

Utilities

Water: Orange County Utilities

Waste Water: Orange County Utilities

Reclaim Water: Orange County Utilities

***Detailed Utility Information:**

Development within this property will be required to connect to Orange County Utilities Water system. The connection points will be assessed during Final Engineering / Construction Plan permitting.

The availability and requirement to connect to the wastewater system will be assessed during Final Engineering / Construction Plan Permitting.

There are no reclaimed water mains within the vicinity of this property. Reclaimed water is considered not available. Connection is not required.

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

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the C-1 Restricted (Retail Commercial District) zoning, 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 parking and landscaping) prior to the accommodation of any commercial uses.

PLANNING AND ZONING COMMISSION (PZC) PUBLIC HEARING SYNOPSIS

The staff report was presented to the PZC with the recommendation that the Commission make a finding of inconsistency with the Comprehensive Plan and recommend DENIAL of the requested C-3 (Wholesale Commercial District) zoning pursuant to the stated Comprehensive Plan policies. Staff offered an alternative recommendation of C-1 Restricted (Retail Commercial District) zoning, subject to restrictions. The applicant was present and did not agree with the staff recommendation. The applicant provided a history of how he acquired the property. No members of the public were present to speak on this request.

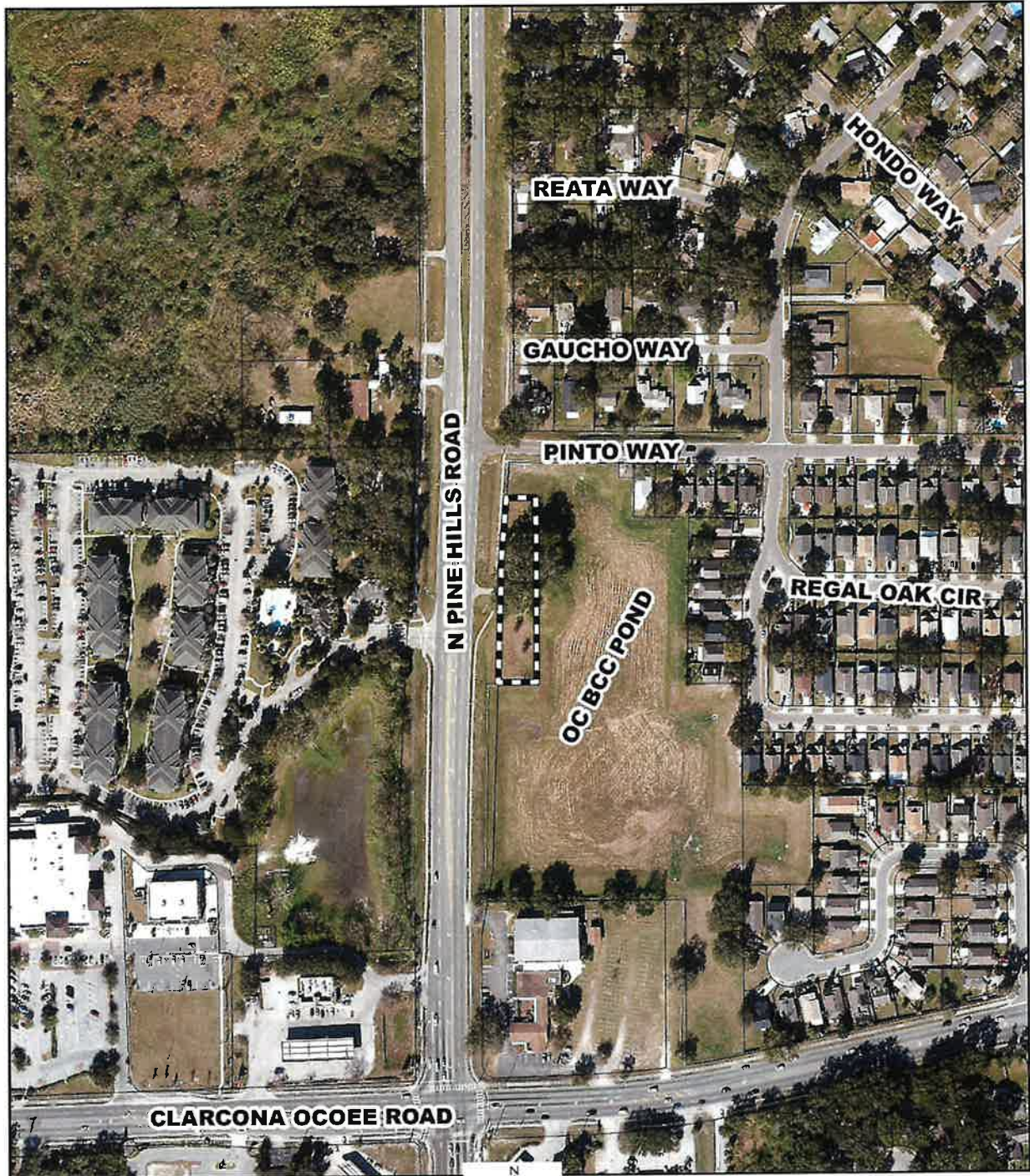
Staff indicated that two hundred and sixty-seven (267) notices were sent to property owners extending beyond 700 feet surrounding the property, and that staff had received fifteen (15) responses in opposition, and one (1) response in support of the request. The majority of the concerns stated the use was not compatible with the surrounding area.

Discussion ensued regarding the proposed use and compatibility, and limitations for the proposed development to meet commercial building standards. The Commission paused the case and allowed staff an opportunity to discuss options with the applicant. After discussion, the applicant agreed with the alternative recommendation for C-1 Restricted zoning.

A motion was made by Commissioner Abdallah, and seconded by Commissioner Cardenas to recommend APPROVAL of C-1 Restricted (Retail Commercial District) zoning, subject to the restrictions listed in the staff report. The motion carried unanimously.

Motion / Second	<i>Mohammed Abdallah / Evelyn Cardenas</i>
Voting in Favor	<i>Mohammed Abdallah, Evelyn Cardenas, JaJa Wade, Trevor Sorbo, Walter Pavon, Eddie Fernandez, Gordon Spears, and Nelson Pena</i>
Voting in Opposition	<i>None</i>
Absent	<i>Sean McQuade</i>

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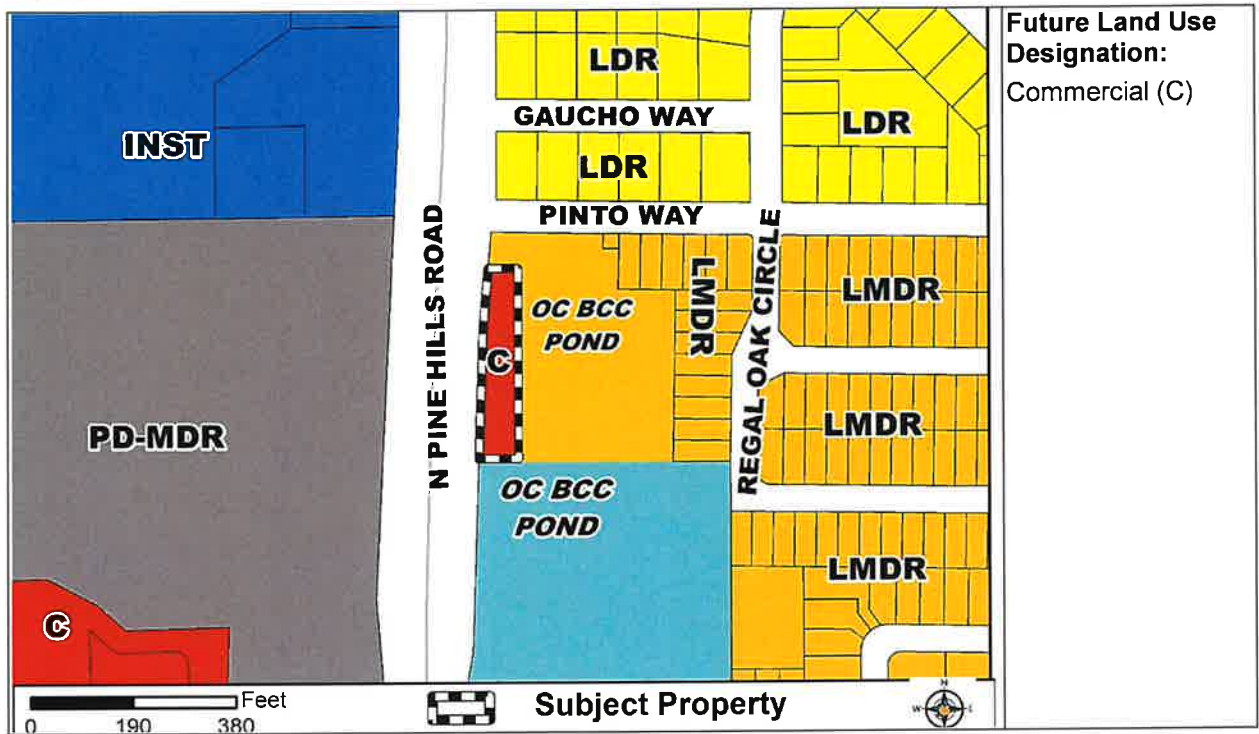


 Subject Property

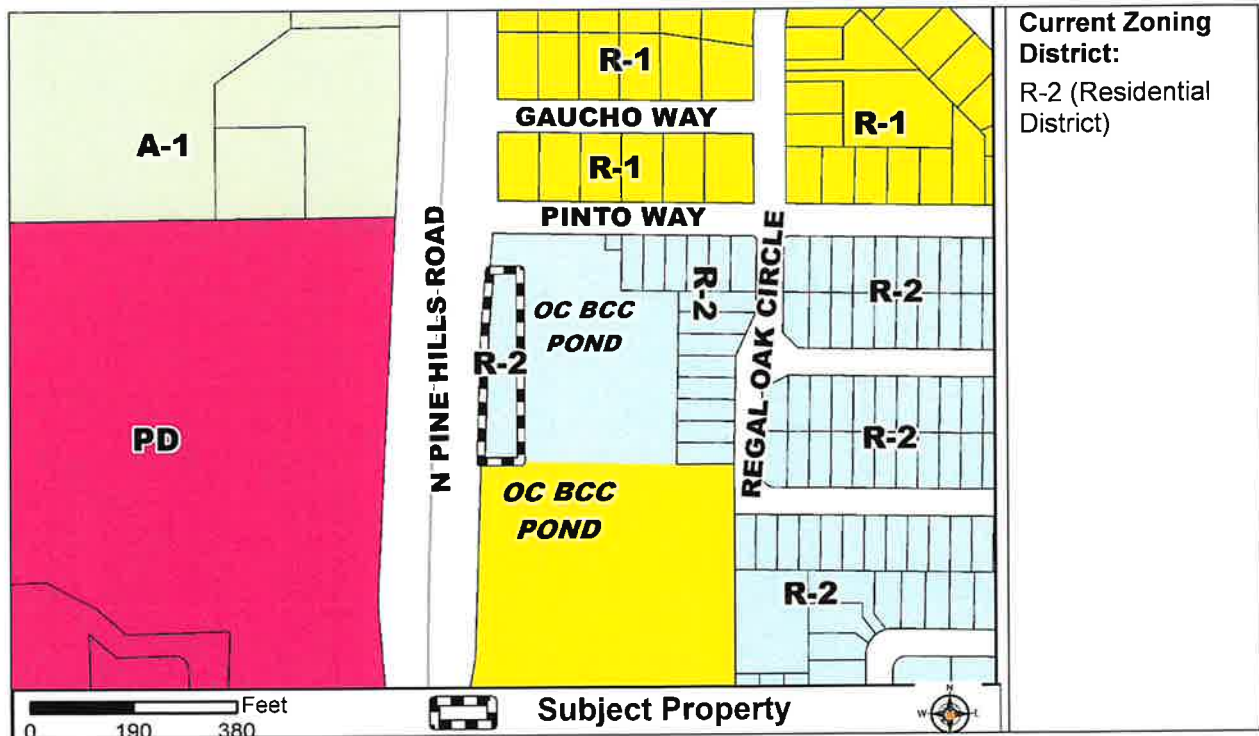


1 inch = 250 feet

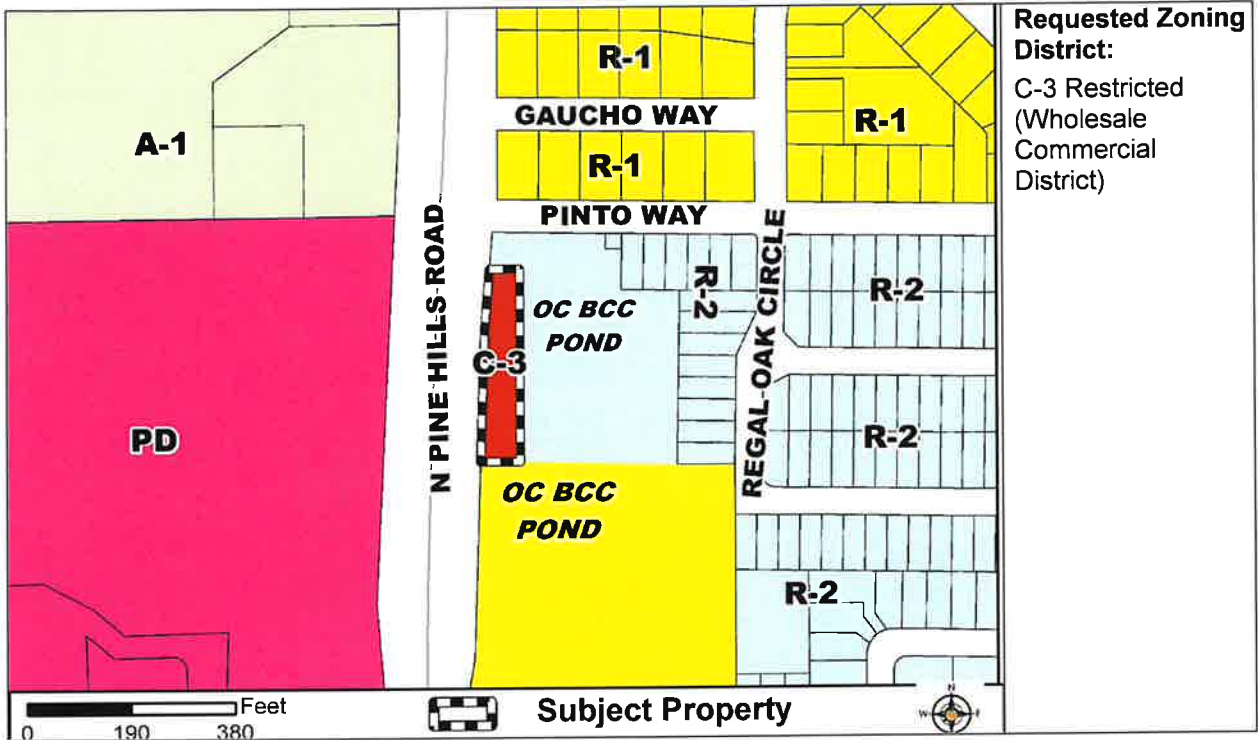
FUTURE LAND USE – CURRENT



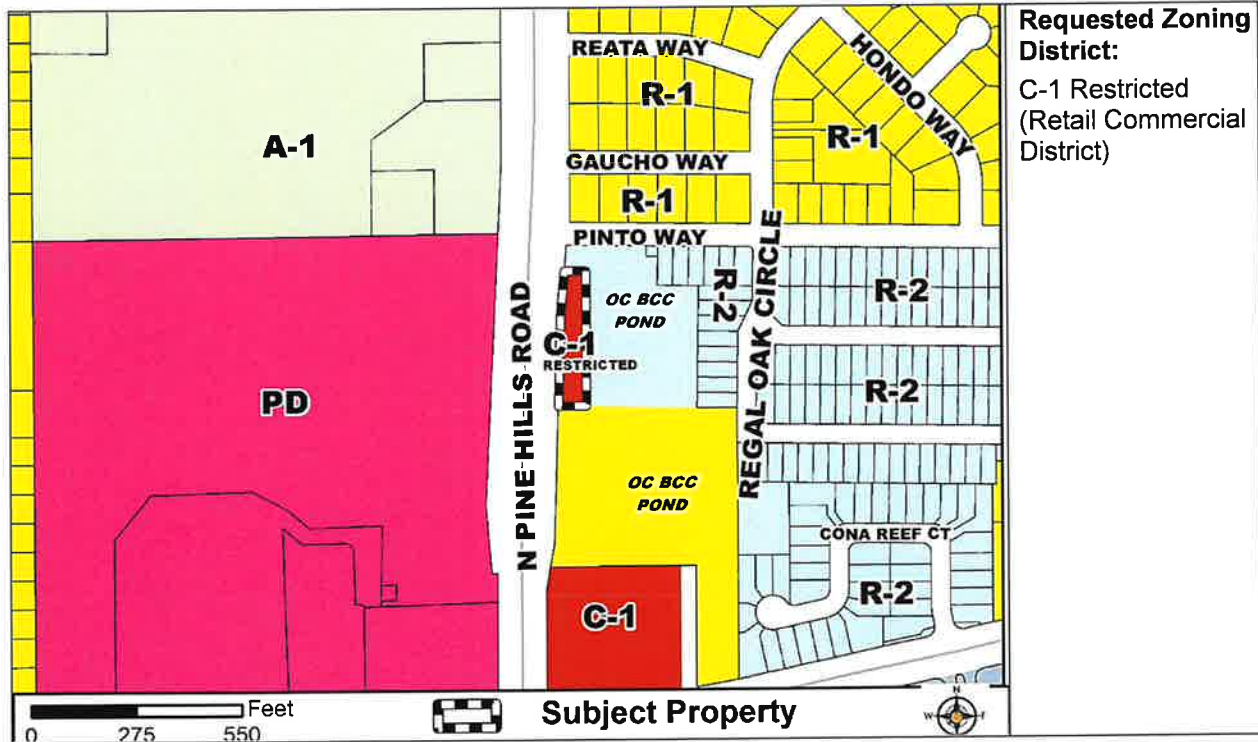
ZONING - CURRENT



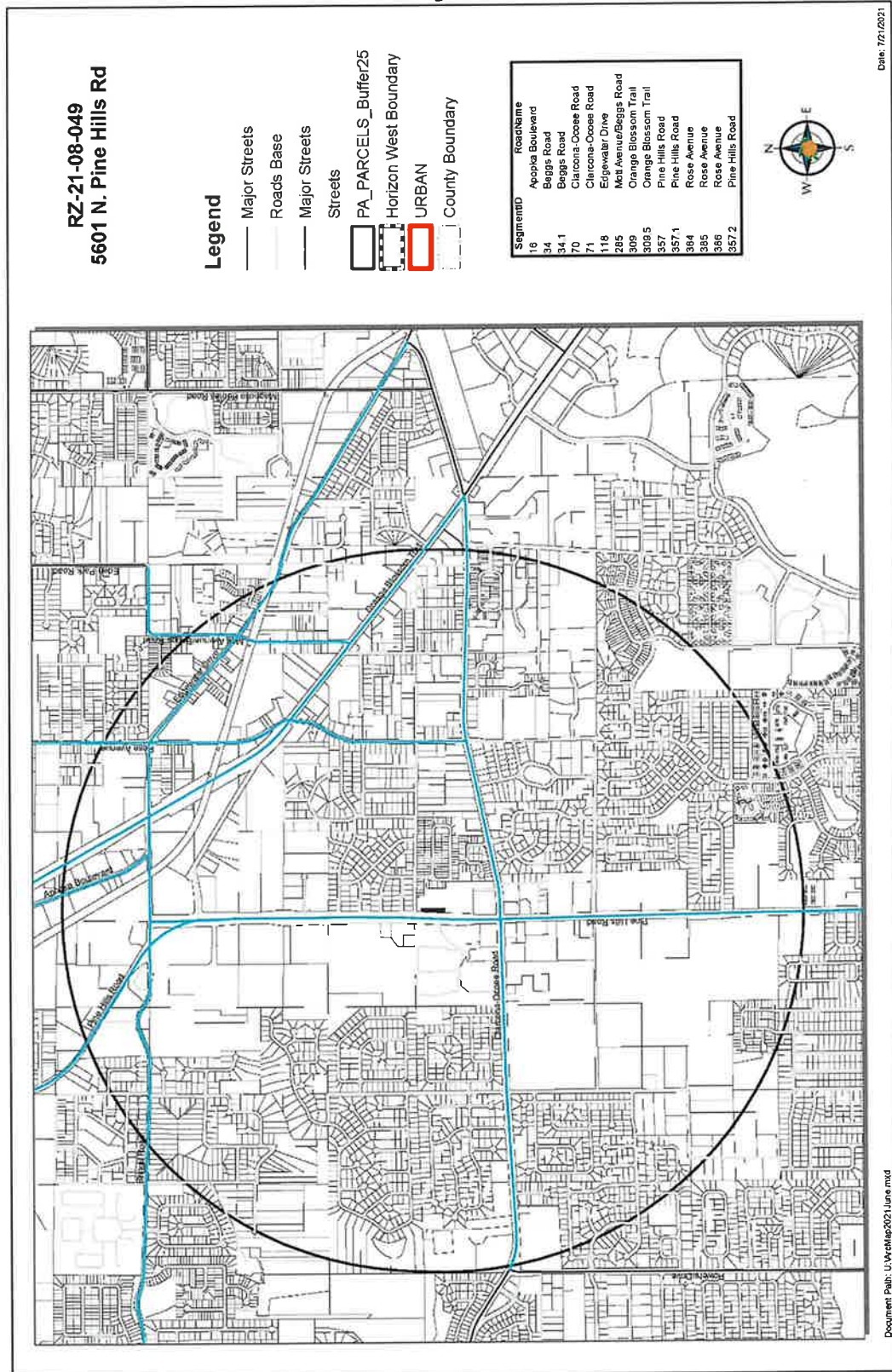
ZONING - PROPOSED



ZONING – ALTERNATIVE STAFF RECOMMENDATION



Alternative Mobilty Area Context Map



Notification Map

