

PZC Recommendation Staff Report
Commission District: # 6

GENERAL INFORMATION

APPELLANT	Steven Sandvik, Absolute Gun and Pawn
APPLICANT	Steven Sandvik, Absolute Gun and Pawn
OWNERS	Randall Merle Osinga
HEARING TYPE	Planning and Zoning Commission
REQUEST	C-1 (Retail Commercial District) to C-2 (General Commercial District)
LOCATION	6150 Silver Star Road; or generally on the south side of Silver Star Road, approximately 300 feet east of N. Powers Drive
PARCEL ID NUMBERS	13-22-28-0000-00-011
PUBLIC NOTIFICATION	The notification area for this public hearing extended beyond 700 feet [<i>Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet</i>]. One hundred twenty-one (121) notices were mailed to those property owners in the mailing area. A community meeting was not required for this application.
TRACT SIZE	2.45 gross acres
PROPOSED USE	Used automobile sales with outdoor display, as an extension to an existing pawn shop

STAFF RECOMMENDATION

PLANNING

Make a finding of inconsistency with the Comprehensive Plan and recommend DENIAL of the requested C-2 (General Commercial District) zoning.

IMPACT ANALYSIS

Land Use Compatibility

The C-2 (General Commercial District) zoning would allow for development that is incompatible with the adjacent residential neighborhood and would adversely impact adjacent properties.

Comprehensive Plan (CP) Consistency

The underlying CP Future Land Use Map (FLUM) designation of the subject property is Commercial (C). While the requested C-2 (General Commercial District) zoning is consistent with the "C" FLUM designation, it is inconsistent with the following Comprehensive Plan provisions:

FLU1.4.2 states 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.

FLU6.6.10 states that development and redevelopment within the Wekiva Study Area shall provide as much open space as possible. Priority for open space protection shall be given to the following resources, as required to be protected by the Wekiva Act: the most effective recharge areas, karst features, and sensitive natural habitats including Longleaf Pine, Sand Hill, Sand Pine, and Xeric Oak Scrub vegetative communities. A minimum of fifty percent (50%) of any sensitive natural habitat occurring shall be preserved on-site.

The purposes of open space design development are to minimize site disturbance, reduce land development costs, reduce infrastructure costs, provide more cost effective and efficient site infrastructure, provide better management of facilities, and permanently protect open space providing assured environmental protection, while remaining density and intensity neutral.

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.

OBJ N1.1 states that future land use changes are shall be compatible with or do not adversely impact existing or proposed neighborhoods.

SITE DATA

Existing Use	Pawn Shop with no outdoor storage and display
Adjacent Zoning	N: C-1 (Retail Commercial District) (1966, 1967) E: C-1 (Retail Commercial District) (1966) W: C-2 (General Commercial District) (1990) - Limited to C-1 uses with outdoor storage S: R-1A (Single-Family Residential District) (1957)
Adjacent Land Uses	N: Shopping Plaza E: Cosmetology School W: Auto Repair and Part Distribution Warehouse S: Single-Family Residential

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 all residential districts)
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)

* These regulations may not reflect the actual requirements for all situations; see the Orange County Zoning Code for actual regulations for site requirements for this zoning district.

Permitted 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

Subject Property Analysis

The subject property is located at 6150 Silver Star Road; or generally on the south side of Silver Star Road, approximately 300 feet east of N. Powers Drive. The site is also developed with a pawn shop, and is located within the Pine Hills community.

Through this request, the applicant is seeking to rezone the property from C-1 (Retail Commercial District) to C-2 (General Commercial District) in order to expand the types of permitted commercial uses, and more specifically to allow used automobile sales with outdoor display, as an extension to the existing pawn shop.

Staff has determined that the proposed request to rezone to C-2 zoning district would adversely impact adjacent single-family neighborhoods and Pine Hills community. This finding is supported by Orange County Comprehensive Plan Policies FLU 1.4.2 and 1.4.4 which respectfully require that all land use changes are compatible with existing neighborhoods and that poorly located / designed commercial activities near residential areas be avoided.

Furthermore, Orange County Code Section 38-851, states that the C-2 zoning district should be located away from residential districts because of compatibility concerns. Lastly, the request is inconsistent with Pine Hills Neighborhood Improvement District (NID) Goal #4 which encourages the development of attractive and functional community corridors, including Silver Star Road.

Comprehensive Plan (CP) Amendment

A CP amendment is not required for this application, as the requested zoning is consistent with the underlying Commercial (C) Future Land Use Map (FLUM) designation.

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.

Rural Settlement

The subject property is not located within a Rural Settlement.

Joint Planning Area (JPA)

The subject property is not located within a Joint Planning Area.

Overlay District Ordinance

The subject property is not located within an overlay district.

Airport Noise Zone

The subject property is not located within an Airport Noise Zone.

Environmental

This site is located within the geographical limits of the Wekiva Study Area, as established by the Wekiva Parkway and Protection Act, Section 369.316 F.S. The applicant is advised that special area regulations may apply. In addition to the state regulations, local policies are included in Orange County Comprehensive Plan 2010-2030 Destination 2030, Future Land Use Element (but not limited to) Objective FLU6.6 Wekiva.

This project may be impacted by soil and/or groundwater contamination resulting from former operations at the adjacent property on 6224 Silver Star Rd, Allied Tire Store #13. No activity will be permitted that may disturb, influence, or otherwise interfere with areas of soil and/or groundwater contamination, or any remediation activities, or within the hydrological zone of influence of any contaminated area. Such activities include, but are not limited to, the use of potable or irrigation wells and dewatering. 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 of the Florida Statutes.

If a septic system is required or in use, the applicant must notify the Florida Department of Health (FDOH), Environmental Health Division, about the septic system permit application, modification or abandonment. The applicant must also refer to Orange County Code Chapter 37, Article XVII for details on Individual On-Site Sewage Disposal as well as the FDOH.

Prior to demolition or construction activities associated with existing structures, provide the Orange County Environmental Protection Division (EPD) with a Notice of Asbestos Renovation or Demolition form.

All development is required to treat stormwater runoff for pollution abatement purposes. Discharge that flows directly into wetlands or surface waters without pretreatment is prohibited.

Finally, prior to commencement of any earth work or construction, if one acre or more of land will be disturbed, the developer shall provide a copy of the completed National Pollutant Discharge Elimination System (NPDES) Notice of Intent (NOI) form for stormwater discharge from construction activities to the Orange County Environmental

Protection Division, NPDES Administrator. The original NOI form shall be sent to the Florida Department of Environmental Protection (FDEP) by the developer.

Transportation / Access

This project is within a designated Alternative Mobility Area (AMA) and is therefore exempt from transportation concurrency. Based on the size of the proposed development, a mobility analysis may be required prior to obtaining a building permit.

Code Enforcement

There is an active Code Enforcement violation on the subject property (Incident #480932) relating to violations for outdoor storage and display of merchandise and lack of a current use permit. The violation is scheduled for the July 10, 2017 Code Enforcement Board hearing.

Neighborhood Preservation and Revitalization

The subject property is located within the Pine Hills Neighborhood Improvement District which was established to help enhance on-going revitalization and efforts along commercial corridors. The Orange County Neighborhood Preservation and Revitalization Division has expressed that the applicant's intended use of the site is inconsistent with the long-term vision for Pine Hills.

Water / Wastewater / Reclaim

	<u>Existing service or provider</u>	
Water:	Orlando Utilities Commission	
Wastewater:	Orange County Utilities	An 8-inch gravity main and 10-inch forcemain are located on Powers Drive
Reclaim Water:	Orange County Utilities	There are no reclaim water mains located in the area.

Schools

Orange County Public Schools (OCPS) did not comment on this case, as it does not involve an increase in residential units or density.

Parks and Recreation

Orange County Parks and Recreation did not comment on this case, as it does not involve an increase in residential units or density.

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 – (May 18, 2017)

Make a finding of inconsistency with the Comprehensive Plan and recommend DENIAL of the requested C-2 (General Commercial District) zoning.

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) zoning.

Staff indicated that one hundred and twenty-one (121) notices were mailed to surrounding property owners within a buffer extending beyond 700 feet from the subject property, with two hundred thirty-four (234) responses in support and three (3) in opposition received. All responses in support of the request were received via fax from the applicant's business, including 14 of which were from property owners residing within the formal notification area. The applicant was present and opposed the staff recommendation of denial, and provided extensive testimony in support of the request.

Following public testimony, and limited discussion regarding C-2 uses and the adjacency to a residential neighborhood, a motion was made by Commissioner Wade to find the request to be inconsistent with the Comprehensive Plan and recommend **DENIAL** of the C-2 (General Commercial District) zoning. Commissioner Wean seconded the motion, which was then carried on a 9-0 vote.

Motion / Second

JaJa Wade / Paul Wean

Voting in Favor

JaJa Wade, Paul Wean, James Dunn, Tina Demostene, Yog Melwani, William Gusler, Gordon Spears, Pat DiVecchio, and Jose Cantero

Voting in Opposition

None

Absent

None