

Applicant/Owner: James Kelley, P.E., Bohler Engineering/ Chuck Hollow Inc., Joseph Dibartolo, Thomas F Cooke, Barbara Cooke, Rosemary Raganella, William F Raganella, Michelle J Barrios, Danielle D Siliato, Lisa Marie Raganella Gray, Carol Ann Kostulias

Location: 12400 & 12464 E. Colonial Dr. Generally located south of E Colonial Dr., north of Waterford Wood Cr., west of SR 408, and east of Woodbury Rd.

Existing Use: Undeveloped land

Parcel ID Numbers: 31-22-23-0000-00-012; 31-22-23-0000-00-013

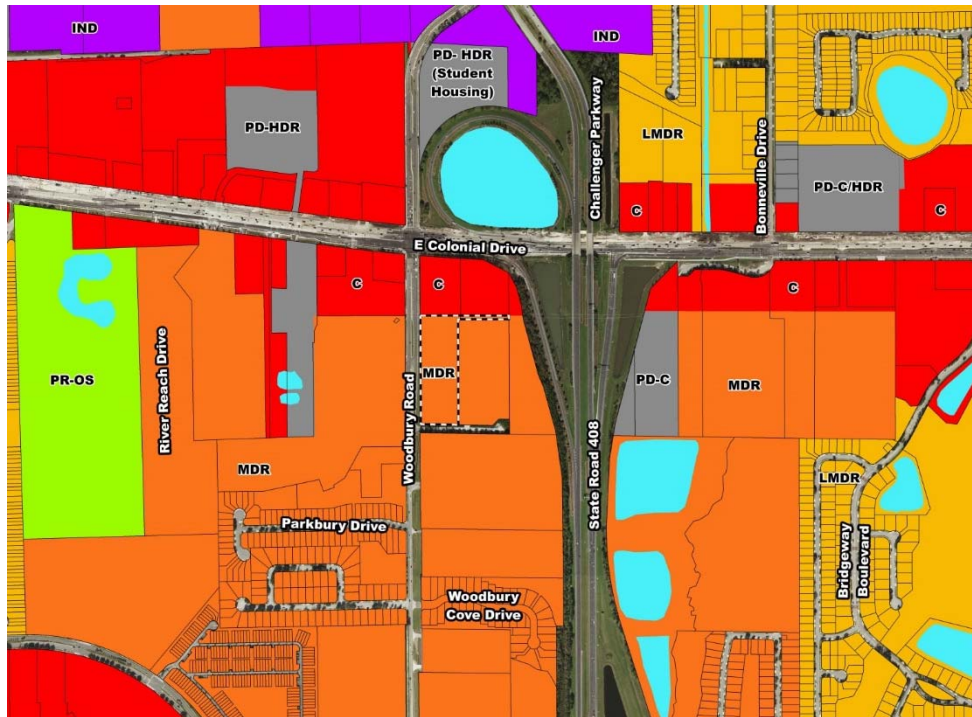
Tract Size: 10.08 gross acres/ 2.64 developable acres. (Rezone 10.08A; FLUM change for only 4.69A)

The following meetings and hearings have been held for this proposal:			Project Information	
Report/Public Hearing		Outcome	<p>Request: Medium Density Residential LMDR) to Commercial (C)</p> <p>Concurrent Rezoning: C-1 (Retail Commercial District) and R-3 (Multiple-Family Dwelling District) to C-1 (Retail Commercial District)</p> <p>Proposed Development Program: Up to 235,224 sq. ft. of commercial development</p> <p>Public Facilities and Services: Please see the Public Facilities Analysis Appendix for specific analysis of each public facility.</p> <p>Environmental: The subject property contains 8 acres that are designated Class II wetlands. The site is located within the Econlockhatchee River Protection area.</p> <p>Transportation: The subject property is not located along a backlogged/constrained facility or multimodal corridor. The proposed 692,600 square feet of commercial use will generate 1,773 new pm peak hour trip resulting in a net increase of 1,697 new pm peak hour trips.</p>	
✓	Community Meeting held August 30, 2017, with one (1) members of the public in attendance. See public notification map for notice area	Positive		
✓	Staff Report	Recommend Adoption and Approval of the Rezoning Request, subject to three (3) restrictions		
✓	LPA Adoption	Recommend Adoption (9-0)		
✓	PZC Rezoning Hearing	Recommend Approval (9-0)		
	BCC Adoption	November 14, 2017		
	BCC Rezoning Hearing	November 14, 2017		

AERIAL



FUTURE LAND USE - CURRENT



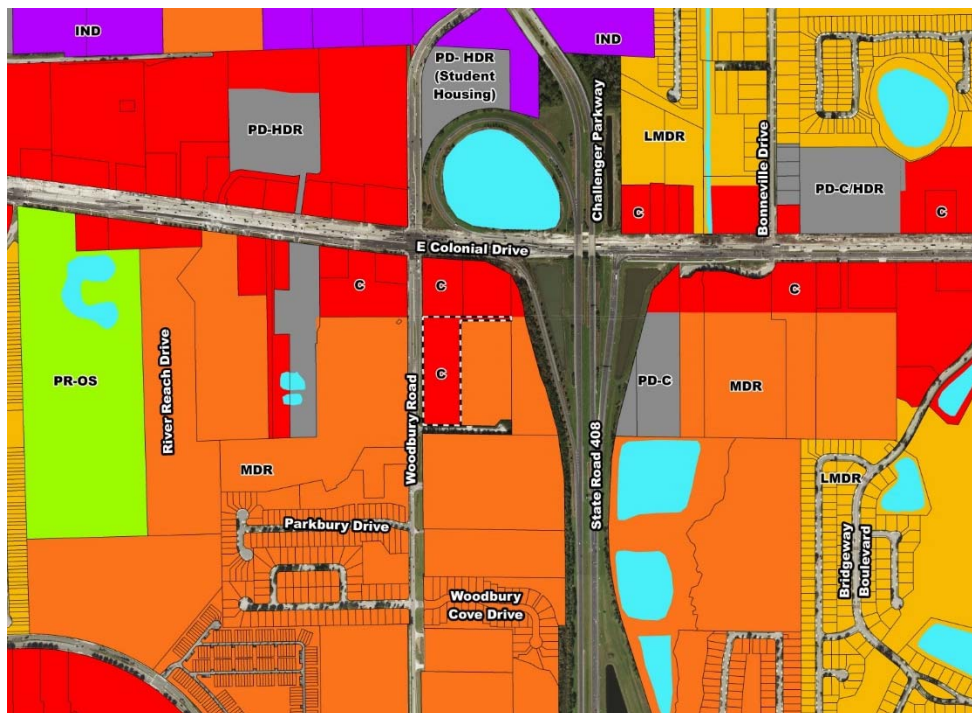
Current Future Land Use Designation:

Medium Density Residential (MDR)

Special Area Information:

N/A

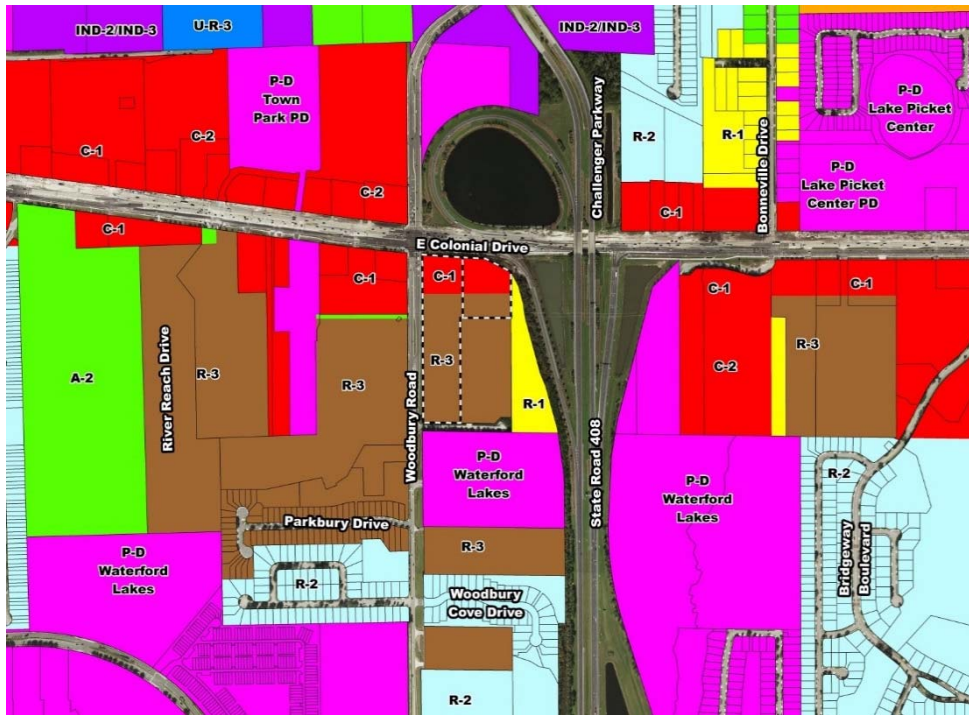
FUTURE LAND USE - AS PROPOSED



Proposed Future Land Use Designation:

Commercial (C)

ZONING - CURRENT



Current Zoning District:
 C-1 (Retail Commercial District) & R-3 (Multiple Family Dwelling District)

Existing Uses

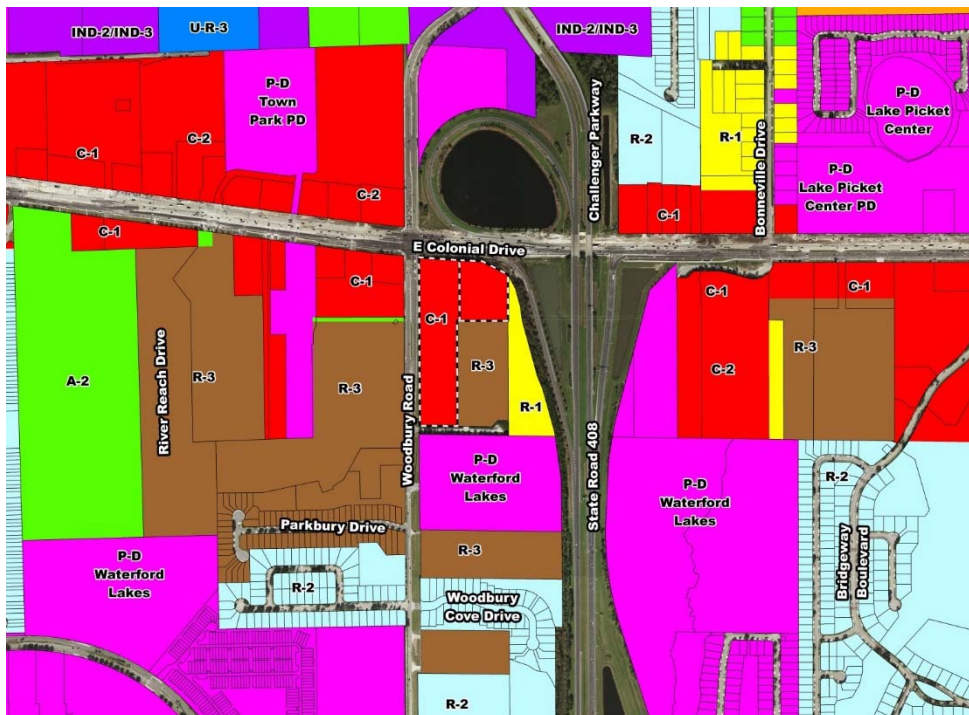
N: S.R 408 Entrance ramp

S: Waterford Pointe Apartment Complex

E: DOT Stormwater Pond / Undeveloped Land

W: Extended Stay Hotel/ Gas Station/Polos East Apartment Complex

ZONING – AS PROPOSED



Proposed Zoning District: C-1 (Retail Commercial District)

Staff Recommendations

If the requested Future Land Use Map Amendment is approved, the Board would then need to take action on the requested rezoning. These items need to be addressed as two separate motions by the Board. Below are the staff recommendations for each of these items:

1. **FUTURE LAND USE MAP AMENDMENT:** Make a finding of **consistency** with the Comprehensive Plan (see Future Land Use Element Goal FLU2, Objectives OBJ FLU1.4, OBJ FLU2.1 and OBJ 8.2, and Policies, FLU1.1.1, FLU1.1.5, FLU1.4.2, FLU1.4.3, FLU1.4.4, FLU2.3.6, FLU8.2.10, FLU8.2.11; and Neighborhood Element Objective OBJ N1.1), determine that the amendment is in compliance, and **ADOPT** Amendment 2017-2-S-4-3, Medium Density Residential (MDR) to Commercial (C).
2. **REZONING:** Make a finding of **consistency** with the Comprehensive Plan, and **APPROVE** Rezoning Case RZ-17-10-031, C-1 (Retail Commercial District) & R-3 (Multiple Family Dwelling District) to C-1 (Retail Commercial District), subject to the following **three (3)** restrictions:

Restrictions:

1. New billboards and pole signs shall be prohibited;
2. A Type "C" buffer shall be used to separate neighborhood commercial (C-1) uses from all residential areas, unless a variance to this restriction and buffer is approved by the Board of Zoning Adjustment (BZA). This buffer shall be completely opaque from the ground up to a height of at least six (6) feet and shall be a minimum of fifteen (15) feet wide. The type C buffer may utilize a masonry wall, berm, planted and/or existing vegetation or any combination thereof which maintains a completely opaque buffer. This buffer must be three (3) feet high and fifty (50) percent opaque at planting and be capable of attaining full height and opacity within three (3) years;
3. The applicant / developer shall submit a site plan to demonstrate compliance with all Orange County Code requirements (including landscaping) prior to the expansion of any existing structures or new site improvements to accommodate C-1 uses.

Analysis

1. Background Development Program

The subject property consists of two parcels totalling 10.08 gross acres, of which there are approximately 2.64 upland developable acres. The applicant, James Kelley, P.E. Bohler Engineering, has requested to change the Future Land Use designation of a 4.69 acre portion of the subject property from Medium Density Residential (MDR) to Commercial (C). In conjunction with the FLUM Amendment, the applicant has applied for a rezoning (Case # RZ-17-10-031) for the entirety of both parcels from C-1 (Retail Commercial District) & R-3 (Multiple Family Dwelling District) to C-1 (Retail Commercial District). The applicant intends to develop an approximately 50,000 square foot "Main

Event” entertainment facility on the northern portion of the subject property and split that portion of the parcel off from the southern part.

The site is located at the southeast corner of the intersection of E. Colonial Drive and Woodbury Road. Across E. Colonial Drive to the north of the site is the S.R. 408 entrance ramp, and to the south is the Waterford Pointe apartment complex. To the east of the site is a State of Florida Department of Transportation stormwater pond and undeveloped residentially zoned land, and to the west, across Woodbury Road is a gas station, the Extended Stay America Crossland Economy Studios UCF hotel, and the Advenir At Polos East apartment complex.

Both parcels are currently undeveloped. The Medium Density Residential (MDR) Future Land Use designation on the portion of the subject property that the FLUM amendment is applying to allows up to thirty-six (36) residential units. The requested Commercial (C) FLUM designation would allow for consideration of neighborhood and community scale commercial and office development with a maximum floor area ratio (FAR) of 3.0, or up to to 235,224 sq. ft. of commercial development. This would then allow for up to 1,318,038.48 sq. ft. of commercial development on the entire 10.08 acre subject property. However, as mentioned previously, the applicant intends to divide the property so that the frontage along E. Colonial Drive will contain approximately 5.9 acres and will be developed with the entertainment facility, while the property owner has indicated that an approximately 34,000 sq. ft. self-storage facility will be developed on the remaining 4.18 acre parcel along Woodbury Road.

A Community Meeting was held on Wednesday, August 30th 2017, at Waterford Elementary school in which one local resident and business owner was in attendance. The resident expressed curiosity about the proposed development, which the applicant described as a family entertainment center similar to a Dave & Busters. The meeting ended with the resident expressing support for the proposed amendment.

2. Project Analysis

Consistency

The requested Future Land Use Map (FLUM) amendment and concurrent rezoning request appear to be consistent with the applicable Goals, Objectives, and Policies of the Orange County Comprehensive Plan.

Future Land Use Element Objective OBJ FLU1.4 lays out location criteria for urban style and commercial development. The location of the subject property, well within the Urban Service Area (USA) at the intersection of E. Colonial Drive and Woodbury Road, adjacent to the entrance ramp for S.R 408. This satisfies the requirements of **Future Land Use Element Policies FLU1.1.1** and **FLU1.4.3**, which call for urban uses to be concentrated within the USA, and direct commercial development to be concentrated at major intersections.

Future Land Use Element Policies FLU1.4.2 and FLU1.4.4, as well as **Neighborhood Element Objective OBJ N1.1** require the County to ensure that land use changes, and the location and design of commercial activities in particular, are compatible with existing development trends in the area and do not disrupt existing neighborhoods. The subject parcel is located in an area characterized by a trend of small scale retail commercial uses along E. Colonial Drive and residential uses set back from E. Colonial Drive, behind the commercial properties. It is staff's position that approval of the request will allow for commercial uses that would enhance the non-residential development trend along E. Colonial Drive without disrupting the residential neighborhoods along Woodbury Road, and would thus be compatible with and serve the existing neighborhood.

As previously mentioned the subject property is currently undeveloped and has a mixture of residential and commercial Future Land Use and Zoning designations. **Future Land Use Element Goal FLU2, Objective OBJ FLU2.1, and Policy FLU1.1.5** call for the County to encourage infill development to promote compact urban form and efficiently use land and infrastructure in the Urban Service Area (USA). As defined within the 2008 Infill Master Plan, infill is the development of vacant or underutilized land within the USA. Additionally, in 2015, a small-scale Comprehensive Plan Amendment application (2015-1-S-4-1) to change the FLU of the site to Planned Development-High Density Residential (PD-HDR) to allow for a multi-family apartment development received a vote of denial by the Board of County Commissioners. The reasons for denial of the amendment centered on the increased traffic that would result from the request and that the characteristics of the site were unfavorable to support multi-family development. Given that the subject site is both unsuitable for multi-family development, and the proposed development would qualify under the County's definition of infill development, staff finds that approval of this amendment would be consistent with the location criteria in **Goal FLU2, FLU OBJ2.1 and FLU1.1.5**.

Finally, **Future Land Use Element Policy FLU2.3.6** lays out additional criteria to guide whether the conversion of a property from residential uses to non-residential uses may be permitted. Consistent with **FLU2.3.6** the subject property is at the intersection of two streets, one of which is a major road (E. Colonial Drive), which provides access to an existing mix of residential and non-residential uses. Additionally, there is sufficient land area is available to support the increase in land use intensity and the conversion would provide a commercial use that has the potential to serve the surrounding neighborhoods.

Compatibility

The proposed Future Land Use Map (FLUM) Amendment and rezoning request appear to be compatible with the development trends in the surrounding area, existing character, and evolving development trends in the area as required by **Future Land Use Policies FLU1.4.2 and FLU8.2**. As previously mentioned, the subject parcel is located in an area characterized by a trend of commercial uses concentrated around intersections along E Colonial Drive. While the development trends along Woodbury Road are primarily residential, there is a precedence for commercial development being concentrated at intersection of Woodbury Road and Waterford Lakes Parkway which is close to the subject property.

Staff finds that the proposed development will blend into the surrounding area and further the goals and objectives of the Comprehensive Plan by promoting the integration of a diverse mix of land uses, as well as serving the needs of existing and future residents. **Future Land Use Element Policy 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, including physical integration of a project and its function in the broader community, as well its contribution toward Comprehensive Plan goals and objectives can contribute to compatibility. It is staff's determination that the southern portion of the subject property is sufficiently separated from the existing multi-family residential developments south and west to not negatively affect those residences. Additionally, **Future Land Use Element Policy FLU8.2.10** states, to ensure compatibility with nearby residential zoned areas commercial uses within residential neighborhoods shall be subject to strict performance standards such as building height restrictions, architectural design, lighting type and parking design.

Division Comments: Environmental, Public Facilities and Services

Environmental Protection Division. The subject property contains 8 acres that are designated Class II wetlands. Orange County Conservation Area Determination CAD 08-052 was completed for these properties with a certified survey of the conservation area boundary approved on September 3, 2008. The site is located within the Econlockhatchee River Protection area and will be subject to basin-wide regulations including, wetlands and protective buffers, wildlife habitat, storm water, and landscaping with native plant species.

Approval of this request does not authorize any direct or indirect impacts to conservation areas or protective buffers. If conservation area encroachments are proposed, submit an application for a Conservation Area Impact (CAI) Permit as soon as possible to the Orange County Environmental Protection Division (EPD). Impacts to Class II wetlands located within the Econ River Protection Ordinance area require approval from the Board of County Commissioners. In order to include Class I, II and III conservation areas in the density and FAR calculations, the parcels shall have an approved Conservation Area Determination (CAD) and an approved Conservation Area Impact (CAI) permit from the Orange County Environmental Protection Division (EPD). Reference Orange County Comprehensive Plan Policy FLU1.1.2 C.

Development of the subject property shall comply with all state and federal regulations regarding endangered, threatened, or species of special concern. The applicant is responsible to determine the presence of listed species and obtain any required habitat permits from the U.S. Fish and Wildlife Service (FWS) and/or the Florida Fish & Wildlife Conservation Commission (FWC).

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. The site discharges into a body of water designated as impaired by the Florida Department of Environmental Protection (FDEP). The Impaired Waters Rule, Chapter 62-303 of the Florida Administrative Code may increase the requirements for pollution abatement treatment of stormwater as part of a Basin Management Action Plan (BMAP). 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.

Transportation Planning Division. The subject property is not located within the County's Alternative Mobility Area or along a backlogged/constrained facility or multimodal corridor. It is located adjacent to Woodbury Road, a 2 lane collector roadway from Golfway Blvd. to Challenger Parkway. Based on the concurrency management system database dated 09-05-17, there are several failing roadway segments within a 2.5 mile radius of this project. Colonial Drive from Woodbury Road to Lake Pickett Road, and Woodbury Road from Lake Underhill Road to Colonial Drive are currently operating at level of service F and there is no available capacity available to be encumbered. This information is dated and is subject to change. In the short term or interim Year 2022, the above roadway deficiencies will continue to exist with and without the proposed amendment. Prior to issuance of an approved capacity encumbrance letter and building permit, a traffic study will be required to confirm project's impacts on the surrounding roadway network.

Based on the approved future land use of the subject property, the allowable development of 106 multi family dwelling units will generate 761 pm peak hour trips. The proposed 692,600 square feet of commercial use will generate 1,773 new pm peak hour trip resulting in a net increase of 1,697 new pm peak hour trips. These trips will impact the area roadways, specifically the segment of Woodbury Road from Lake Underhill Road to Colonial Drive which is adjacent to the subject parcel and which is currently operating at level of service F.

Final permitting of any development on this site will be subject to review and approval under capacity constraints of the county's Transportation Concurrency Management System. Such approval will not exclude the possibility of a proportionate share payment in order to mitigate any transportation deficiencies. Finally, to ensure that there are no revisions to the proposed development beyond the analyzed use, the land use will be noted on the County's Future Land Use Map or as a text amendment to the Comprehensive Policy Plan.

3. Policy References

FLU1.1.1 Urban uses shall be concentrated within the Urban Service Area, except as specified for the Horizon West Village and Innovation Way Overlay (Scenario 5), Growth Centers, and to a limited extent, Rural Settlements.

FLU1.1.5 Orange County shall encourage mixed-use development, infill development and transit oriented development to promote compact urban form and efficiently use land and infrastructure in the Urban Service Area. The County may require minimum FARs and densities in its Land Development Code to achieve the County's desired urban framework. Infill is defined as development consistent with the Infill Master Plan (2008).

OBJ FLU1.4 The following location and development criteria shall be used to guide the distribution, extent, and location of urban land uses, and encourage compatibility with existing neighborhoods as well as further the goals of the 2030 CP.

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

FLU1.4.3 The location of commercial development shall be concentrated at major intersections and within Activity Centers and Neighborhood Activity Nodes within the Urban Service Area.

FLU1.4.4 The disruption of residential areas by poorly located and designed commercial activities shall be avoided. Primary access to single-family residential development through a multi-family development shall be avoided.

Goal FLU2 URBAN STRATEGIES. Orange County will encourage urban strategies such as infill development, coordinated land use and transportation planning, and mixed-use development, which promote efficient use of infrastructure, compact development and an urban experience with a range of choices and living options.

OBJ FLU2.1 INFILL. Orange County shall promote and encourage infill development through incentives identified in the Land Development Code for relatively small vacant and underutilized parcels within the County's established core areas in the Urban Service Area.

FLU2.3.6 The County shall consider the following criteria when evaluating, on a case-by-case basis, whether conversion of residential use to non-residential use may be permitted:

1. There has been a significant change in area land use character;
2. The adjacent road satisfies one or more of the following: is a major street, as identified in the Land Development Code; provides access to an existing mix of residential and non-residential uses; or will support a compatible mix of uses based on existing conditions;
3. The site satisfies one or more of the following: is adjacent to commercial or office uses that are consistent with the Comprehensive Plan and Land Development Code; adjoins an intersection of two streets; or adjoins wetlands, stormwater facilities or other features that serve to buffer the use from adjacent residential uses;
4. Sufficient land area is available to support the land use intensity increase, such as the need for parking, stormwater retention, on-site maneuvering, and meeting minimum site and building standards of the requested zoning district;
5. The converted use shall be compatible with adjacent land use;
6. The conversion would provide a commercial or office use that has the potential to serve the neighborhood in which it is located;
7. Outside traffic resulting from the converted use would not adversely affect the residential neighborhood;
8. All other applicable policies detailed for non-residential use shall be met; and
9. A mix of uses shall be encouraged. Office use, in a residential scale and character, may be considered to be a transitional use between commercial and residential uses.

OBJ FLU8.2 COMPATIBILITY. Compatibility will continue to be the fundamental consideration in all land use and zoning decisions. For purposes of this objective, the following policies shall guide regulatory decisions that involve differing land uses.

FLU8.2.10 To ensure land use compatibility with nearby residential zoned areas and protection of the residential character of those areas, office and commercial uses within residential neighborhoods shall be subject to strict performance standards, including but not limited to the following:

- A. Building height restrictions;
- B. Requirements for architectural design compatible with the residential units nearby;
- C. Floor area ratio (FAR) limitations;
- D. Lighting type and location requirements;
- E. Tree protection and landscaping requirements including those for infill development; and
- F. Parking design.

FLU8.2.11 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.

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

4. Rezoning Analysis

SITE DATA

Adjacent Zoning	N:	PD (Planned Development District, College Suites at Woodbury) (2008) (<i>across SR 50</i>)
	E:	R-1 (Single-Family Dwelling District) (1957) R-3 (Multiple-Family Dwelling District) (1992)
	W:	A-2 (Farmland Rural District) (1957) C-1 (Retail Commercial District) (1987) R-3 (Multiple-Family Dwelling District) (1985)
	S:	PD (Planned Development District, Waterford Lakes) (1983)
Adjacent Land Uses	N:	Undeveloped Residential (<i>across SR 50</i>)
	E:	Undeveloped Residential, Highway Retention
	W:	Gas Station, Hotel, Multi-Family Residential
	S:	Multi-Family Residential

APPLICABLE C-1 (Retail Commercial District) DEVELOPMENT STANDARDS

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

Minimum Building Setbacks

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

PERMITTED 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:

- (11)At intersections of collectors and/or arterials;
- (12)Where it will not direct commercial traffic through residential districts;
- (13)Where adequate public facilities and services are available, as defined in the comprehensive policy plan;
- (14)Where compatible with adjacent areas or where buffers can be provided to ensure compatibility; and
- (15)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.

SPECIAL INFORMATION

Rural Settlement

The subject property is not located within a Rural Settlement.

Joint Planning Area (JPA)

The subject property is not located within a JPA.

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.

Water / Wastewater / Reclaim

Existing service or provider

Water:	Orange County Utilities	12-inch and 24-inch watermain located on Woodbury Road
Wastewater:	Orange County Utilities	12-inch, 30-inch, and 36-inch forcemains located on E. Colonial Drive. 6-inch and 12-inch forcemains located on Woodbury Road
Reclaimed:	Orange County Utilities	Not currently available

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.

Code Enforcement

No code enforcement, special magistrate or lot cleaning issues on the subject property have been identified.

Specific Project Expenditure Report and Relationship Disclosure Forms

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

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.

Site Visit Photos

Subject Site



West – Gas Station/Hotel



East – Stormwater Pond/Undeveloped



South



North



PUBLIC NOTIFICATION MAP

