

**Applicant/Owner:** VHB, Jim Hall/Whites Red Hill Groves, Inc.

**Location:** 3725 Conway Road; Generally located north of Gatlin Avenue, south of Anderson Road, west of Gatlin Riddle Drive, and east of Conway Road.

**Existing Use:** vacant fruit stand and citrus packinghouse

**Parcel ID Numbers:**  
08-23-30-0000-00-070

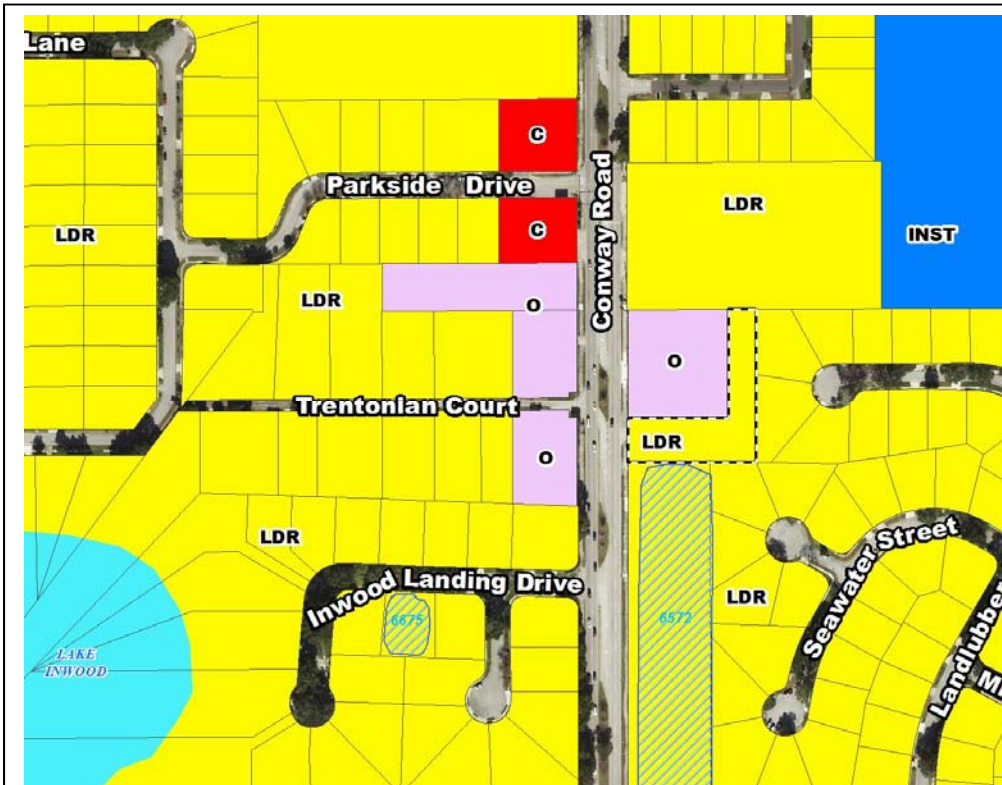
**Tract Size:** 0.741 gross acres

The following meetings and hearings have been held for this proposal:			Project Information	
Report/Public Hearing		Outcome	Request: From Low Density Residential (LDR) to Commercial (C)	
✓	Community Meeting	September 6, 2017 <b>Positive</b>	Concurrent Rezoning: From R-1A (Single-Family Dwelling District) to C-1 (Retail Commercial District)	
✓	Staff Report	Recommend adoption and approval subject to three (3) restrictions	Proposed Development Program: The Commercial (C) future land use permits a FAR of 3.0 or up to 96,898 square feet of development	
✓	LPA Adoption	Continued until November 16, 2017	Division Comments: Environmental, Public Facilities and Services: Please see the staff report and Public Facilities Analysis Appendix for specific analysis on each public facility.	
✓	LPA Adoption PZC Rezoning Hearing	Recommended adoption (8-0) Recommended approval, subject to 3 restrictions (8-0)	Environmental: No concerns with the site.	
	BCC Adoption BCC Rezoning Hearing	January 23, 2018	Transportation: Site is within the Alternative Mobility Area (AMA) and is exempt from meeting transportation concurrency requirements.	

**AERIAL**

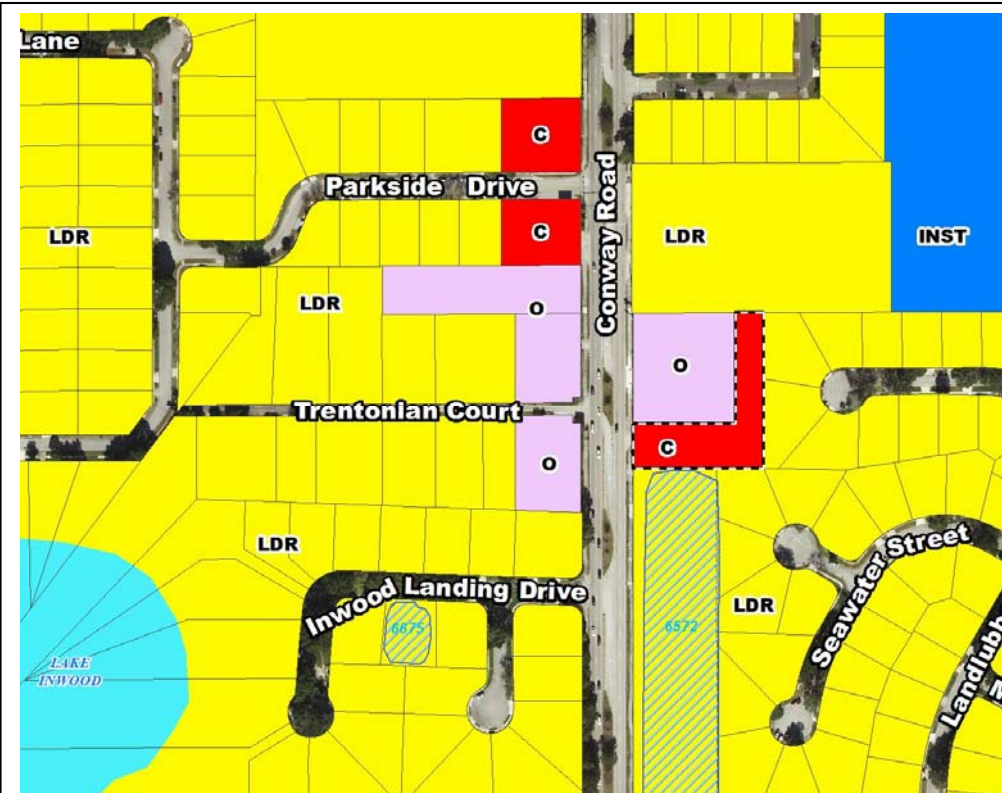


**FUTURE LAND USE - CURRENT**



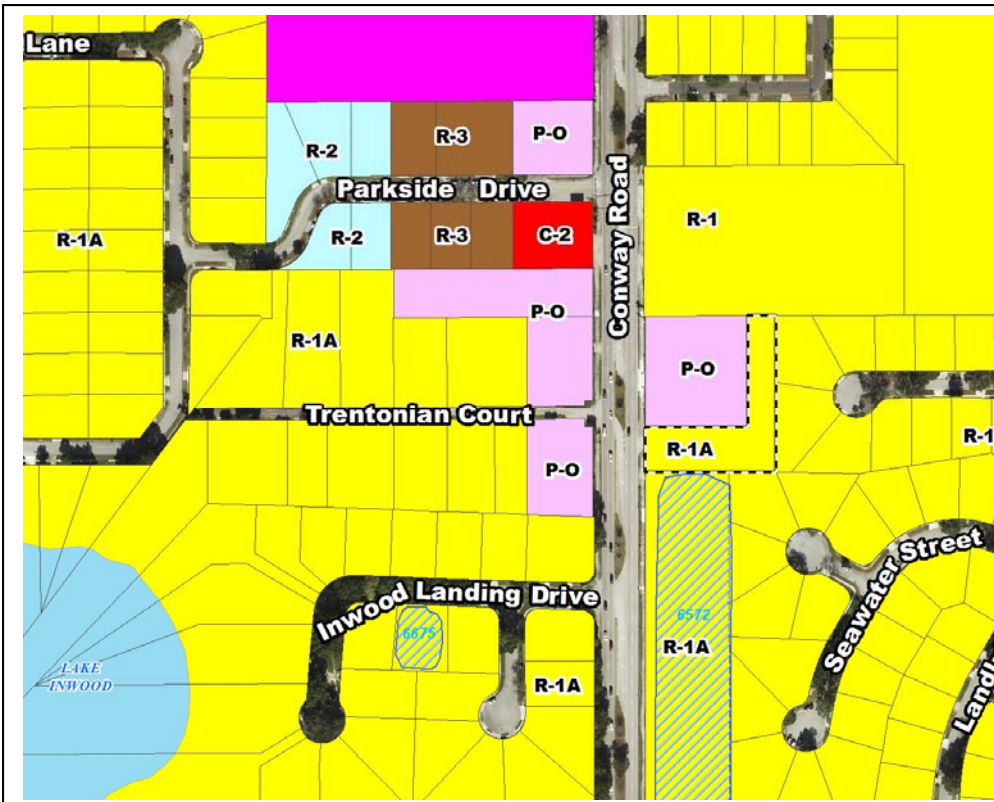
**Current Future Land Use Designation:**  
Low Density Residential (LDR)

**FUTURE LAND USE - PROPOSED**



**Proposed Future Land Use Designation:**  
Commercial (C)

## ZONING – CURRENT



### Current Zoning

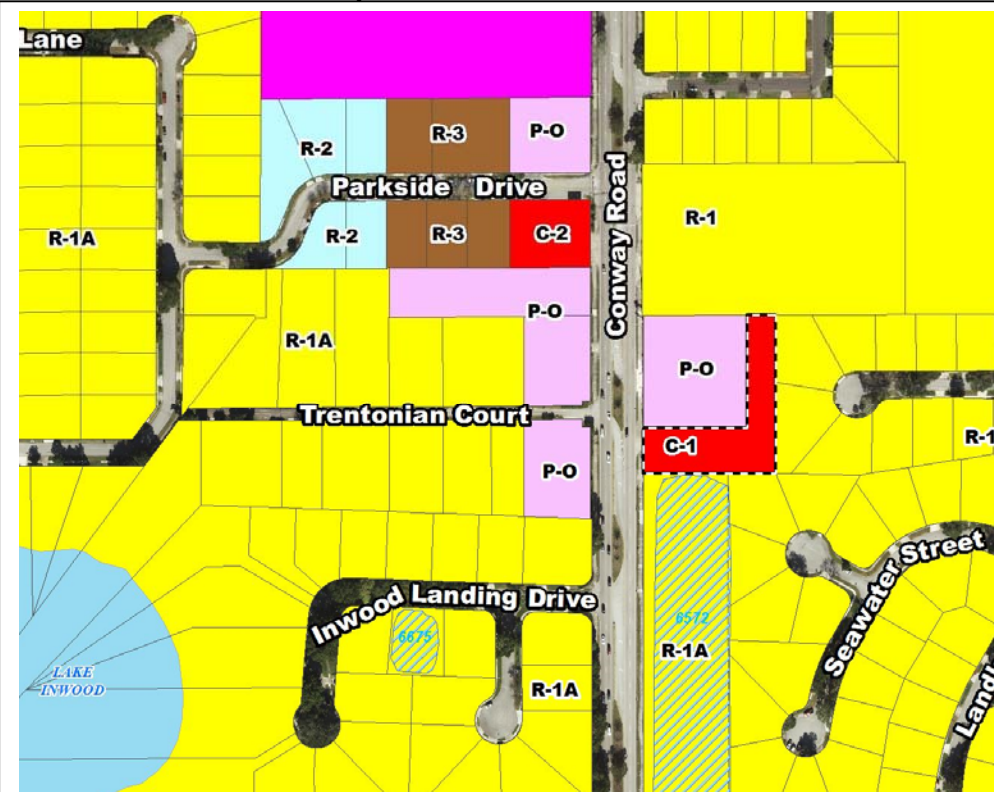
#### District:

R-1A (Single-Family Dwelling District)

#### Existing Uses:

N: Medical Office  
S: Stormwater Pond  
E: Single-Family Residences  
W: Conway Road and Offices

## ZONING – PROPOSED (RZ-17-11-043)



### 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. 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 Objective FLU1.1 and FLU8.2 and Policies FLU1.1.4, FLU1.4.2, FLU1.4.3, FLU1.4.4, FLU2.3.6, FLU8.2.1, and FLU8.2.10), determine that the amendment is in compliance, and recommend **ADOPTION** of Amendment 2017-2-S-3-2, Low Density Residential (LDR) to Commercial (C).
2. **REZONING REQUEST:** Make a finding of **consistency** with the Comprehensive Plan and recommend **APPROVAL** of the C-1 (Retail Commercial District) zoning, subject to the following restrictions:

### Restrictions:

1. New billboard 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. In addition, the property shall include a thirty foot (30') buffer along the eastern property line and preserve the existing trees within the fifty-four foot (54') wide area extending along the eastern property line from the northern most corner of the site to the property line to the south for a distance of approximately two-hundred ninety-five feet (295');

*The Planning and Zoning Commission modified restriction 2 during the November 16, 2017 public hearing, as shown by the highlighted text.*

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

As permitted by **Future Land Use Element Policy FLU8.8.2**, White's Red Hill Groves submitted a request to change the Future Land Use Map (FLUM) designation for the 0.741 acre (32,299 sq. ft.) site located at 3725 Conway Road. The request is to amend the FLUM designation from Low Density Residential (LDR) to Commercial (C). The requested designation would allow for the consideration of neighborhood and community scale commercial and office development with a maximum Floor Area Ratio (FAR) of 3.0, allowing up to approximately ninety-six thousand eight hundred ninety-eight square feet (96,898 sq. ft.) of development. In conjunction with the FLUM Amendment, an application for rezoning of the subject site has been submitted to change from R-1A (Single-Family Dwelling District) to C-1 (Retail Commercial District).

The petitioned property is improved with a vacant, six thousand forty-three square foot (6,043 sq. ft.) fruit stand and citrus packinghouse, known as Red Hill Groves. According to the Orange County Property Appraiser, the building was constructed in 1962.

The subject site is located east of Conway Road, north of Gatlin Avenue, west of Dixie Belle Drive and south of Anderson Road. The petitioned site is located within the Conway Road/Hoffner Avenue Corridor Overlay District (codified at Section 38-1059 through Section 38-1065 of the Orange County Code). The Overlay District has the purpose of promoting and facilitating an enhanced corridor along designated segments with certain zoning prohibitions and restrictions to ensure compatibility of land uses within and outside the district, especially between areas within and outside of municipal boundaries. It generally runs from the south at the State Road 528 (the Beeline Expressway) to the north at Curry Ford Road.

The area is characterized by small-scale commercial and office activity fronting the street along with residential subdivisions accessed from Conway Road with some residences behind the commercial businesses. Residential neighborhoods in the area are accessed from Conway Road via a single entrance and lack connectivity to other residential subdivisions or other uses in the area.

Approximately one thousand five hundred feet from the petitioned property at the southwest intersection of Gatlin Avenue and Conway Road is the Conway First Baptist Church. To the immediate south of the church is a commercial parcel (Parcel ID 17-23-30-0000-00-005; 4022 Conway Road) that is improved with a building that was constructed in 1985 and has a future land use of Commercial (C) and a zoning of C-1 (Retail Commercial). This site is similar to the petitioned site in size, as it is 0.658 acres and is located in a predominately residential area. As is anticipated with the retail commercial zoning the uses are oriented to the community, a restaurant and a beauty salon. The size of the site plays a role in the type of commercial use that would be feasible on the site.

Two FLUM amendments near the petitioned site have been approved:

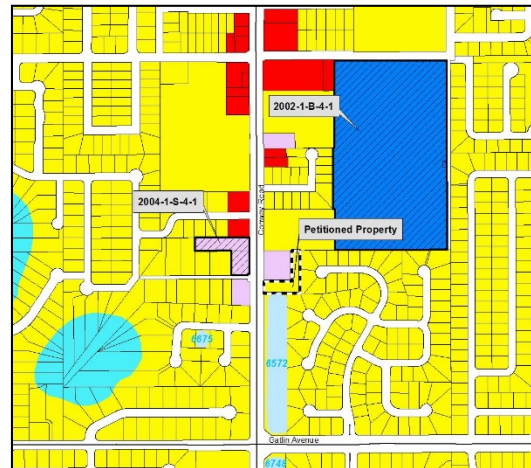
- **2002-1-B-4-1**

This request granted **approval** of a FLUM amendment on a 22.99 gross acre site located at 4600 Anderson Road (Parcel ID 30-23-08-0000-00-007) from Low Density Residential (LDR) to Institutional (INST). The property is zoned R-1 (Single-Family Dwelling District). The site is home to Conway Middle School. This amendment updated the Future Land Use Map designations of existing public school locations as Institutional in Commission District 4.

- **2004-1-S-4-1**

This request granted approval of a FLUM amendment on a 0.47 gross acre site located at 3708 Conway Road (Parcel ID 30-23-08-8728-00-010) from to Office (O). The request also included a rezoning from R-1/R-1A Single-family Dwelling District) to P-O (Professional Office).

Directly abutting the site to the north is an office building, to the south is a stormwater pond, to the east is a residential subdivision, and to the west an office. The petitioned property is improved with a vacant commercial structure whose previous use was a fruit stand and citrus packinghouse. The



agent submitted a request for a zoning change (RZ-17-11-043) on September 18, 2017, which is scheduled to be heard at the November 16, 2017 Planning and Zoning Commission Meeting.

A community meeting was held for this request on September 6, 2017, which four (4) members of the public attended. Those in attendance were in support of the request with one member voicing concern over the height if a new building were constructed. Greater detail of the meeting can be found in the meeting memorandum which is attached as an appendix to the staff report book.

## 2. Project Analysis

### *Consistency*

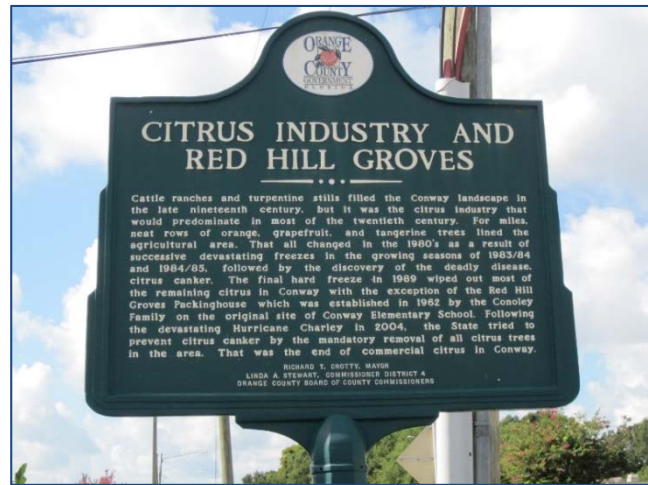
The requested Future Land Use Map (FLUM) amendment and concurrent rezoning request appear to be consistent with the applicable Goals, Objectives, and Policies of the Orange County Comprehensive Plan.



**Future Land Use Objective FLU1.1** directs growth and development into the Urban Service Area (USA). The petitioned site is within the County's USA. **Future Land Use Element Policy FLU1.4.2** requires that land use changes are compatible with and serve existing neighborhoods. The petitioned site predates much of the development in the Conway area and is a landmark in the area. For the petitioned site to be used as a commercial site, a future land use map amendment and zoning change are required. The irregular shape of the petitioned site serves as a buffer between the commercial use, adjacent office use, and the residences to the east.

**Future Land Use Element Policy FLU1.4.4** prohibits the disruption of residential areas by poorly located and designed commercial activities. The buffering standards require a Type B buffer a minimum of fifteen feet (15') wide and six feet (6') in height between C-1 (Retail Commercial) and residential uses. The zoning ordinance anticipates commercial and residential uses abutting each other and has developed standards to ensure compatibility. Also, there are examples along Conway Road, between Hoffner Avenue and Lake Margaret Drive, of office and commercial future land use designations and properties that abut residential uses. Similar to the petitioned site, these uses pre-date the comprehensive plan. There are 13 parcels with a future land use designation of Office (O) and twenty-two (22) parcels with a future land use designation of Commercial (C). As noted above, residential uses along Conway Road are typically accessed from a single access point and have a wall between them and the roadway.

**Future Land Use Element Policy FLU2.3.6** establishes criteria to consider when evaluating whether *conversion of a residential use to non-residential use* may be permitted. The existing structure is a non-residential building with a previous commercial use. Although the property has residential future land use and zoning designations, because of the commercial activity that has occurred there, staff believes that this policy does not apply. The petitioned site meets the evaluation criteria, such as being located next to a stormwater pond and being located on a major street; however, it is not applicable because of the history of being a commercial use.



**Future Land Use Element Policy FLU1.4.3** requires that the location of commercial development be concentrated at major intersections and within Activity Centers and Neighborhood Activity Nodes within the Urban Service Area. The petitioned site is located along Conway Road between a stormwater pond and a medical office use. While this criterion is not met, it does meet the aforementioned **Policy FLU2.3.6** that permits residential to commercial conversions along a major street without the requirement of being located at a major intersection.

### ***Compatibility***

**Future Land Use Element Objective FLU8.2** and **Future Land Use Element Policy 8.2.1** states land use changes shall be required to be compatible with the existing development and development trends in the area. The proposed Commercial (C) future land use designation is compatible with the existing development in the area. As noted above, there are examples of existing residential, office, and commercial uses along Conway Road. Many of these uses pre-date the Comprehensive Plan. The petitioned site began operation in 1962 as a fruit stand and citrus packinghouse, a commercial use. It is a notable landmark in the Conway Area.

**Future Land Use Element Objective FLU8.2.10** ensures that land use compatibility with nearby residential zoned areas and protection of the residential character of those areas with the application of performance standards. It is of note that the petitioned site has a fifty-five (55) year history of being a commercial use. Much of the residential development in the area grew around the citrus stand and packinghouse.

### ***Division Comments: Environmental, Public Facilities and Services***

#### **Environmental Protection Division.**

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

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

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

Use caution to prevent erosion during construction along the boundary of the property, and into all drainage facilities and ditches. Construction will require Best Management Practices (BMPs) for erosion control.

**Transportation Planning Division.**

This parcel is located in the Alternative Mobility Area (AMA). Per Objective T.2.3.2 of the County's Comprehensive Plan, the proposed development is exempt from meeting transportation concurrency requirements.

The subject property is located within the County's Alternative Mobility Area, adjacent to Conway Road, a 4 lane minor arterial from Hoffner Avenue to Michigan Street. Based on the Concurrency Management System database dated September 5, 2017, all roadways within a one mile radius of the project is currently operating at acceptable levels of service and capacity is available to be encumbered. This information is dated and subject to change. In the short term or interim year 2022, all roadways within the project impact area are projected to operate at acceptable levels of service except Conway Road from Hoffner Avenue to Gatlin Avenue

Based on the approved future land use of the subject property, the allowable development of 2 single family dwelling units will generate 2 pm peak hour trips.

The proposed 96,898 square feet of commercial use will generate 364 new pm peak hour trips resulting in a net increase of 362 new pm peak hour trips.

Based on LYNX's current bus schedule, transit service is available within a quarter mile walk distance along Conway Road and Gatlin Avenue.

The area is well served by an interconnected network of public sidewalks and the proposed development will connect to the existing sidewalk network.

There is a no signed bicycle route/lane within the project impact area.

Final permitting of any development on this site will be subject to further review and approval by Transportation Planning, and the applicant may be required to include site level mobility enhancements on the development plan for this project.

**Rezoning Analysis**

**SITE DATA**

<b>Adjacent Zoning</b>	N:	R-1 (Single-Family Dwelling District) (1957)
	E:	R-1A (Single-Family Dwelling District) (1957)
	W:	P-O (Professional Office District) (1990, 1998 ( <i>across Conway</i> ))
	S:	R-1A (Single-Family Dwelling District) (1957)
<b>Adjacent Land Uses</b>	N:	Orange County Fire Station #72
	E:	Single-Family Residential
	W:	Medical Resource Center, Insurance Office ( <i>across Conway</i> )
	S:	Retention Pond, Single-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:

- (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.

**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 located within the Cowan Road / Hoffner Avenue Corridor Overlay District.

**Airport Noise Zone**

The subject property is located within Airport Noise Zone “D”. The proposed use is subject to the land use restrictions stated in Orange County Code Article XV – “Airport Noise Impact Areas”.

**Water / Wastewater / Reclaim**

Existing service or provider

<b>Water:</b>	Orange County Utilities	12-inch watermain located on Conway Road
<b>Wastewater:</b>	Orange County Utilities	8-inch forcemain located on Conway Road
<b>Reclaimed:</b>	Orange County Utilities	Not currently available

**Schools**

Orange County Pubic 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.

**3. Policy References**

**FLU1.1** 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.

**FLU1.1.4** In addition to FLU1.1.2(B), permitted densities and/or intensities for residential and non-residential development can be established through additional Future Land Use designations. Density and Floor Area Ratio (FAR) calculation shall be defined as the language specified in Future Land Use Element Policy FLU1.1.2(C). The Future Land Use and Zoning Correlation is found in FLU8.1.1.

**A. OTHER URBAN RELATED OPTIONS** – The following are non-residential Future Land Use designations that are predominately found in the Urban Service Area. These may also be located within Rural Settlements on a limited basis. (See specific policies

within Chapter 5).

FLUM Designation	General Description	Density/Intensity
<b>Urban Non-Residential – Predominantly urban in use</b>		
Office (O)	Office uses include professional office and office park-style development. Office uses can be considered as a transitional use between two different types of land use or land use intensities.	3.0 FAR
Commercial (C)	Commercial uses include neighborhood and commercial scale commercial and office development that serves neighborhood or community or village needs. Examples include neighborhood center, community center and village commercial.	3.0 FAR unless otherwise restricted by County policy or code
Industrial (I)	Industrial uses include the processing of both hazardous and non-hazardous materials ranging from light assembly and manufacturing to chemical processing.	0.75 FAR
Institutional (INST)	Institutional uses recognize local, regional, state or Federal public facilities, structures and lands.	2.0 FAR
Educational (EDU)	Educational recognizes public elementary, middle, and high schools and ninth grade centers. Future Land Use change required for all schools proposed for RSA, and for high schools and ninth grade centers proposed in Rural Settlements.	2.0 FAR

**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.

**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, 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. (Policy 3.6.5-r; Amended 6/12, Ord. 2012-14)

**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.

**FLU8.2.1** Land use changes shall be required to be compatible with the 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.

**FLU8.2.10** 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. (Policy 3.1.33-r)

**Site Visit Photos**

**Subject Site – Warehousing and Office**



**North – Office**



**East – Single-Family Residential**



**South – Stormwater Pond**



**West – Office**



