



For More Information, Contact:

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PLANNING & ZONING BOARD

To: Jerry Carris- Chairman
James Gentry – Vice-Chairman
James Dunn
Kent Horsley
Mark Maciel
Mac McKinney
Rohan Ramlackhan

Copy to: Mike Bollhoefer
Dan Langley
Ed Williams
Tim Wilson
Laura Smith
Stephen Pash
Alejandra Fazekas

RE: Agenda – October 03, 2011 - 6:30 PM
Commission Chambers, City Hall
300 West Plant Street, Winter Garden

-
1. Call to Order
 2. Roll Call and Determination of Quorum
 3. Approval of minutes from the September 12, 2011 meeting – Attachment 1

Annexations and Rezoning (Public Hearing)

4. City's Tucker Ranch Property, Annexation - Attachment 2
5. 881 9th Street (Budget Auto Parts of Orlando), Annexation, Rezoning and FLU Amendment - Attachment 3
6. Property Parcel ID # 12-22-27-6496-32-025 & 24-22-27-0000-00-037, Rezoning - Attachment 4

Special Exception Permit (Public Hearing)

7. 13848 Tilden Road, Suites # 184,192 & 198, (Casablanca Cigar Lounge – Attachment 5

ADJOURN to a regular Planning and Zoning Board meeting on Monday, November 07, 2011 at 6:30 p.m. in City Hall Commission Chambers, 300 W. Plant Street, 1st floor.

Note: §286.0105, Florida Statutes, states that if a person decides to appeal any decision by a board, agency, or commission with respect to any matter considered at a meeting or hearing, he or she will need a record of the proceedings and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans with Disabilities Act (ADA), if any person with a disability, as defined by the ADA, needs special accommodation to participate in this proceeding, then not later than two business days prior to the proceeding, he or she should contact the City Clerk's Office at 407-656-4111 extension 2254.

**A REGULAR MEETING MINUTES
PLANNING AND ZONING BOARD
SEPTEMBER 12, 2011**

CALL TO ORDER

Chairman Jerry Carris called the meeting of the City of Winter Garden Planning and Zoning Board to order at 6:30 p.m. in the City Hall Commission Chambers. The invocation was given followed by the Pledge of Allegiance. The roll was called and a quorum was declared present.

MEMBERS PRESENT: Chairman Jerry Carris, Vice-Chairman James Gentry, Board Members: Kent Horsley, Mac McKinney, James Dunn, and Rohan Ramlackhan.

STAFF PRESENT: City Attorney Giffin Chumley, Community Development Director Ed Williams, Planning & Zoning Director Tim Wilson, Senior Planner Laura Smith, Senior Planner Stephen Pash, Planner Alejandra Fazekas, and Planning Technician Lorena Blankenship.

MEMBERS ABSENT: Mark Maciel (excused)

STAFF ABSENT: City Manager Mike Bollhoefer

1. APPROVAL OF MINUTES

Approval of minutes from the regular meeting held August 01, 2011.

Motion by Kent Horsley to approve the above minutes, seconded by Mac McKinney, the motion carried unanimously 5-0.

Board Member Jimmy Dunn arrived at 6:34 p.m.

VARIANCES

2. Windtree Garden Condominium, Wall Variance

Senior Planner Smith presented the Board with a request of a variance to the 6 foot maximum height restriction for fences and walls located in side and rear yards to allow for construction of an 8 foot tall wall to be constructed along portions of the east and south sides of the property. The applicant is requesting to replace existing 6 foot tall sections of wooden perimeter fencing with 8 foot tall precast concrete wall

sections along approximately 650 feet of the east side property line adjacent to 5th Street and along a 30 foot portion of the south property line beginning on the west side of the intersection of 5th Street and South Street. The applicant is requesting 8 foot tall wall sections along the above referenced locations in an effort to reduce noise from 5th Street, and increase safety and security due to recurring vandalism and trespassing problems along the 5th Street property line. The remaining 6 foot tall sections of wooden perimeter fencing will be replaced with a precast concrete wall of the same height as the existing. The replacement of the existing wooden perimeter fencing with a precast concrete wall will be an aesthetic improvement to the property.

Staff recommends approval of a variance to Section 118-1297(a)(2)a & Section 118-1297(a)(2)b to allow replacement of existing 6 foot tall sections of wooden perimeter fencing with 8 foot tall precast concrete wall sections along approximately 650 feet of the east side property line adjacent to 5th Street and along a 30 foot portion of the south property line beginning on the west side of the intersection of 5th Street and South Street; and further recommend that as a condition of approval the property owner be required to install a landscape buffer between the proposed 8 foot tall wall sections and 5th Street (east side of the property); such landscape buffer shall be submitted to the Community Development Department as a landscape plan for staff review and approval prior to planting. The landscape plan should be submitted and planting complete within 12 months of the issuance of a building permit for construction of the precast concrete walls.

Senior Planner Smith added that a letter of support was received from the neighbor immediately to the south of the subject property (*648 Dharma Circle*).

Board Member Horsley expressed confusion in regards to the subject petition, stating that on a previous occasion City Staff denied the installation of an 8 foot tall wall in a residential area and inquired City Staff about the language on the fence ordinance. Senior Planner Smith stated that Windtree Garden Condominiums is a large community, that the proposed wall is perimeter fencing, and that the section of the wall runs parallel to a road way.

Community Development Director Ed Williams stated that City Staff have not received any objections to the request from the surrounding neighbors; City staff believes the concrete wall is a tremendous improvement and upgrade to the development, and there are no compelling reasons to deny the request.

Mac McKinney stated that the subject request is a boundary fence, which will provide security to the community along Fifth Street (5th Street).

Motion by Mac McKinney to approve the variance to allow for construction of an 8 foot tall wall to be constructed along portions of the east and south sides of the property with City Staff conditions (see attached), seconded by James Dunn, the motion carried unanimously 6-0.

- ❖ *Glen Portblake approached the board and stated that he owns several units at the Windtree Gardens Condominium. He spoke in regards to the 8 foot variance request, stating that regardless of the wall improving the appearance of the condominium and providing security to the community, it was an expensive wall and the unit owners will be required to pay additional fees for maintenance. Board members Ramlackan and Dunn explained Mr. Portblake that the public hearing for the 8 foot variance request item had already been closed.*

4. 328 S. Boyd Street, accessory structure setback variance

Senior Planner Laura Smith presented the board with a request approval of a variance to the 15' minimum side yard requirement for accessory structures located on the street side of a corner lot to allow an 8' side yard setback for an accessory structure (gazebo) and a 5' side yard setback for an accessory structure (awning); and also a request of approval of a variance to the restriction of no more than 2 accessory buildings per lot to allow for a total of 4 accessory buildings. She added that the applicant is proposing to construct a 12' x 12' detached accessory structure (gazebo) in the side yard and an 18' x 8' attached accessory structure (awning) over an existing wall in the side yard. Ms. Smith added that the gazebo is partially constructed and the location does not meet set back requirements for corner lots in residential districts, and the 18' x 8' attached accessory structure (awning) over an existing 4' tall wall in the side yard. The wall was permitted through the Building Department and is partially constructed; the addition of the awning to the wall would create an accessory structure which does not meet the setback requirements for corner lots in residential districts. The subject property has an existing detached garage and 2 existing storage sheds. No more than two accessory buildings may be located on any lot. The applicant would like to construct 2 additional accessory structures and remove one of the existing storage sheds; this would make a total of 4 accessory buildings on the property. City staff would recommend approval of the subject request subject to the property owner considering the following additional improvements to reduce the visual impact of the proposed placement of 2 additional accessory structures:

- Install a landscape buffer along the south side of the property from the driveway entrance extending east for at least 68' along the south side property line and around the existing 4' tall wall; such landscape buffer shall include:
 - a landscaped yard at least five feet in width containing an opaque screen of landscaping at least three feet in height and shall attain opacity and a height of three feet within 12 months of planting under normal growth conditions;
 - three trees shall be planted within the landscape buffer, one of which shall be

located adjacent to the proposed awning location.

- Use materials and finishes which blend aesthetically with the principal structure and existing detached garage when constructing the proposed accessory structures:
 - Grey shingle roof and white finish on façade.

❖ *Glen Portblake approached the board to speak on previous item (see above).*

Mac McKinney asked if the gazebo will meet the height requirements. Senior Planner Smith responded that the applicant is not requesting a height variance; therefore, they will be subject to comply with the height requirement.

Kent Horsley asked if the awning will be attached to the existing wall. Senior Planner Smith responded that she understands the applicant is placing a post along the side of the wall.

Motion by James Dunn to approve the 8' side yard setback variance for an accessory structure (gazebo) and a 5' side yard setback variance for an accessory structure (awning); and also approval of a variance to the restriction of no more than 2 accessory buildings per lot to allow for a total of 4 accessory buildings for property located at 328 S. Boyd Street with City Staff recommendations (see attached), seconded by Rohan Ramlackhan, the motion carried unanimously 6-0.

SPECIAL EXCEPTION PERMIT

5. 70 E. Palmetto Street

Planning Director Wilson presented the Board with a request of approval of a Special Exception Permit for property located at 70 E. Palmetto Street to allow a professional office in a RNC zoning district. The subject property future land use and zoning was recently changed to Residential Neighborhood Commercial future land use and RNC zoning per Ordinances 11-16 and 11-17. The surrounding zoning consists of RNC and C-2 to the north for properties fronting S. Woodland Street, R-1 (County) to the east, C-2 to the south and RNC to the west. The applicant has provided a conceptual site plan that supports the request to convert the single family residence to a professional office. The structure is 2 stories and approximately 1,580 sq.ft. in size. An above ground pool has been removed and a non-covered deck constructed at the rear of the building. The applicant's design of the site proposes 8 total parking spaces: 3 paved and 5 gravel parking spaces. The amount of additional impervious area will not require the installation of any stormwater management facilities. An existing drainage swale is located along the south property boundary to accommodate any additional runoff from the driveway and limited pavement. The edge of the gravel

parking is setback 23 feet to the closest point from the south property line. In addition, 5 foot wide landscape buffers are accommodated along the east and west property areas where site improvements will occur. City staff requests that an additional landscaping material be provided along the front of the building. If this request is approved, the applicant will need to apply for a small scale site plan that will provide for more detail of the proposed site improvements, parking areas, sidewalks, landscaping and other traffic marking and pavement details. Staff recommends approval of the special exception request to allow a Professional office use at property located at 70 E. Palmetto Street in accordance with Section 118-97 of City Code of Ordinances and subject to the following conditions:

1. Provide a landscape buffer along the front of the building and a landscape buffer along the east and west property line where site improvements are proposed.
2. Project business signs shall not exceed 16 square feet. Any proposed street sign shall be a ground sign not to exceed 6 feet in height.
3. The applicant will need to apply and receive approval of a small scale site plan before any building permits, site permits or other City approvals are issued.

Planning Director Wilson stated that an acknowledgement of support from the adjacent property owner was received.

Mac McKinney noted that a handicap ramp should be included in the site plan.

Motion by Kent Horsley to approve the Special Exception Permit for property located at 70 E. Palmetto Street to allow a professional office in a RNC zoning district with City Staff conditions (see attached). Seconded by James Dunn, the motion carried unanimously 6-0.

Kent Horsley complimented the owners of the Montessori School at 855 E. Plant Street and City Staff on complying with the conditions imposed on the Special Exception Permit. He stated that not only they complied with City Staff conditions and recommendations, but the work was very well done.

ADJOURNMENT

There being no further business, the meeting was adjourned at 7:24 p.m.

APPROVED:

ATTEST:

Chairman Jerry Carris

Planning Technician Lorena Blankenship

THE CITY OF WINTER GARDEN
CITY PLANNING AND ZONING BOARD AGENDA ITEM

ATTACHMENT 2 (Public Hearing)

DATE: September 27, 2011 **MEETING DATE:** October 3, 2011

SUBJECT: Annexation of land into City limits
City owned property formerly known as Tucker Ranch
Parcel ID# 28-22-27-0000-00-010
Parcel ID# 28-22-27-0000-00-035

ISSUE: Request for approval of Ordinance 11-27, annexation of 209 +/- acres located on the west side of Avalon Road

SUPPLEMENTAL MATERIAL/ANALYSIS:

OWNER/APPLICANT: City of Winter Garden

CURRENT ZONING: Orange County, A - 1

CURRENT FLU: Orange County Rural Residential

SUMMARY:

The City recently purchased the property known as the Tucker Ranch Heritage Park property in January 2011. The City has been interested in acquiring the land for some time for use as a City park and recreation land. The City will annex the property into the City to allow for City laws and regulations to be in place on the land. The City will over the next year amend the future land use and zoning to City designations consistent with the future recreation and conservation use of the property.

STAFF RECOMMENDATION:

Staff recommends approval of Ordinance 11-27 for the 209 +/- acres to be annexed into the City.

NEXT STEP:

A public hearing for the first reading of this Ordinance is scheduled for the City Commission on Thursday, October 13, 2011.

ATTACHMENT:

Ordinance 11-27
Staff Report

ORDINANCE 11-27

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 209+/- ACRES LOCATED ON THE WEST SIDE OF AVALON ROAD AND SOUTH OF THE FLORIDA TURNPIKE INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Winter Garden owns the land generally described as approximately 209 +/- acres located on the west side of Avalon Road and south of the Florida Turnpike, and legally described in Section 2 of this Ordinance, which land is contiguous to the corporate limits of the City of Winter Garden, Florida, have pursuant to the prerequisites and standards set forth in Chapter 171, F.S., petitioned the City Commission of the City of Winter Garden for voluntary annexation;

BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:

SECTION 1: That the City Commission through its Planning and Zoning Board has conducted an investigation to determine whether the described property meets the prerequisites and standards set forth in Chapter 171, F.S. and has held a public hearing and said petition and made certain findings.

SECTION 2: That, after said public hearing and having found such petition meets said prerequisites and standards, the property legally defined in ATTACHMENT "A" and graphically shown on the attached map shall be annexed into the City of Winter Garden, Florida, and

SECTION 3: That the City of Winter Garden, Florida, shall have all of the power, authority, and jurisdiction over and within the land as described in Section 2 hereof, and the inhabitants thereof, and property therein, as it does and have over its present corporate limits and laws, ordinances, and resolutions of said City shall apply and shall have equal force and effect as if all territory had been part of said City at the time of the passage of such laws, ordinances, and resolutions.

SECTION 4: The area annexed to the City is owned by the City and is not subject to the imposition of any City municipal ad valorem taxation.

SECTION 5: Should any portion of this Ordinance be held invalid, then such portions as are not declared invalid shall remain in full force and effect.

SECTION 6: This Ordinance shall become effective upon adoption at its second reading.

FIRST READING AND PUBLIC HEARING: _____, 2011.

SECOND READING AND PUBLIC HEARING: _____, 2011.

ADOPTED this _____ day of _____, 2011, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

JOHN REES, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

ATTACHMENT "A"

LEGAL DESCRIPTION

A tract of land lying in Section 28, Township 22 South, Range 27 East, Orange County, Florida and being more particularly described as follows:

Commence at the East 1/4 corner of said Section 28, Township 22 South, Range 27 East, Orange County, Florida; thence run North 89°36'43" West along the South line of the Northeast ¼ of said Section 28 for a distance of 25.00 feet to a point on the Westerly right of way line of State Road No. 545 (Avalon Road) said point being the POINT OF BEGINNING; thence departing said South line of the Northeast ¼ and run South 00°04'46" West along the aforesaid Westerly right of way line of State Road No. 545 for a distance of 1,333.42 feet to a point on the South line of the Northeast ¼ of the Southeast ¼ of said Section 28; thence run North 89°48'32" West along the aforesaid South line of the Northeast ¼ of the Southeast ¼ and the South line of the Northwest ¼ of the Southeast ¼ and the South line of the Northeast ¼ of the Southwest ¼ as established by the plat of Johns Lake Pointe as recorded in Plat Book 69, Page 121 of the Public Records of Orange County, Florida for a distance of 3948.69 feet; thence departing the North line of the aforesaid plat of Johns Lake Pointe and continue North 89°48'32" West along the South line of the Northwest ¼ of the Southwest ¼ of said Section 28 for a distance of 1341.45 feet to the Southwest corner of the Northwest ¼ of the Southwest ¼ of said Section 28; thence run North 00°02'08" East along the West line of the Northwest ¼ of the Southwest ¼ of said Section 28 for a distance of 1,351.60 feet to the West ¼ corner of said Section 28; thence run South 89°36'43" East, along the North line of the Northwest ¼ of the Southwest ¼ of said Section 28 for a distance of 667.06 feet to the Southwest corner of the East ½ of the Southwest ¼ of the Northwest ¼ of Section 28; thence run North 00°18'20" East along the West line of the East ½ of the Southwest ¼ of the Northwest ¼ of Section 28 for a distance of 283.93 feet; thence departing said West line and run South 89°38'06" East along the Southerly right of way line of State Road 91 (Florida's Turnpike) as per the right of way map (Financial Project No. 406146) and along those parcels as described in the Warranty Deed recorded in Official Records Book 9630, Page 3891 of the Public Records of Orange County, Florida for a distance of 522.00 feet; thence run North 63°07'41" East, for a distance of 629.13 feet; thence North 15°17'00" East, for a distance of 165.66 feet to a point on the Southerly limited access right of way line of the aforesaid State Road 91; said point being on a curve concave Northerly and having a Tangent Bearing of South 74°43'00" East and a radius of 11,609.16 feet; thence run Easterly along said right of way line and along the arc of said curve through a central angle of 15°19'03" for a distance of 3,103.63 feet to the Point of Tangency; thence run North 89°57'56" East, for a distance of 429.08 feet to the aforesaid Westerly right of way line of State Road No. 545 (Avalon Road); thence run South 00°04'03" West along said Westerly right of way line being 25 feet West of and parallel to the East line of the Northeast ¼ of said Section 28 for a distance of 345.78 feet to the POINT OF BEGINNING.

Containing 9,102,404 square feet or 208.962 Acres, more or less.

CITY OF WINTER GARDEN

PLANNING & ZONING DIVISION

300 West Plant Street - Winter Garden, Florida 34787-3011 • (407) 656-4111

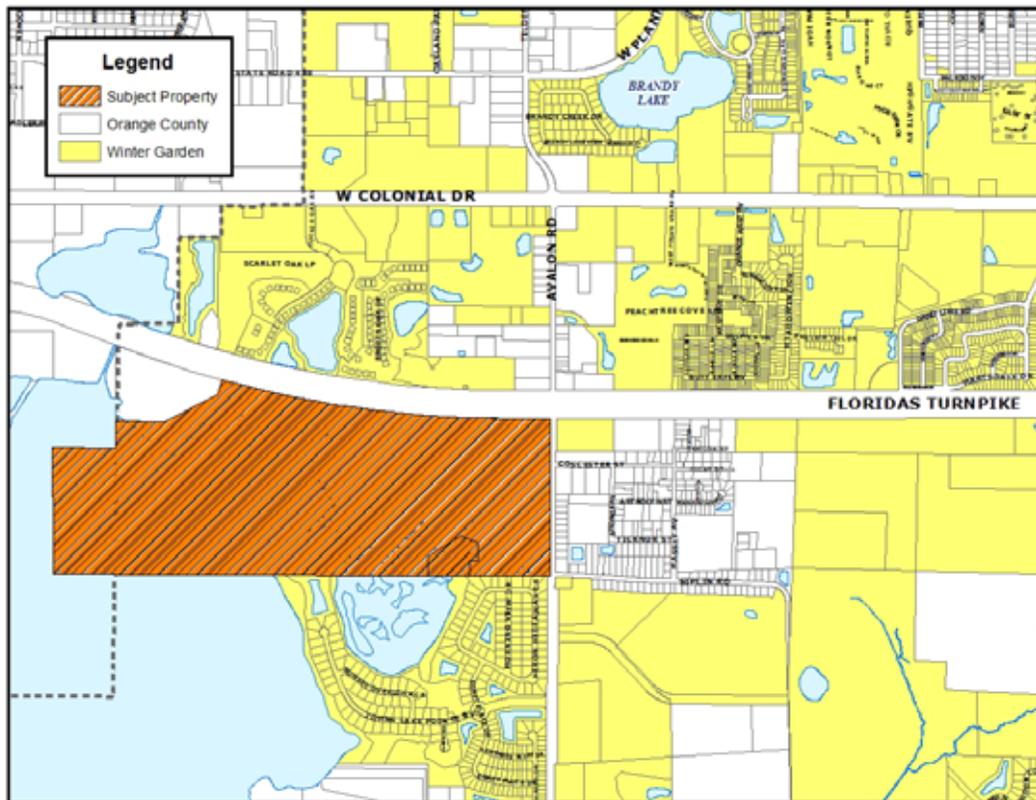
STAFF REPORT

TO: PLANNING AND ZONING BOARD
PREPARED BY: TIM WILSON, PLANNING & ZONING DIRECTOR
DATE: SEPTEMBER 28, 2011
SUBJECT: ANNEXATION - CITY'S TUCKER RANCH PROPERTY
Parcel ID # 28-22-27-0000-00-010
Parcel ID # 28-22-27-0000-00-035
APPLICANT: CITY OF WINTER GARDEN

INTRODUCTION

The purpose of this report is to evaluate the proposed property for compliance with the City of Winter Garden Code of Ordinances and Comprehensive Plan.

The subject property is located on the west side of Avalon Road and south of the Florida Turnpike and is approximately 209 +/- acres. The City purchased the property in January 2011. The map below depicts its proximity to the City's jurisdictional limits:



The applicant has requested annexation into the City. The City is not amending the Future Land Use (FLU) and rezoning at this time. The FLU designation in the County is Rural Residential and A-1 zoning which reflects the current vacant use of the property and the existing home.

Since the City owns the property, we want to annex the property into the City. The property is contiguous to the City limits and the City will provide urban services and facilities to the future use of the property.

EXISTING USE

The property is substantially vacant except for the single family residence that is located on the southernly portion of the land. The property was formerly used for a variety of agricultural and recreational uses. Most recently, the southeastern area of the site had a cattle ranch on approximately thirty (30) acres.

ADJACENT LAND USE AND ZONING

To the north of the property is the Florida Turnpike. To the south is the Johns Lake Point subdivision, which is under development. To the east is the Tildenville neighborhood that is in unincorporated Orange County. To the west of the property is Johns Lake, which a portion is part of the City's land. The surrounding zoning consists of PUD residential to the south. The Tildenville neighborhood to the east is zoned R-1.

PROPOSED USE

The City purchased the property for a future park. The City is in the process of determining the future uses to the property. The intent is to create a unique nature park with a variety of passive recreational uses and activities, as well as, provide limited access to the lake. Also, the City is in the process of using a portion of the property for sustainable farming.

PUBLIC FACILITY ANALYSIS

The property's primary point of transportation access is from Avalon Road (County Road 545). The existing property access is along the southern edge of the property.

The City will provide water and sewer service to the property. The City has facilities adjacent to the property on the south side along Avalon Road (CR545). The City will provide utilities for the park office with the development of the property. The existing house currently utilizes a well and septic system .

The City will provide garbage collection, police protection, and all other services regularly provided to City of Winter Garden residents including building permits. The property will be served by both Orange County Fire and Rescue and the City Fire Department under the First Response system.

SUMMARY

The City Planning Department has reviewed the proposed ordinance and recommends approval. Annexation will provide a more efficient delivery of services to the current and future uses of the property.

MAPS

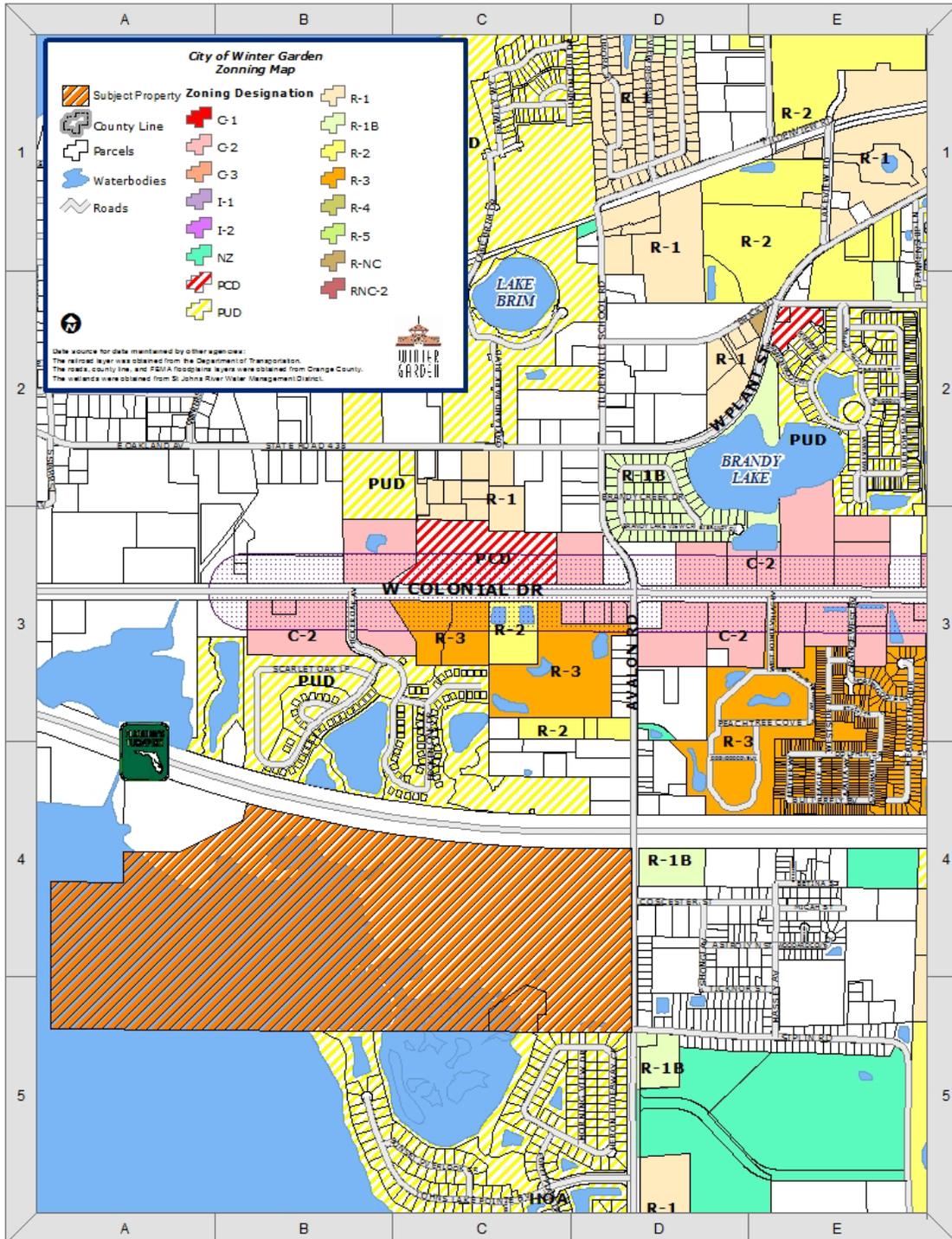
AERIAL PHOTO

100 - 200 Avalon Road



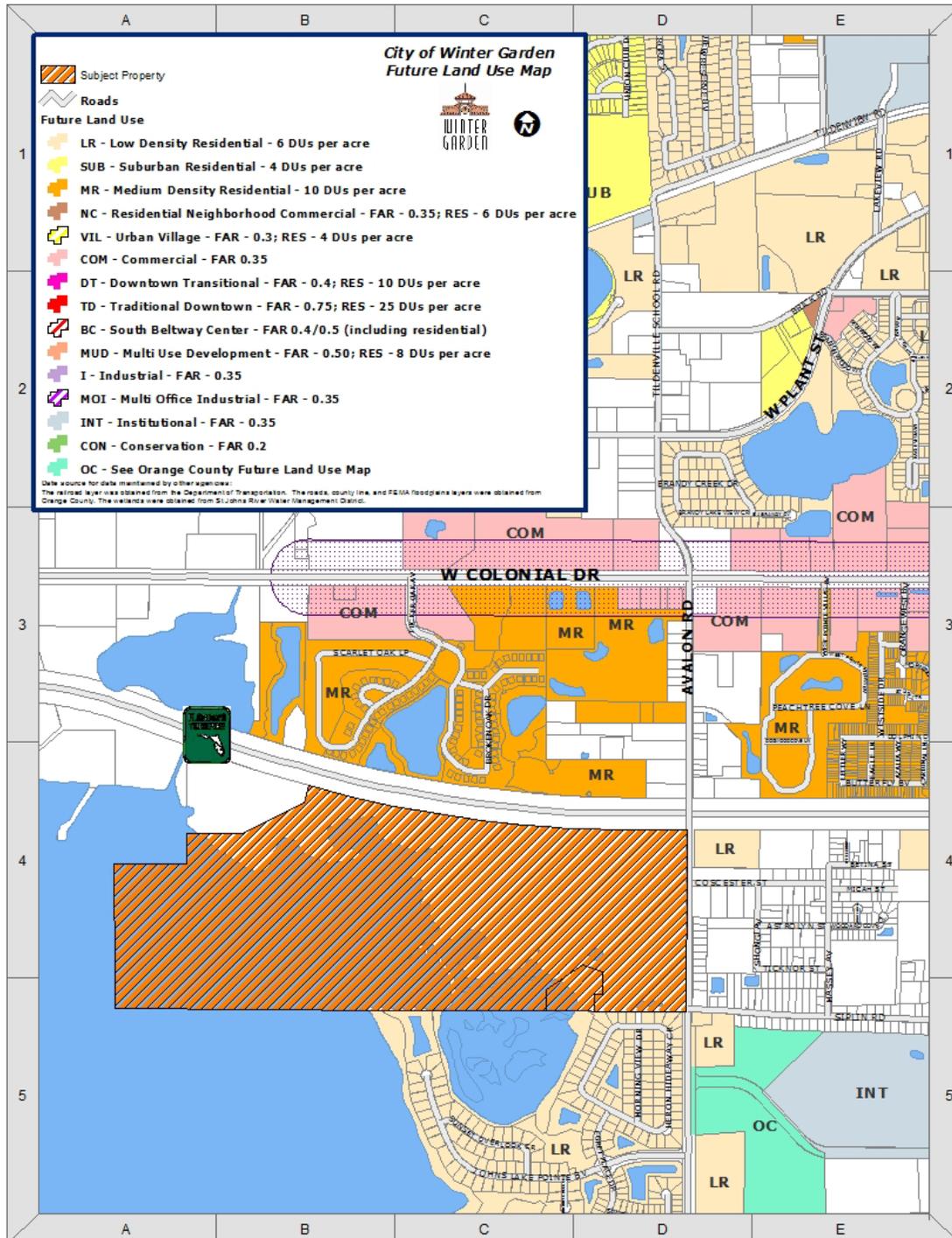
ZONING MAP

100 - 200 Avalon Road



FUTURE LAND USE MAP

100 - 200 Avalon Road



END OF STAFF REPORT

THE CITY OF WINTER GARDEN
CITY PLANNING AND ZONING BOARD AGENDA ITEM

ATTACHMENT 3 (Public Hearing)

DATE: September 27, 2011 **MEETING DATE:** October 3, 2011

SUBJECT: Budget Auto Parts of Orlando, Inc.
881 9th Street (7.88± acres)
Parcel ID# 12-22-27-6496-32-002
Parcel ID# 12-22-27-6496-32-003
Parcel ID# 12-22-27-6496-32-004
Parcel ID# 12-22-27-6496-32-026

ISSUE: Request approval of Ordinance 11-28 (Annexation of 7.88± acres located at 881 9th Street), Ordinance 11-29 (Amending Future Land Use Map of the City's Comprehensive Plan for 7.88± acres located at 881 9th Street from Orange County Low-Medium Density Residential to City Multi Office Industrial), Ordinance 11-30 (Rezoning of 7.88± acres located at 881 9th Street from Orange County R-2 to City I-2).

SUPPLEMENTAL MATERIAL/ANALYSIS:

OWNER/APPLICANT: Budget Auto Parts of Orlando, Inc.
Bill Rutherford

CURRENT ZONING: Orange County R-2 Residential District
PROPOSED ZONING: City I-2 General Industrial District

EXISTING FLU: Orange County Low-Medium Density Residential
PROPOSED FLU: City Multi Office Industrial

SUMMARY:

The City encourages infill of its jurisdictional limits through voluntary annexation of enclaves. The subject property makes up a 7.88± acre portion of a 12.01± acre enclave located east of 9th Street between West Colonial Drive and East Story Road. The applicant has requested Annexation into the City, Amendment to the Future Land Use Map of the City's Comprehensive Plan to designate the property as Multi Office Industrial, and Rezoning of the property to City I-2 General Industrial District. (See attached Staff Report)

STAFF RECOMMENDATION:

Staff recommends approval of Ordinance 11-28 (Annexation of 7.88± acres located at 881 9th Street), Ordinance 11-29 (Amending Future Land Use Map of the City's Comprehensive Plan for 7.88± acres located at 881 9th Street from Orange County Low-Medium Density Residential to City Multi Office Industrial),

Ordinance 11-30 (Rezoning of 7.88± acres located at 881 9th Street from Orange County R-2 to City I-2).

NEXT STEP:

A public hearing for the first reading of these Ordinances is scheduled for the City Commission on Thursday, October 13, 2011.

ATTACHMENT:

Ordinance 11-28
Ordinance 11-29
Ordinance 11-30
Staff Report

ORDINANCE 11-28

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 7.88± ACRES LOCATED ON THE EAST SIDE OF 9th STREET, SOUTH OF EAST STORY ROAD AND NORTH OF WEST COLONIAL DRIVE INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the owner of the land, generally described as approximately 7.88± acres located on the east side of 9TH Street, south of East Story Road and north of West Colonial Drive and legally described in Section 2 of this Ordinance, which land is reasonably compact and contiguous to the corporate limits of the City of Winter Garden, Florida ("City"), has, pursuant to the prerequisites and standards set forth in § 171.044, Fla. Stat., petitioned the City Commission for voluntary annexation;

WHEREAS, the petition for voluntary annexation referenced herein bears the signatures of all owners of the property or properties described in Section 2 of this Ordinance (*i.e.*, the property or properties to be annexed); and

WHEREAS, the City has determined that the property described in Section 2 of this Ordinance is located in an unincorporated area of the County and that annexation of such property will not result in the creation of an enclave.

BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:

SECTION 1: *Annexation.* That the City Commission through its Planning and Zoning Board has conducted an investigation to determine whether the described property meets the prerequisites and standards set forth in Chapter 171, Fla. Stat. and has held a public hearing and said petition and made certain findings.

SECTION 2: *Description of Area Annexed.* That, after said public hearing and having found such petition meets said prerequisites and standards, the property legally defined in ATTACHMENT "A" and graphically shown on the attached map shall be annexed into the City of Winter Garden, Florida.

SECTION 3: *Effect of Annexation.* That the City of Winter Garden, Florida, shall have all of the power, authority, and jurisdiction over and within the land as described in Section 2 hereof, and the inhabitants thereof, and property therein, as it does and have over its present corporate limits and laws, ordinances, and resolutions of said City shall

apply and shall have equal force and effect as if all territory had been part of said City at the time of the passage of such laws, ordinances, and resolutions.

SECTION 4: *Apportionment of Debts and Taxes.* Pursuant to § 171.061, Fla. Stat., the area annexed to the City shall be subject to all taxes and debts of the City upon the effective date of annexation. However, the annexed area shall not be subject to municipal ad valorem taxation for the current year if the effective date of the annexation falls after the City levies such tax.

SECTION 5: *Instructions to Clerk.* Within seven (7) days following the adoption of this Ordinance, the City Clerk or his/her designee is directed to file a copy of this ordinance, including ATTACHMENT "A" hereto, with the clerk of the circuit court and the chief administrative officer of Orange County as required by § 171.044(3), Fla. Stat.

SECTION 6: *Severability.* Should any portion of this Ordinance be held invalid, then such portions as are not declared invalid shall remain in full force and effect.

SECTION 7: *Effective Date.* This Ordinance shall become effective upon adoption at its second reading.

FIRST READING AND PUBLIC HEARING: _____, 2011.

SECOND READING AND PUBLIC HEARING: _____, 2011.

ADOPTED this _____ day of _____, 2011, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

JOHN REES, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

ATTACHMENT "A"

LEGAL DESCRIPTION

PARCEL ID#: 12-22-27-6496-32-002

OVERSTREET CRATE COMPANYS F/9 N 102 FT OF S1/2 OF N1/2 OF BLK 6 LYING W OF CANAL & N1/2 OF S1/2 OF N1/2 BLK 6 LYING E OF CANAL & W 93 FT OF E 665.04 FT OF S1/2 OF S1/2 OF N1/2 OF BLK 6 & E 381.36 FT OF S1/2 OF S1/2 OF N1/2 OF BLK 6 ON MAP 24-22-27 SW1/4

PARCEL ID#: 12-22-27-6496-32-003

OVERSTREET CRATE COMPANYS F/9 BEG SE COR OF NW1/4 OF BLK 6 RUN W 363.35 FT TO ELY R/W OF DRAINAGE DITCH TH N 20 DEG W 176.89 FT ALONG SAID R/W TO PT ON N LINE OF S1/4 OF NW1/4 OF BLK 6TH E 425.94 FT TO E LINE OF SAID NW1/4 S 166.06 FT TO POB (LESS E 225 FT THEREOF) IN SEC 24-22-27 SW1/4

PARCEL ID#: 12-22-27-6496-32-024

OVERSTREET CRATE COMPANYS F/9 W 95.34 FT OF E 476.7 FT OF S1/4 OF N1/2 BLK 6 IN SEC 24-22-27 SW1/4

PARCEL ID#: 12-22-27-6496-32-026

OVERSTREET CRATE COMPANYS F/9 W 95.34 FT OF E 572.04 FT OF S1/2 OF N1/2 OF BLK 6 IN SEC 24-22-27 SW1/4

ORDINANCE 11-29

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING THE FUTURE LAND USE MAP OF THE WINTER GARDEN COMPREHENSIVE PLAN BY CHANGING THE LAND USE DESIGNATION OF REAL PROPERTY GENERALLY DESCRIBED AS 7.88± ACRES OF LAND LOCATED ON THE EAST SIDE OF 9th STREET, SOUTH OF EAST STORY ROAD AND NORTH OF WEST COLONIAL DRIVE FROM ORANGE COUNTY LOW-MEDIUM DENSITY RESIDENTIAL TO CITY MULTI OFFICE INDUSTRIAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on the 13th of June, 1991, the City Commission of the City of Winter Garden adopted Ordinance 91-16 which adopted a new Comprehensive Plan for the City of Winter Garden;

WHEREAS, the owner of that certain real property generally described as 7.88± acres of land located on the east side of 9TH Street, south of East Story Road and north of West Colonial Drive, and legally described in ATTACHMENT "A" has petitioned the City to amend the Winter Garden Comprehensive Plan to change the Future Land Use classification from Orange County Low-Medium Density Residential to City Multi Office Industrial; and

WHEREAS, the City of Winter Garden's Local Planning Agency and City Commission have conducted the prerequisite advertised public hearings pursuant to Chapter 163, Florida Statutes, regarding the adoption of this ordinance; now, therefore,

BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:

SECTION I. *FLUM Amendment.* The City of Winter Garden hereby amends the Future Land Use Map of the City of Winter Garden Comprehensive Plan by designating the aforesaid property to City Multi Office Industrial within the Story Road Industrial Activity Center as set forth in ATTACHMENT "B".

SECTION II. *Effective Date.* This Ordinance shall become effective 31 days after adoption, unless the Ordinance is timely challenged pursuant to § 163.3187(5), Fla. Stat., in which case, the Ordinance shall not be effective until the state land planning agency or the Administrative Commission, respectively, issues a final order determining that the adopted Ordinance is in compliance.

SECTION III. *Severability.* Should any portion of this Ordinance be held invalid, then

such portions as are not declared invalid shall remain in full force and effect.

FIRST READING AND PUBLIC HEARING: _____, 2011.

SECOND READING AND PUBLIC HEARING: _____, 2011.

ADOPTED this _____ day of _____, 2011, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

JOHN REES, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

ATTACHMENT "A"

LEGAL DESCRIPTION

PARCEL ID#: 12-22-27-6496-32-002

OVERSTREET CRATE COMPANYS F/9 N 102 FT OF S1/2 OF N1/2 OF BLK 6 LYING W OF CANAL & N1/2 OF S1/2 OF N1/2 BLK 6 LYING E OF CANAL & W 93 FT OF E 665.04 FT OF S1/2 OF S1/2 OF N1/2 OF BLK 6 & E 381.36 FT OF S1/2 OF S1/2 OF N1/2 OF BLK 6 ON MAP 24-22-27 SW1/4

PARCEL ID#: 12-22-27-6496-32-003

OVERSTREET CRATE COMPANYS F/9 BEG SE COR OF NW1/4 OF BLK 6 RUN W 363.35 FT TO ELY R/W OF DRAINAGE DITCH TH N 20 DEG W 176.89 FT ALONG SAID R/W TO PT ON N LINE OF S1/4 OF NW1/4 OF BLK 6TH E 425.94 FT TO E LINE OF SAID NW1/4 S 166.06 FT TO POB (LESS E 225 FT THEREOF) IN SEC 24-22-27 SW1/4

PARCEL ID#: 12-22-27-6496-32-024

OVERSTREET CRATE COMPANYS F/9 W 95.34 FT OF E 476.7 FT OF S1/4 OF N1/2 BLK 6 IN SEC 24-22-27 SW1/4

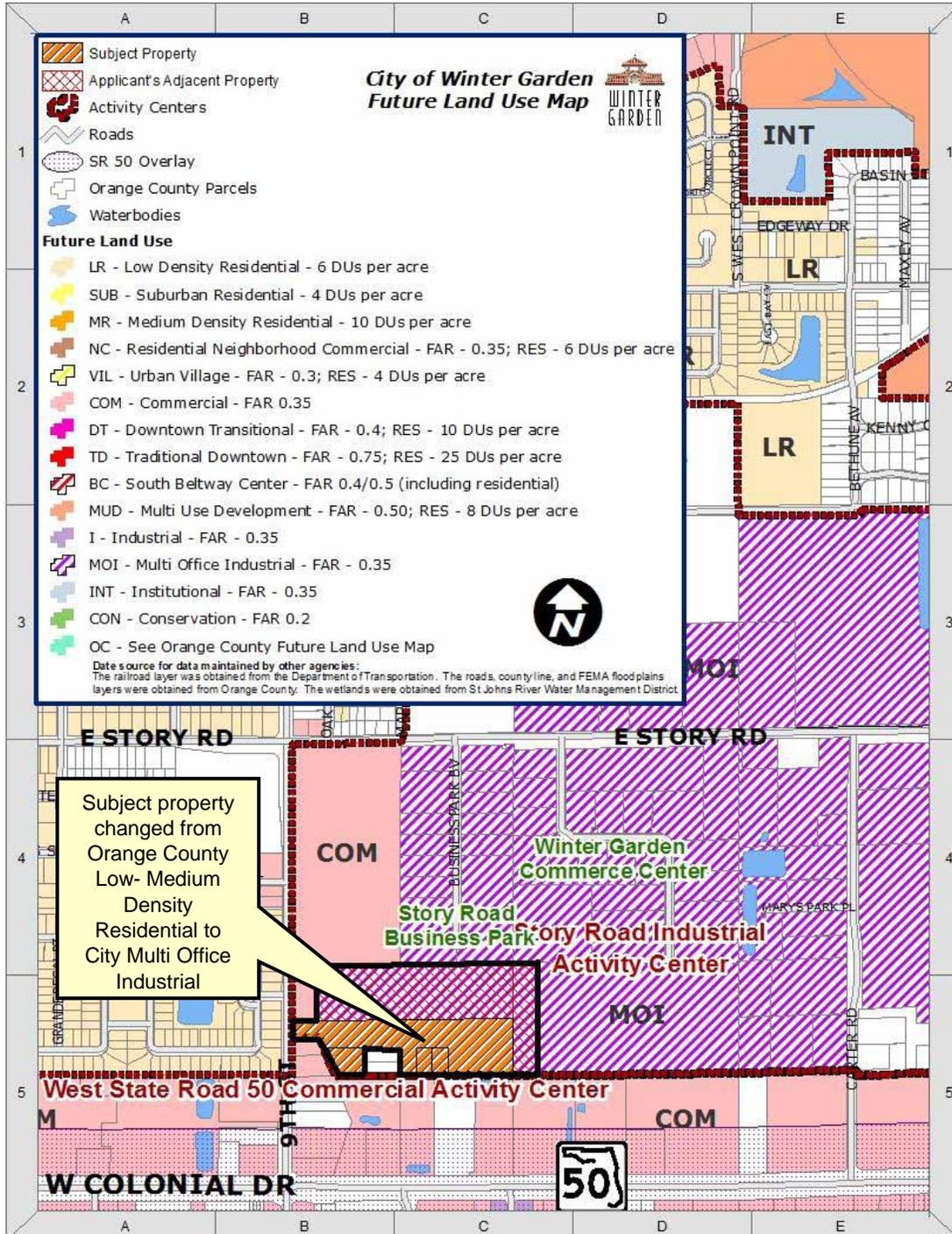
PARCEL ID#: 12-22-27-6496-32-026

OVERSTREET CRATE COMPANYS F/9 W 95.34 FT OF E 572.04 FT OF S1/2 OF N1/2 OF BLK 6 IN SEC 24-22-27 SW1/4

ATTACHMENT "B"

FUTURE LAND USE MAP

881 9th Street



ORDINANCE 11-30

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 7.88± ACRES OF REAL PROPERTY GENERALLY LOCATED ON THE EAST SIDE OF 9th STREET, SOUTH OF EAST STORY ROAD AND NORTH OF WEST COLONIAL DRIVE FROM ORANGE COUNTY R-2 RESIDENTIAL DISTRICT TO CITY I-2 GENERAL INDUSTRIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the owner of that certain real property generally described as 7.88± acres of land located on the east side of 9th Street, south of East Story Road and north of West Colonial Drive, and legally described in Section 1 of this ordinance has petitioned the City to rezone said property from Orange County R-2 Residential District to the City's I-2 General Industrial District zoning classification, therefore;

BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:

SECTION 1: Rezoning. After due notice and public hearing, the zoning classification of real property legally described on ATTACHMENT "A," is hereby rezoned from Orange County R-2 Residential District to City I-2 General Industrial District in the City of Winter Garden, Florida.

SECTION 2: Zoning Map. The City Planner is hereby authorized and directed to amend the Official Winter Garden Zoning Map in accordance with the provisions of this ordinance.

SECTION 3: Non-Severability. Should any portion of this Ordinance be held invalid, then the entire Ordinance shall be null and void.

SECTION 4: Effective Date. This Ordinance shall become effective upon the effective date of an amendment to the Future Land Use Map of the City of Winter Garden Comprehensive Plan that allows the property described herein to be zoned as provided in this ordinance.

FIRST READING AND PUBLIC HEARING: _____, 2011.

SECOND READING AND PUBLIC HEARING: _____, 2011.

ADOPTED this _____ day of _____, 2011, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

JOHN REES, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

ATTACHMENT "A"

LEGAL DESCRIPTION

PARCEL ID#: 12-22-27-6496-32-002

OVERSTREET CRATE COMPANYS F/9 N 102 FT OF S1/2 OF N1/2 OF BLK 6 LYING W OF CANAL & N1/2 OF S1/2 OF N1/2 BLK 6 LYING E OF CANAL & W 93 FT OF E 665.04 FT OF S1/2 OF S1/2 OF N1/2 OF BLK 6 & E 381.36 FT OF S1/2 OF S1/2 OF N1/2 OF BLK 6 ON MAP 24-22-27 SW1/4

PARCEL ID#: 12-22-27-6496-32-003

OVERSTREET CRATE COMPANYS F/9 BEG SE COR OF NW1/4 OF BLK 6 RUN W 363.35 FT TO ELY R/W OF DRAINAGE DITCH TH N 20 DEG W 176.89 FT ALONG SAID R/W TO PT ON N LINE OF S1/4 OF NW1/4 OF BLK 6TH E 425.94 FT TO E LINE OF SAID NW1/4 S 166.06 FT TO POB (LESS E 225 FT THEREOF) IN SEC 24-22-27 SW1/4

PARCEL ID#: 12-22-27-6496-32-024

OVERSTREET CRATE COMPANYS F/9 W 95.34 FT OF E 476.7 FT OF S1/4 OF N1/2 BLK 6 IN SEC 24-22-27 SW1/4

PARCEL ID#: 12-22-27-6496-32-026

OVERSTREET CRATE COMPANYS F/9 W 95.34 FT OF E 572.04 FT OF S1/2 OF N1/2 OF BLK 6 IN SEC 24-22-27 SW1/4

CITY OF WINTER GARDEN

PLANNING & ZONING DIVISION

300 West Plant Street - Winter Garden, Florida 34787-3011 • (407) 656-4111

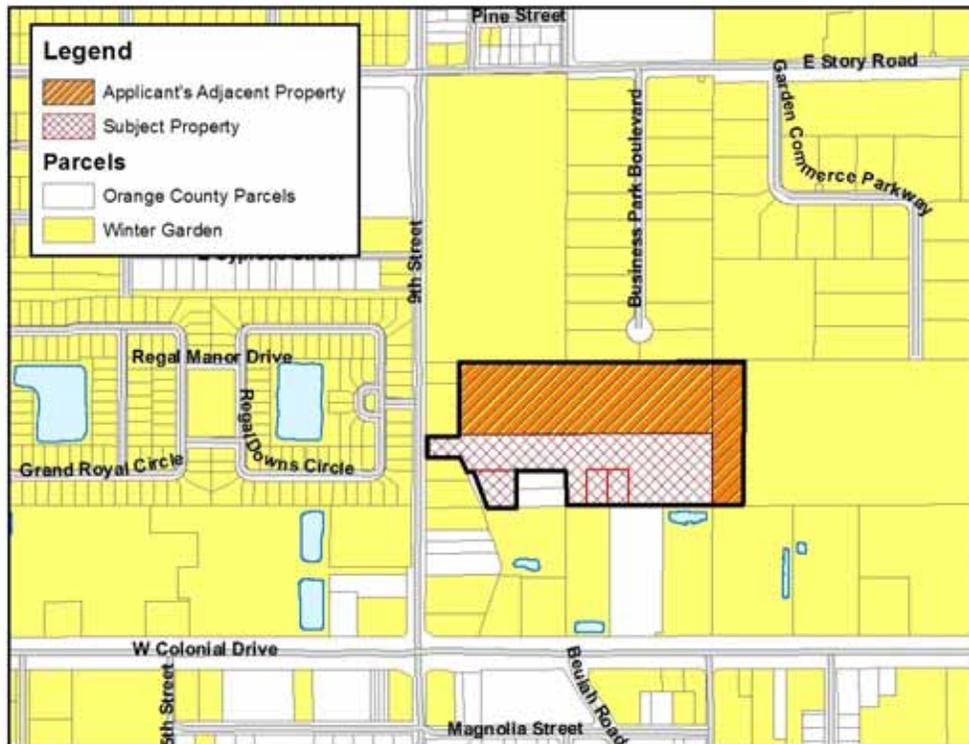
STAFF REPORT

TO: PLANNING AND ZONING BOARD
PREPARED BY: LAURA SMITH, SENIOR PLANNER
DATE: SEPTEMBER 28, 2011
SUBJECT: ANNEXATION - REZONING - FLU AMENDMENT
881 9TH STREET (7.88 +/- ACRES)
PARCEL ID #: 12-22-27-6496-32-002
PARCEL ID #: 12-22-27-6496-32-003
PARCEL ID #: 12-22-27-6496-32-024
PARCEL ID #: 12-22-27-6496-32-026
APPLICANT: BUDGET AUTO PARTS OF ORLANDO, INC.

INTRODUCTION

The purpose of this report is to evaluate the proposed project for compliance with the City of Winter Garden Code of Ordinances and Comprehensive Plan.

The subject property, located at 881 9th Street, is approximately 7.88± acres. The map below depicts the proximity of the subject property to the City's jurisdictional limits:



The applicant has requested annexation into the City, amendment to the Future Land Use Map (FLUM) of the City's Comprehensive Plan to designate the property as Multi Office Industrial, and rezoning the property to I-2 General Industrial District.

The subject property is located within the Story Road Industrial Activity Center which allows for the following land use categories: Industrial, Mixed Use Development, Multi Office Industrial, and Commercial. The majority of the properties located within the Story Road Industrial Activity Center are designated Multi Office Industrial on the Future Land Use Map with the only exceptions being one 22.4 ± acre property designated Industrial on the Future Land Use Map and 6 properties totaling 56.65± acres of property designated Commercial on the Future Land Use Map.

In accordance with the City's Comprehensive Plan, permitted uses within the Multi Office Industrial land use include office, research and development, distribution facilities, industrial, support office uses, warehousing, office showroom, support manufacturing, assembly uses, and support retail. The zoning classifications that are consistent with the Multi Office Industrial land use designation include C-2, C-3, C-4, I-1, I-2, PID, PUD, and INT.

The City endorses infill of its jurisdictional limits through voluntary annexation of enclaves. The elimination of enclaves through voluntary annexations furthers the goals, objectives, and policies of the City's Comprehensive Plan.

EXISTING USE

The subject property contains a 7500 square foot warehouse, 972 square foot office building, and 2 storage sheds. The subject property is being used by the property owner for the operation of an automotive recycling and salvage business (Budget Auto Parts of Orlando, Inc.) which includes large areas for outdoor storage of vehicles. Budget Auto Parts of Orlando, Inc. has licenses for Second Hand Dealer/Secondary Metal Recycler, Salvage Motor Vehicle Dealer, Independent Motor Vehicle Dealer, and Recycled Auto Salvage.

ADJACENT LAND USE AND ZONING

The properties located to the north are unimproved, zoned C-2 and I-1 in the City. The property located to the east is unimproved, zoned I-1 in the City. The properties to the south are developed sites, zoned R-2 and C-3 in Orange County and C-2 in the City, the properties to the south include two residential homes, a commercial business complex, a gas station with on site restaurant, and B&A Auto Sales/Car Store a towing/salvage business. The applicant is pursuing the purchase of the two residential homes.

PROPOSED USE

There is no proposed change to the existing use of the property at this time. The existing use

could only be permitted in the City's I-2 General Industrial District, outdoor storage of inoperable automobiles is prohibited in the I-1 Light Industrial and Warehousing District. However, should the use change in the future or the existing use expand then the property owner will be required to follow the procedures set forth in the City of Winter Garden Code of Ordinances, the highest priority is screening and buffering of the facility from public roadways and adjoining development.

PUBLIC FACILITY ANALYSIS

The property's point of transportation access is from 9th Street.

The property is not currently a water or sewer customer of the City of Winter Garden; however water and sewer are available along 9th Street. At such time that the property owner desires to connect to City water and/or sewer the cost shall be borne by the property owner.

The City will provide garbage collection, police protection, and all other services regularly provided to City of Winter Garden residents including building permits. The property will be served by both Orange County Fire and Rescue and the City of Winter Garden Fire Department under the First Response System.

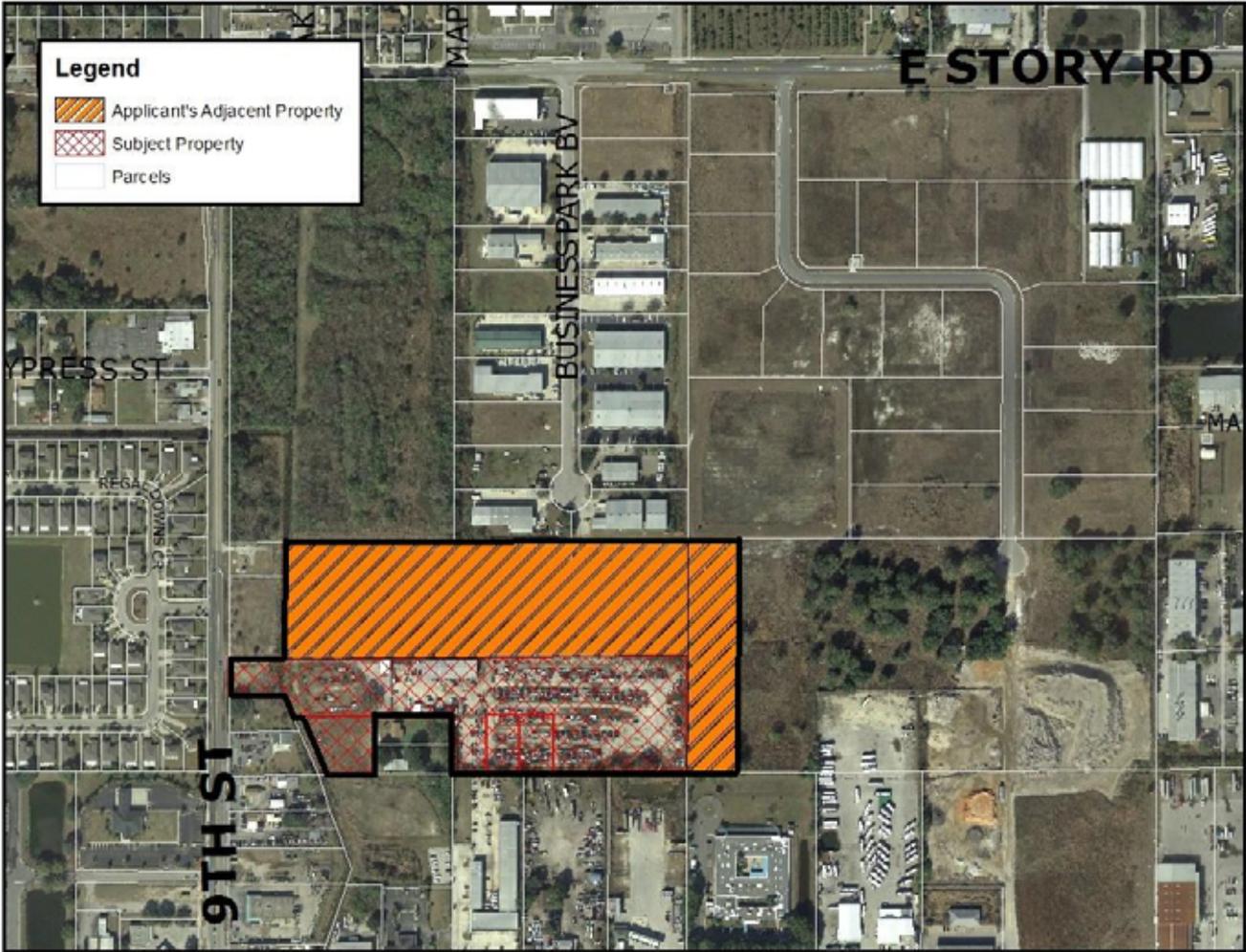
SUMMARY

City Staff recommends approval of the proposed Ordinances. Annexation will provide a more efficient delivery of services to the property and further the goals and objectives of the City of Winter Garden's Comprehensive Plan to eliminate enclaves. The property is developed and no change in use is proposed, therefore the adjacent property owners should not be negatively impacted.

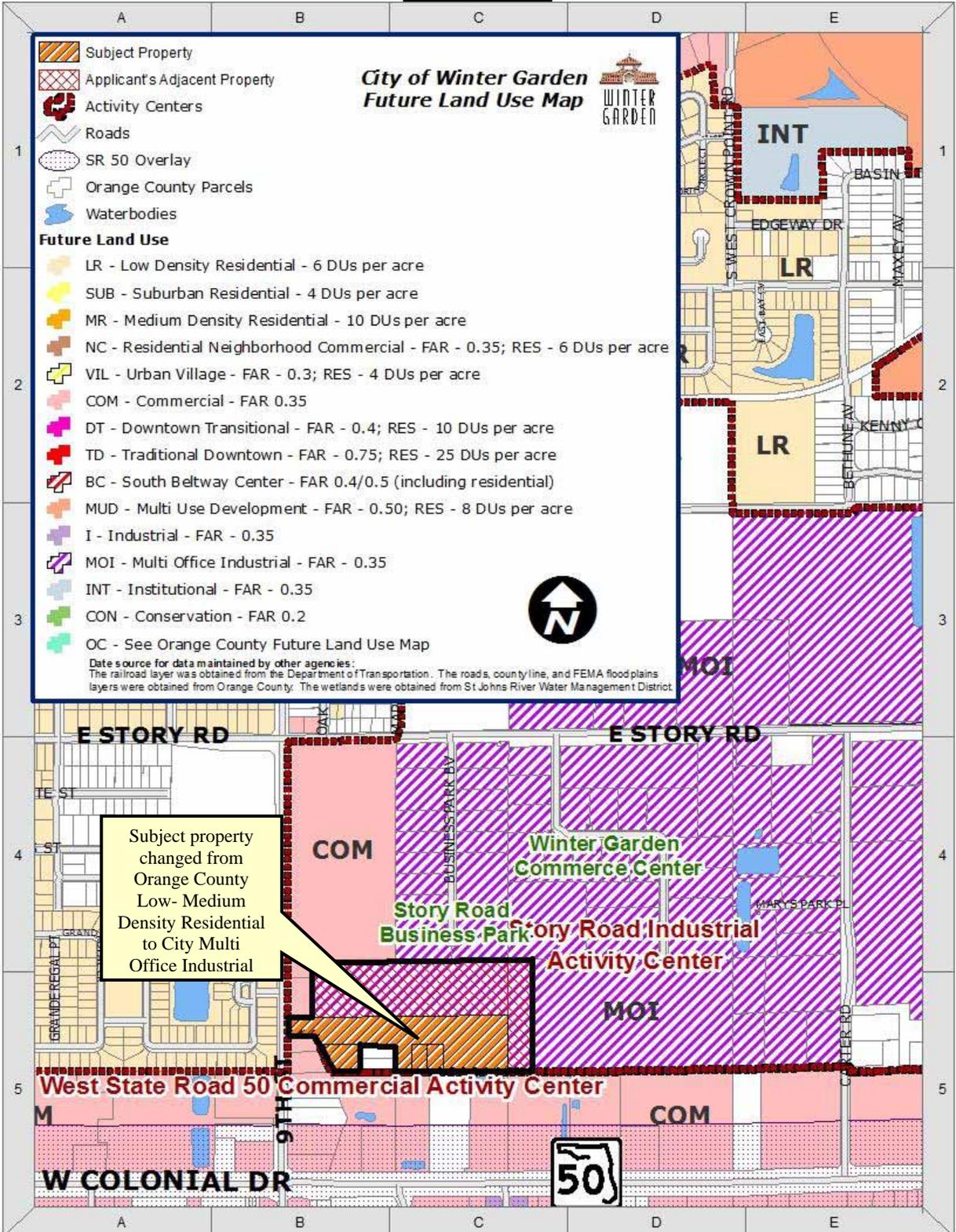
MAPS

AERIAL PHOTO

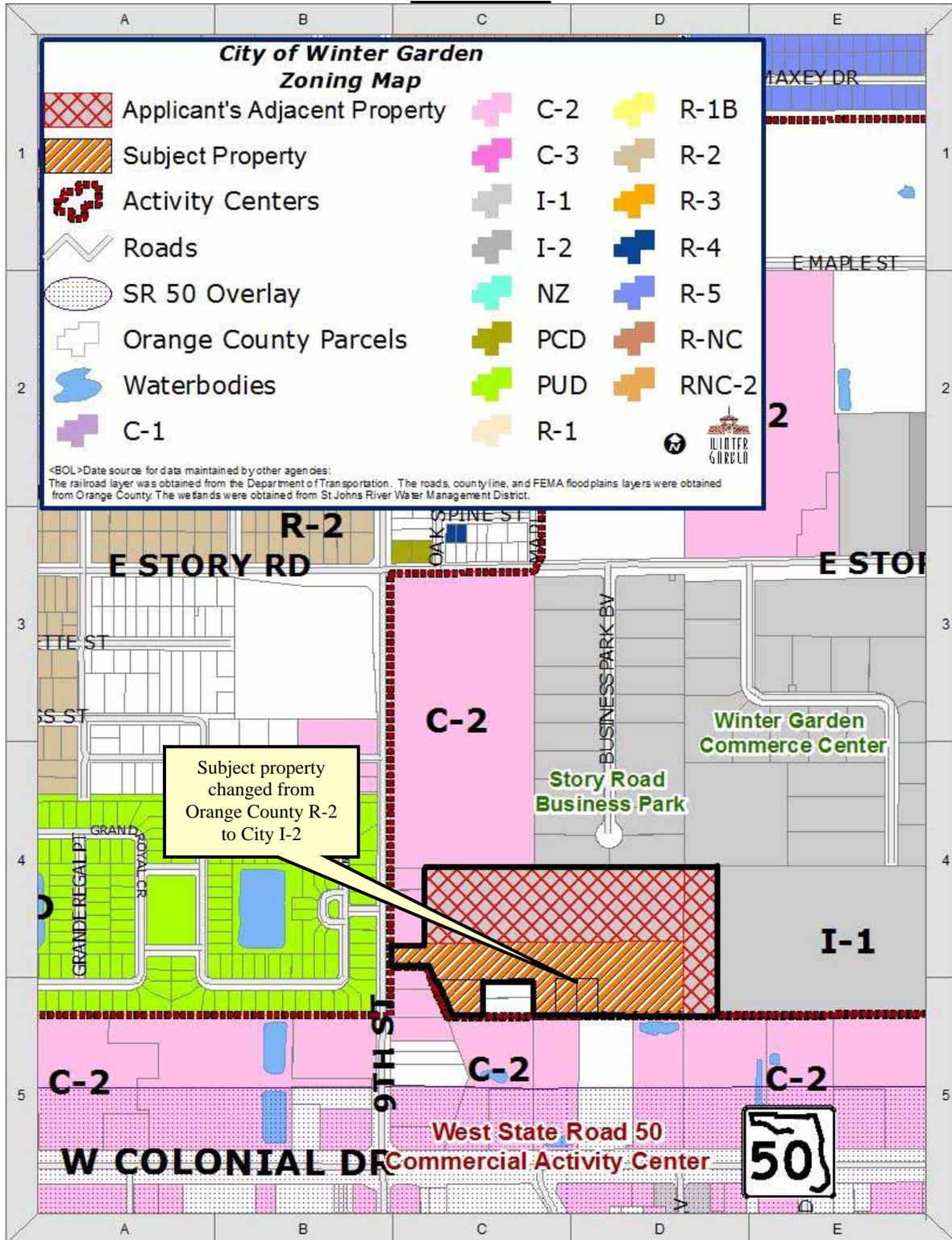
881 9th Street



FUTURE LAND USE MAP
881 9th Street



ZONING MAP
881 9th Street



END OF STAFF REPORT

THE CITY OF WINTER GARDEN
CITY PLANNING AND ZONING BOARD AGENDA ITEM

ATTACHMENT 4 (Public Hearing)

DATE: September 27, 2011 **MEETING DATE:** October 3, 2011

SUBJECT: Budget Auto Parts of Orlando, Inc.
Rezoning 10.97± acres (9th Street)
Parcel ID # 12-22-27-6496-32-025
Parcel ID # 24-22-27-0000-00-037

ISSUE: Request approval of Ordinance 11-31 (Rezoning of 10.97± acres located east of 9th Street, south of East Story Road, and north of West Colonial Drive from City I-1 to City I-2).

SUPPLEMENTAL MATERIAL/ANALYSIS:

OWNER/APPLICANT: Budget Auto Parts of Orlando, Inc.
Bill Rutherford

CURRENT ZONING: City I-1 Light Industrial and Warehousing District
PROPOSED ZONING: City I-2 General Industrial District

CURRENT FLU: City Multi Office Industrial

SUMMARY:

Applicant requests to rezone 10.97± acres of unimproved vacant land adjacent to 7.88± acres of developed property owned by the applicant which is being considered for Annexation, Rezoning, and Future Land Use Amendment (See attached Staff Report)

STAFF RECOMMENDATION:

Staff recommends approval of Ordinance 11-31 (Rezoning of 10.97± acres located east of 9th Street, south of East Story Road, and north of West Colonial Drive from City I-1 to City I-2).

NEXT STEP:

A public hearing for the first reading of this Ordinance is scheduled for the City Commission on Thursday, October 13, 2011.

ATTACHMENT:

Ordinance 11-31
Staff Report

ORDINANCE 11-31

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 10.97± ACRES OF REAL PROPERTY GENERALLY LOCATED EAST OF 9th STREET, SOUTH OF EAST STORY ROAD AND NORTH OF WEST COLONIAL DRIVE FROM CITY I-1 LIGHT INDUSTRIAL AND WAREHOUSING DISTRICT TO CITY I-2 GENERAL INDUSTRIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the owner of that certain real property generally described as 10.97± acres of land located east of 9th Street, south of East Story Road and north of West Colonial Drive, and legally described in Section 1 of this ordinance has petitioned the City to zone said property from the City's I-1 Light Industrial and Warehousing District to the City's I-2 General Industrial District zoning classification, therefore;

BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:

SECTION 1: *Rezoning.* After due notice and public hearing, the zoning classification of real property legally described on ATTACHMENT "A," is hereby rezoned from City I-1 Light Industrial and Warehousing District to City I-2 General Industrial District in the City of Winter Garden, Florida.

SECTION 2: *Zoning Map.* The City Planner is hereby authorized and directed to amend the Official Winter Garden Zoning Map in accordance with the provisions of this ordinance.

SECTION 3: *Non-Severability.* Should any portion of this Ordinance be held invalid, then the entire Ordinance shall be null and void.

SECTION 4: *Effective Date.* This Ordinance shall become effective upon adoption at its second reading.

FIRST READING AND PUBLIC HEARING: _____, 2011.

SECOND READING AND PUBLIC HEARING: _____, 2011.

ADOPTED this _____ day of _____, 2011, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

JOHN REES, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

ATTACHMENT "A"

Parcel ID # 12-22-27-6496-32-025
Parcel ID # 24-22-27-0000-00-037

Parcel 1:

The Southwest 1/4 of the Northeast 1/4 of the Southwest 1/4 of Section 24, Township 22 South, Range 27 East and the East 1/2 of the Northeast 1/4 of the Southwest 1/4 of Section 24, Township 22 South, Range 27 East, less the North 30 feet thereof for Road Right-of-Way; Less the East 208.73 feet of the North 626.16 feet of the East 1/2 of the Northeast 1/4 of the Southwest 1/4 of Section 24, Township 22 South, Range 27 East, Public Records of Orange County, Florida.

Parcel 2:

That portion of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section 24, Township 22 South, Range 27 East, lying North of a line 257.68 feet South of and parallel to the North line of the Southwest Quarter (SW 1/4) of Section 24, Township 22 South, Range 27 East; Less the North 30 feet thereof for Road Right-of-Way.

Parcel 3:

That portion of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section 24, Township 22 South, Range 27 East, lying South of a line 257.68 feet South of and parallel to the North line of the Southwest Quarter (SW 1/4) of Section 24, Township 22 South, Range 27 East.

Parcel 4:

That part of the Southwest 1/4 of Section 24, Township 22 South, Range 27 East, Orange County, Florida, being more particularly described as follows:

Commence at the South 1/4 corner of said Section 24; thence run N00°03'40"E along the East line of the Southeast 1/4 of the Southwest 1/4 of said Section 24, a distance of 75.00 feet for a Point of Beginning, said point being on the North Right-of-Way line of Colonial Drive (State Road No. 50); Thence run S89°57'06"W along said North Right-of-Way line, being 75.00 feet North of and parallel with when measured perpendicular to the South line of said Section 24, a distance of 334.01 feet; Thence run N00°03'40"E along a line parallel with the East line of the Southeast 1/4 of the Southwest 1/4 of said Section 24, a distance of 1266.49 feet to a point on the North line of the South 1/2 of the Southwest 1/4 of said Section 24; Thence run N89°33'22"E along the North line of the South 1/2 of the Southwest 1/4 of said Section 24, a distance of 334.02 feet to the Northeast corner of the Southeast 1/4 of the Southwest 1/4 of said Section 24; Thence run S00°03'40"W along the East line of the Southeast 1/4 of the Southwest 1/4, a distance of 1268.80 feet to the Point of Beginning.

Parcel 5:

That part of Block "6" of the plat of Overstreet Crate Company Subdivision, as recorded in Plat Book "F", Page 9, of the Public Records of Orange County, Florida, being more particularly described as follows:

Commence at the South 1/4 corner of said Section 24; Thence run N00°03'40"E along the East line of the Southeast 1/4 of the Southwest 1/4 of said Section 24, a distance of 75.00 feet to a point on the North Right-of-Way line of Colonial Drive (State Road No. 50); Thence run S89°57'06"W along said North Right-of-Way line being 75.00 feet North of and parallel with when measured perpendicular to the South line of said Section 24, a distance of 667.71 feet; Thence run N00°04'53"E along the West line of the Southeast 1/4 of the Southwest 1/4 of said Section 24, a distance of 594.60 feet to the Northwest corner of the Southeast 1/4 of the Southwest 1/4 of said Section 24; Thence run S89°45'14"W along the South line of the Northwest 1/4 of the Southwest 1/4 of said Section 24, a distance of 667.51 feet to the Southwest corner of the Northwest 1/4 of the Southwest 1/4 of said Section 24, said point being on the East line of said Block 6 of the Overstreet Crate Company Subdivision, as recorded in Plat Book "F", Page 9, of the Public Records of Orange County, Florida; Thence run N00°06'06"E along the West line of the Northwest 1/4 of the Southwest 1/4 of Section 24 and along the East line of said Block "6", a distance of 333.65 feet for a Point of Beginning, said point being the Southeast corner of the North 1/4 of the Southwest 1/4 of the Southwest 1/4 of said Section 24; Thence run S89°39'19"W along the South line of the North 1/4 of the Southwest 1/4 of the Southwest 1/4 of said Section 24, a distance of 1304.80 feet to a point on the East Right-of-Way line of Ninth Street; Thence run N00°08'34"W along said East Right-of-Way line, being 30.00 feet East of and parallel with when measured perpendicular to the West line of the Southwest 1/4 of the Southwest 1/4 of said Section 24, and along the West line of said Block 6, a distance of 236.39 feet; Thence departing said East Right-of-Way line and the West line of said Block 6, run N89°33'22"E along a line parallel with the North line of the South 1/2 of the Southwest 1/4 of said Section 24, a distance of 161.94 feet to a point on the centerline of a Drainage Easement, as described and recorded in Minute Book 2, Page 23, of the Public Records of Orange County, Florida; Thence run N02°04'34"E along the centerline of said easement, a distance of 95.09 feet to a point on the North line of the South 1/2 of the Southwest 1/4 of said Section 24 and the North line of said Block "6"; Thence run N89°33'22"E along the North line of the South 1/2 of the Southwest 1/4 of said Section 24 and the North line of said Block "6", a distance of 1139.43 feet to the Northwest corner of the Southeast 1/4 of the Southwest 1/4 of said Section 24 and the Northeast corner of said Block "6"; Thence run S00°06'06"W along the West line of the Northwest 1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 24 and the East line of said Block "6", a distance of 333.65 feet to the Point of Beginning.

Parcel 6:

That part of Southwest 1/4 of Section 24, Township 22 South, Range 27 East, Orange County, Florida, being more particularly described as follows:

Commence at the South 1/4 corner of said Section 24; Thence run N00°03'40"E along the East line

of the Southeast 1/4 of the Southwest 1/4 of said Section 24, a distance of 75 feet to a point on the North Right-of-Way line of Colonial Drive (State Road No. 50); Thence run S89°57'06"W along said North Right-of-Way line being 75.00 feet North of and parallel with when measured perpendicular to the South line of said Section 24, a distance of 334.01 feet; Thence run N00°03'40"E, 520.266 feet to the Point of Beginning; Thence run S89°57'06"W, a distance of 232.836 feet; Thence run N00°03'40"E, a distance of 744.62 feet along a line parallel with the East line of the Southeast 1/4 of the Southwest 1/4 of the said Section 24, to a point on the North line of the South 1/2 of the Southwest 1/4 of the said Section 24; Thence run N89°33'22"E along the North line of the South 1/2 of the Southwest 1/4 of the said Section 24, a distance of 232.836 feet; Thence run S00°03'40"W, a distance of 746.224 feet to the Point of Beginning.

Parcel 7:

That part of the Southwest 1/4 of Section 24, Township 22 South, Range 27 East, Orange County, Florida, being more particularly described as follows:

Commence at the South 1/4 corner of said Section 24; Thence run N00°03'40"E along the East line of the Southeast 1/4 of the Southwest 1/4 of said Section 24, a distance of 75.00 feet to a point on the North Right-of-Way line of Colonial Drive (State Road 50); Thence run S89°57'06"W along said North Right-of-Way line being 75.00 feet North of and parallel with when measured perpendicular to the South line of said Section 24, a distance of 334.01 feet for a Point of Beginning; Thence continue S89°57'06"W along said line, a distance of 333.70 feet; Thence run N 00°04'53"E along the West line of the Southeast 1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 24, a distance of 520.266 feet; Thence run East 333.70 feet; Thence run S00°03'40"W, a distance of 520.266 feet to the Point of Beginning.

Less Parcel 7:

All that tract or parcel of land lying and being in the Southwest 1/4 of section 24 Township 22 South, Range 27 East, Orange County, Florida, being more particularly described as follows:

Commence at the South 1/4 of corner of said Section 24; Thence run N00°03'40"E along the East line of the Southeast 1/4 of the Southwest 1/4 of said Section 24, a distance of 75.00 feet to a point on the North Right-of-Way line of Colonial Drive (State Road 50); Thence run S89°57'06"W along said North Right-of-Way line, being 75.00 feet North of and parallel with when measured perpendicular to the South line of said Section 24, a distance of 437.65 feet to the Point of Beginning; Thence continue S89°57'06"W along said North Right-of-Way line, a distance of 230.00 feet to a point on the West line of the Southeast 1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 24; Thence run N00°06'16"E along said West line, a distance of 265.00 feet; Thence run N89°57'06"E, a distance of 230.00 feet; Thence run S00°06'16"W, a distance of 265.00 feet to the North Right-of-Way line of Colonial Drive (State Road 50) and the Point of Beginning.

Parcel 8:

That part of the Southwest 1/4 of Section 24, Township 22 South, Range 27 East, Orange County, Florida, being more particularly described as follows:

Commence at the South 1/4 corner of said Section 24; Thence run N00°03'40"E along the East line of the Southeast 1/4 of the Southwest 1/4 of said Section 24, a distance of 75.00 feet to a point on the North Right-of-Way line of Colonial Drive (State Road No. 50); Thence run S89°57'06"W along said North Right-of-Way line being 75.00 feet North of and parallel with when measured perpendicular to the South line of said Section 24, a distance of 334.01 feet for a point Beginning; Thence continue S89°57'06"W along said line, a distance of 333.70 feet; Thence run N00°04'53"E along the West line of the Southeast 1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 24, a distance of 594.60 feet to the Northwest corner of the Southeast 1/4 of the Southwest 1/4 of said Section 24; Thence run S89°45'14"W along the South line of this Northwest 1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 24, a distance of 667.51 feet to the Southwest corner of the Northwest 1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 24, said point being on the East line of Block 6, of the Overstreet Crate Company subdivision, as recorded in Plat Book "F", Page 9, of the Public Records of Orange County, Florida; Thence run N00°06'06"E along the West line of the Northwest 1/4 of the Southeast 1/4 of the Southwest 1/4 of Section 24 and the East line of said Block 6, a distance of 667.30 feet to the Northwest corner of the Southeast 1/4 of the Southwest 1/4; Thence departing the East line of said Block 6, run N89°33'22"E along the North line of the South 1/2 of the Southwest 1/4 of said Section 24, a distance of 1000.57 feet to a point lying 334.02 feet Westerly of the Northeast corner of the Southeast 1/4 of the Southwest 1/4 of said Section 24; Thence S00°03'40"W, 1256.49 feet to the Point of Beginning.

Less the following described three parcels:

Parcel A:

That part of the Southwest 1/4 of Section 24, Township 22 South, Range 27 East, Orange County, Florida, being more particularly described as follows:

Commence at the South 1/4 corner of said Section 24; Thence run North 00°03'40"E along the East line of the Southeast 1/4 of the Southwest 1/4 of said Section 24, a distance of 75.00 feet to a point on the North Right-of-Way line of Colonial Drive (State Road No. 50); Thence run S89°57'06"W along the North Right-of-Way line being 75.00 feet North of and parallel with when measured perpendicular to the South line of said Section 24, a distance of 334.01 feet; Thence run N00°03'40"E, 520.266 feet to the Point of Beginning; Thence run S89°57'06"W, a distance of 232.836 feet; Thence run N00°03'40"E, a distance of 744.62 feet along a line parallel with the East line of the Southeast 1/4 of the Southwest 1/4 of said Section 24, to a point on the North line of the South 1/2 of the Southwest 1/4 of the said Section 24; Thence run N89°33'22"E along the North line of the South 1/2 of the Southwest 1/4 of said Section 24, a distance of 232.836 feet; Thence run S00°03'40"W, a distance of 746.224 feet to the Point of Beginning.

Parcel B:

That part of the Southwest 1/4 of Section 24, Township 22 South, Range 27 East, Orange County, Florida, being more particularly described as follows: \

Commence at the South 1/4 corner of said Section 24; Thence run N00°03'40"E along the East line of the Southeast 1/4 of the Southwest 1/4 of said Section 24, a distance of 75.00 feet to a point on the North Right-of-Way line of Colonial Drive (State Road 50); Thence run S89°57'06"W along the said North Right-of-Way line being 75.00 feet North of and parallel with when measured perpendicular to the South line of said Section 24, a distance of 334.01 feet of a Point of Beginning; Thence continue S89°57'06"W along said line, a distance of 333.70 feet; Thence run N00°04'53"E along the West line of the Southeast 1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 24, a distance of 520.266 feet; Thence run East 333.70 feet; Thence run S00°03'40"W, a distance of 520.266 feet to the Point of Beginning.

Parcel C:

That part of the Southwest 1/4 of Section 24, Township 22 South, Range 27 East, Orange County, Florida, Being more particularly described as follows:

Commence at the South 1/4 corner of said Section 24; Thence run N00°03'40"E along the East line of the Southeast 1/4 of the Southwest 1/4 of said Section 24, a distance of 75.00 feet to a point on the North Right-of-Way line of Colonial Drive (State Road No. 50); Thence run S89°57'06"W along said North Right-of-Way line being 75.00 feet North of and parallel with when measured perpendicular to the South line of said Section 24, a distance of 334.01 feet.

Thence continue S89°57'06"W along said line, a distance of 333.70 feet; Thence run N00°04'53"E along the West line of the Southeast 1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 24, a distance of 520.266 feet for a Point of Beginning. Thence run N00°04'53"E along the West line of the Southeast 1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 24, a distance of 74.33 feet to the Northwest corner of the Southeast 1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 24; Thence run S89°45'14"W along the South line of the Northwest 1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 24, a distance of 511.33 feet to a point. Thence run N00°06'06"E 667.30 feet to a point, thence run N89°33'22"E along the North line of the South 1/2 of the Southwest 1/4 of said Section 24, a distance of 611.55 feet to a point lying 566.856 feet Westerly of the Northeast corner of the Southeast 1/4 of the southwest 1/4 of said Section 24; Thence S00°03'40"W 744.62 feet to a point. Thence continue S89°57'06"W, a distance of 100.864 feet to the Point of Beginning.

Parcel 9:

That part of the Southwest 1/4 of Section 24, Township 22 South, Range 27 East, Orange County, Florida, being more particularly described as follows:

Commence at the South 1/4 of Section 24, Thence run N00°03'40"E along the East line of the Southeast 1/4 of the Southwest 1/4 of said Section 24, a distance of 75.00 feet to a point on the North Right-of-Way line of Colonial Drive (State Road No. 50); Thence run S89°57'06"W along said

North Right-of-Way line being 75.00 feet North of and parallel with when measured perpendicular to the South line of said Section 24, a distance of 334.01 feet.

Thence continue S89°57'06"W along said line, a distance of 333.70 feet; Thence run N00°04'53"E along the West line of the Southeast 1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 24, a distance of 520.266 feet for a Point of Beginning. Thence run N00°04'53"E along the West line of the Southeast 1/4 of the Southeast 1/4 to the Southwest 1/4 of said Section 24, a distance of 74.33 feet to the Northwest corner of the Southeast 1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 24; Thence run S89°45'14"W along the South line of the Northwest 1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 24, a distance of 511.33 feet to a point. Thence run N00°06'06"E 667.30 feet to a point. Thence run N89°33'22"E along the North line of the South 1/2 of the Southwest 1/4 of said Section 24, a distance of 611.55 feet to a point lying 566.856 feet Westerly of the Northeast corner of the Southeast 1/4 of the Southwest 1/4 of said Section 24; Thence S00°03'40"W 744.62 feet to a point. Thence continue S89°57'06"W, a distance of 100.864 feet to the Point of Beginning.

LESS THE FOLLOWING TWO PARCELS, WHICH ARE EXCLUSIONS FROM PARCELS 1-9;

Less out #1:

Commence at the South 1/4 corner of Section 24, Township 22 South, Range 27 East; Thence run N00°03'40"E along the East line of the Southeast 1/4 of the Southwest 1/4 of said Section 24, 75.00 feet to the Point of Beginning, said point being on the North Right-of-Way line of Colonial Drive (State Road No. 50); Thence run S89°57'06"W along said north Right-of-Way line being 75.00 feet North of and parallel with when measured perpendicular to the South line of said Section 24, a distance of 437.65 feet; Thence run N00°03'28"E, 265.00 feet; Thence run S89°57'06"W 230.00 feet to a point on the West line of the Southeast 1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 24; Thence run N00°04'53"E along said West line 329.47 feet to the Northwest corner of said Southeast 1/4 of the Southeast 1/4 of the Southwest 1/4 of Section 24; Thence run N89°45'14"E along the South line of the Northeast 1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 24 667.13 feet to the Northeast corner of the Southeast 1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 24; Thence run S00°03'40"W along said East line of the Southeast 1/4 of the Southwest 1/4 of Section 24, 596.85 feet to the Point of Beginning.

AND

Less out #2:

Commence at the South 1/4 corner of Section 24, Township 22 South, Range 27 East; Thence run N00°03'40"E along the East line of the Southeast 1/4 of the Southwest 1/4 of said Section 30, 75.00 feet to a point on the North Right-of-Way line of Colonial Drive (State Road No. 50); Thence run S89°57'06"W along said North Right-of-Way line, being 75.00 feet North of and parallel with when measured perpendicular to the South line of said Section 24, a distance of 667.71 feet to a point on the West line of the Southeast 1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 24; Thence run N00°04'53"E along said West line, 594.60 feet to the Northwest corner of the Southeast

1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 24; Thence run S89°45'14"W along the South line of the Northwest 1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 24, 667.51 feet to the Southwest corner of said Northwest 1/4 of the Southeast 1/4 of the Southwest 1/4 of Section 24; Thence run N00°06'06"E along the West line of said Northwest 1/4 of the Southeast 1/4 of the Southwest 1/4 of Section 24, also being the East line of Block 6 of the Plat of Overstreet Crate Company Subdivision, as recorded in Plat Book "F", Page 9, of the Public Records of Orange County, Florida; Thence run N00°06'06"E along said West line and East line of Block 6, 333.65 feet to the Southeast corner of the North 1/4 of the Southwest 1/4 of the Southwest 1/4 of said Section 24; Thence run S89°39'19"W along the South line of said North 1/4 of the Southwest 1/4 of the Southwest 1/4 of Section 24, 1150.40 feet to the Point of Beginning; Thence continue S89°39'19"W along said South line, 153.21 feet to a point on the East Right-of-Way line of Ninth Street; Thence run N00°08'34"E, being 30.00 feet East of and parallel with when measured perpendicular to the West line of the Southwest 1/4 of the Southwest 1/4 of said Section 24 and along the West line of said Block "6", 236.39 feet; Thence run N89°33'22"E along a line parallel with the North line of the South 1/2 of the Southwest 1/4 of said Section 24, 161.94 feet to a point on the centerline of a Drainage Easement, as described and recorded in Minute Book 2, Page 23, of the Public Records of Orange County, Florida, Thence run S02°04'34"W along said centerline of a Drainage Easement, 236.88 feet to the Point of Beginning.

CITY OF WINTER GARDEN

PLANNING & ZONING DIVISION

300 West Plant Street - Winter Garden, Florida 34787-3011 • (407) 656-4111

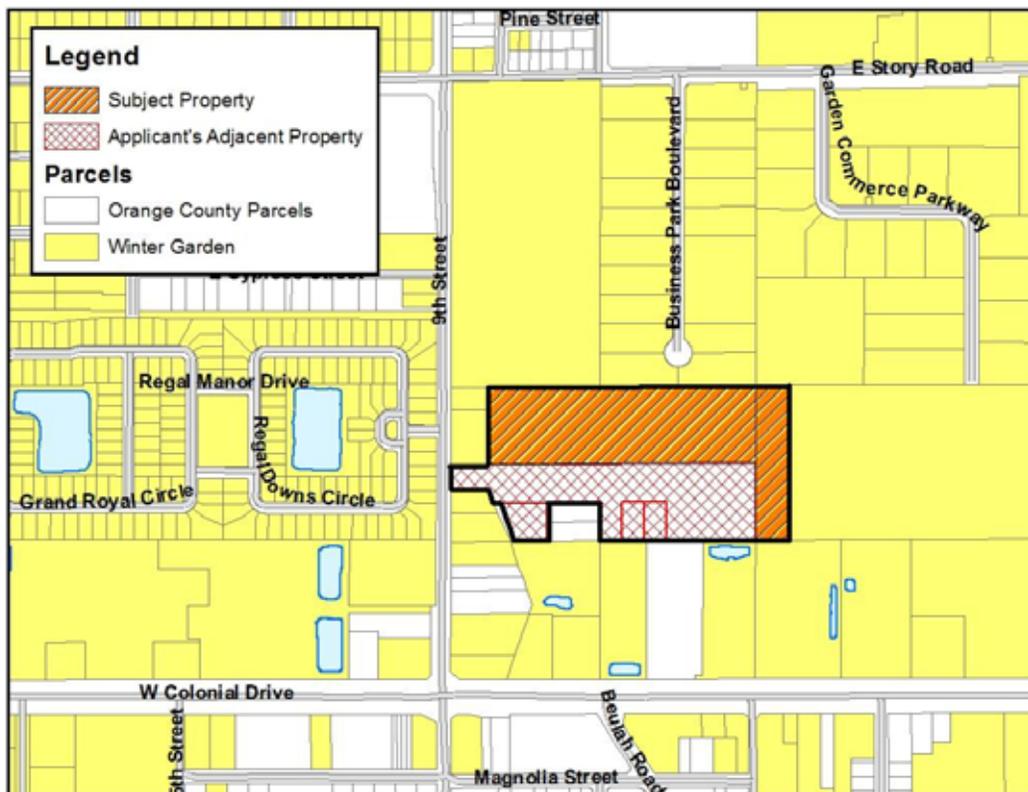
STAFF REPORT

TO: PLANNING AND ZONING BOARD
PREPARED BY: LAURA SMITH, SENIOR PLANNER
DATE: SEPTEMBER 28, 2011
SUBJECT: REZONING
9TH STREET (10.97+/- ACRES)
PARCEL ID # 12-22-27-6496-32-025
PARCEL ID # 24-22-27-0000-00-037
APPLICANT: BUDGET AUTO PARTS OF ORLANDO, INC.

INTRODUCTION

The purpose of this report is to evaluate the proposed project for compliance with the City of Winter Garden Code of Ordinances and Comprehensive Plan.

The subject property, located east of 9th Street, south of East Story Road, and north of West Colonial Drive, is approximately 10.97± acres. The map below depicts the location of the subject property within the City of Winter Garden municipal limits:



The applicant is requesting to rezone 10.97± acres of unimproved vacant land adjacent to 7.88± acres of developed property owned by the applicant for which is being considered for Annexation, Rezoning, and Future Land Use Amendment.

The subject property is located within the City of Winter Garden municipal limits and is currently zoned I-1. The subject property is located within the Story Road Industrial Activity Center and is designated Multi Office Industrial on the Future Land Use Map.

EXISTING USE

The subject property is unimproved vacant land at this time.

ADJACENT LAND USE AND ZONING

The properties located to the north include both unimproved and developed properties zoned C-2 and I-1 in the City. The property located to the east is unimproved, zoned I-1 in the City. The properties to the west are zoned C-2, one is owned by the City of Winter Garden and houses a lift station and the other is vacant unimproved land. The property to the south is a developed property, zoned R-2 in Orange County (being considered for annexation, rezoning to I-2, and FLU amendment to MOI in the City). The properties to the north include the Story Road Business Park which is a 20 lot industrial subdivision, the Winter Garden Commerce Center which is also a 20 lot industrial subdivision.

PROPOSED USE

The applicant owns the adjacent property which is presently being operated as an automotive recycling and salvage business (Budget Auto Parts of Orlando, Inc.), to expand this use to the subject property the property owner will be required to provide sufficient screening and buffering where visible from public right-of-way in addition to following all other policies and procedures set forth in the City of Winter Garden Code of Ordinances.

PUBLIC FACILITY ANALYSIS

The property does not have a point of transportation access at this time because it is unimproved vacant land. However, if the property is developed as an expansion of the existing use of the adjacent property (Budget Auto Parts of Orlando, Inc.) then access would be through the existing access point on the adjacent property (Budget Auto Parts of Orlando, Inc.).

The property is not currently a water or sewer customer of the City of Winter Garden; however water and sewer are available along 9th Street. At such time that the property is developed and connection to City water and/or sewer is necessary the cost shall be borne by the property owner.

The City will provide garbage collection, police protection, and all other services regularly provided to City of Winter Garden residents including building permits. The property will be served by both Orange County Fire and Rescue and the City of Winter Garden Fire Department under the First Response System.

SUMMARY

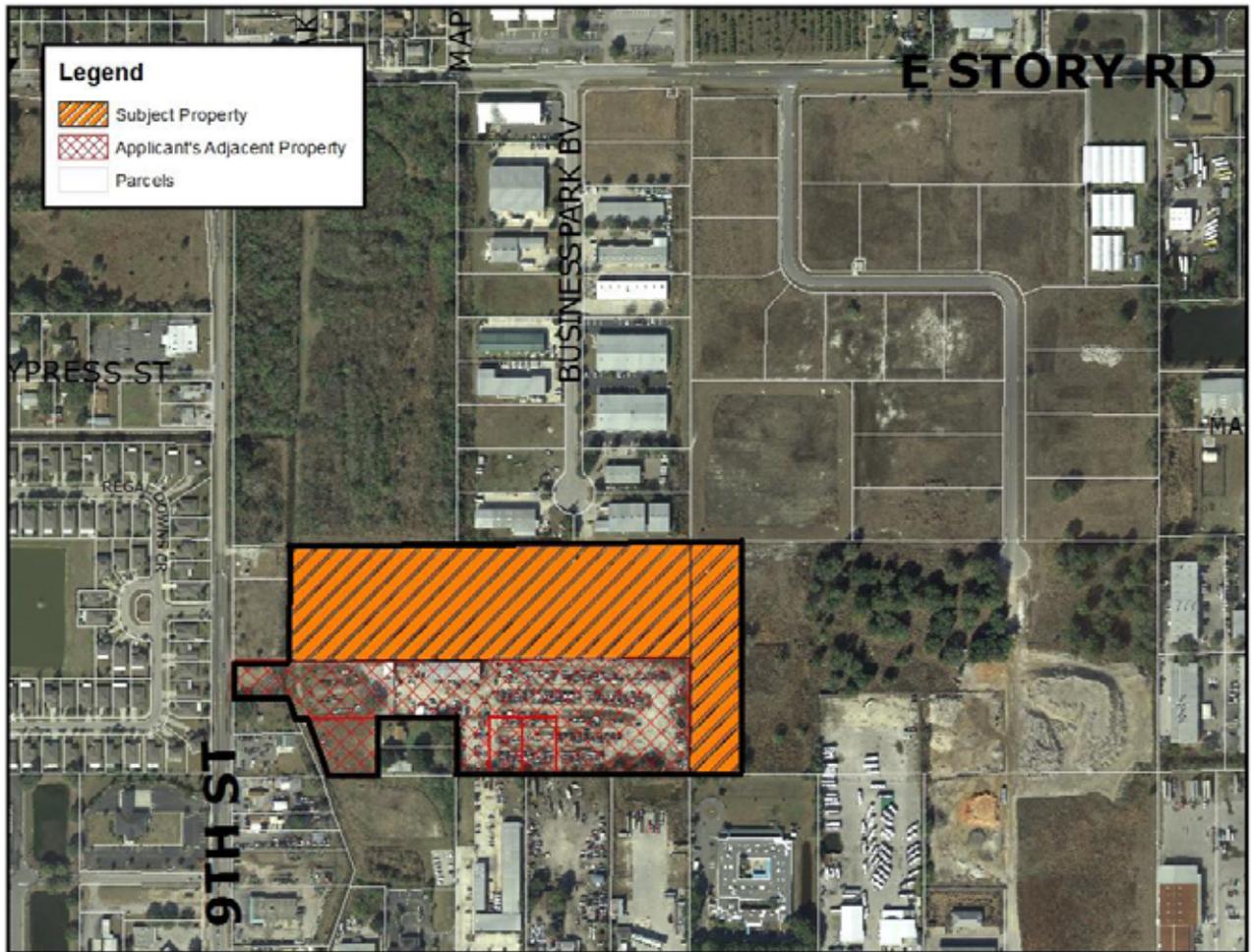
City Staff recommend approval of the proposed Ordinance. Rezoning the subject property from City I-1 to City I-2 is not inconsistent with the City of Winter Garden Comprehensive Plan, and

the adjacent property owners should not be negatively impacted as the majority is unimproved vacant land and the remaining are developed industrial sites.

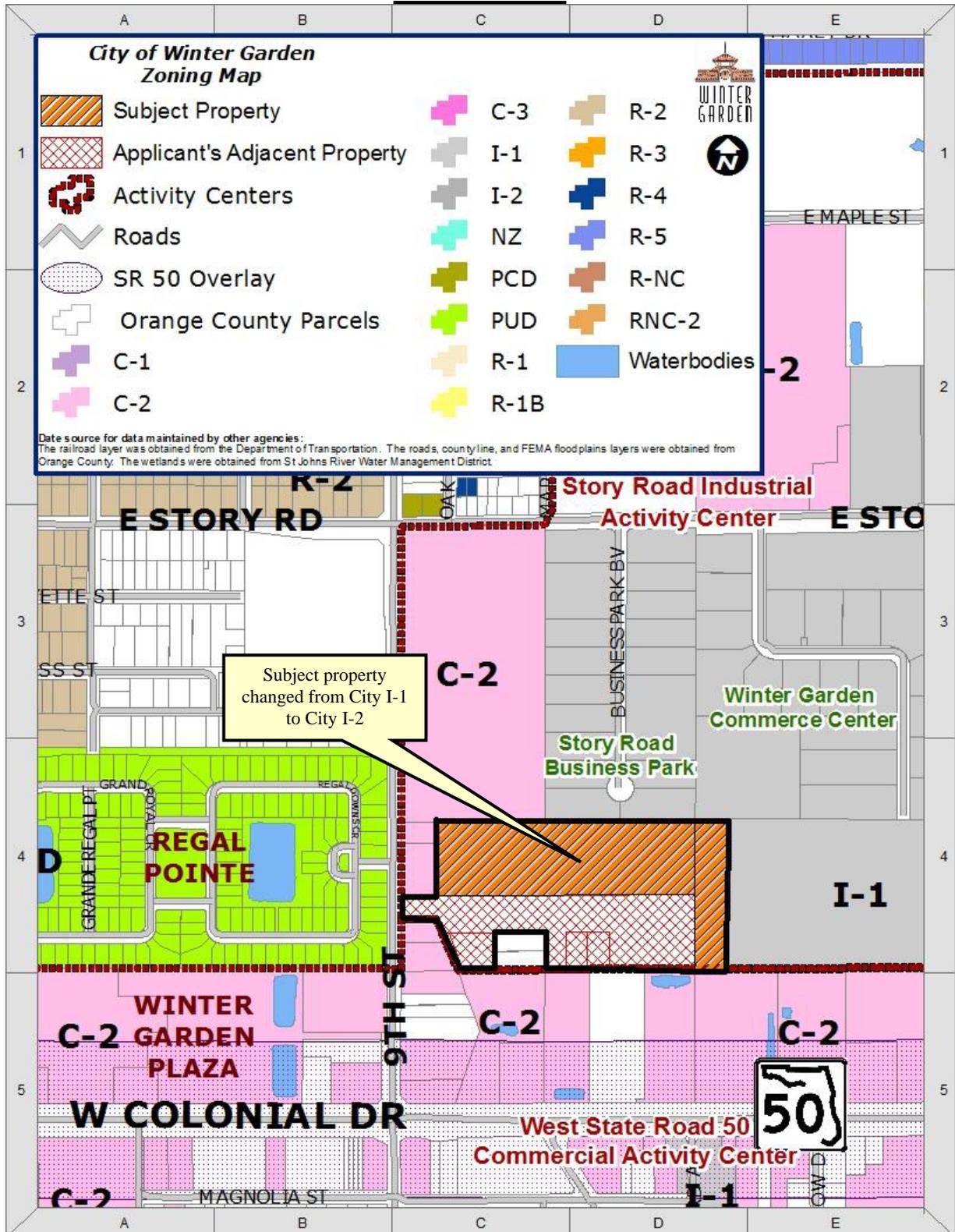
MAPS

AERIAL PHOTO

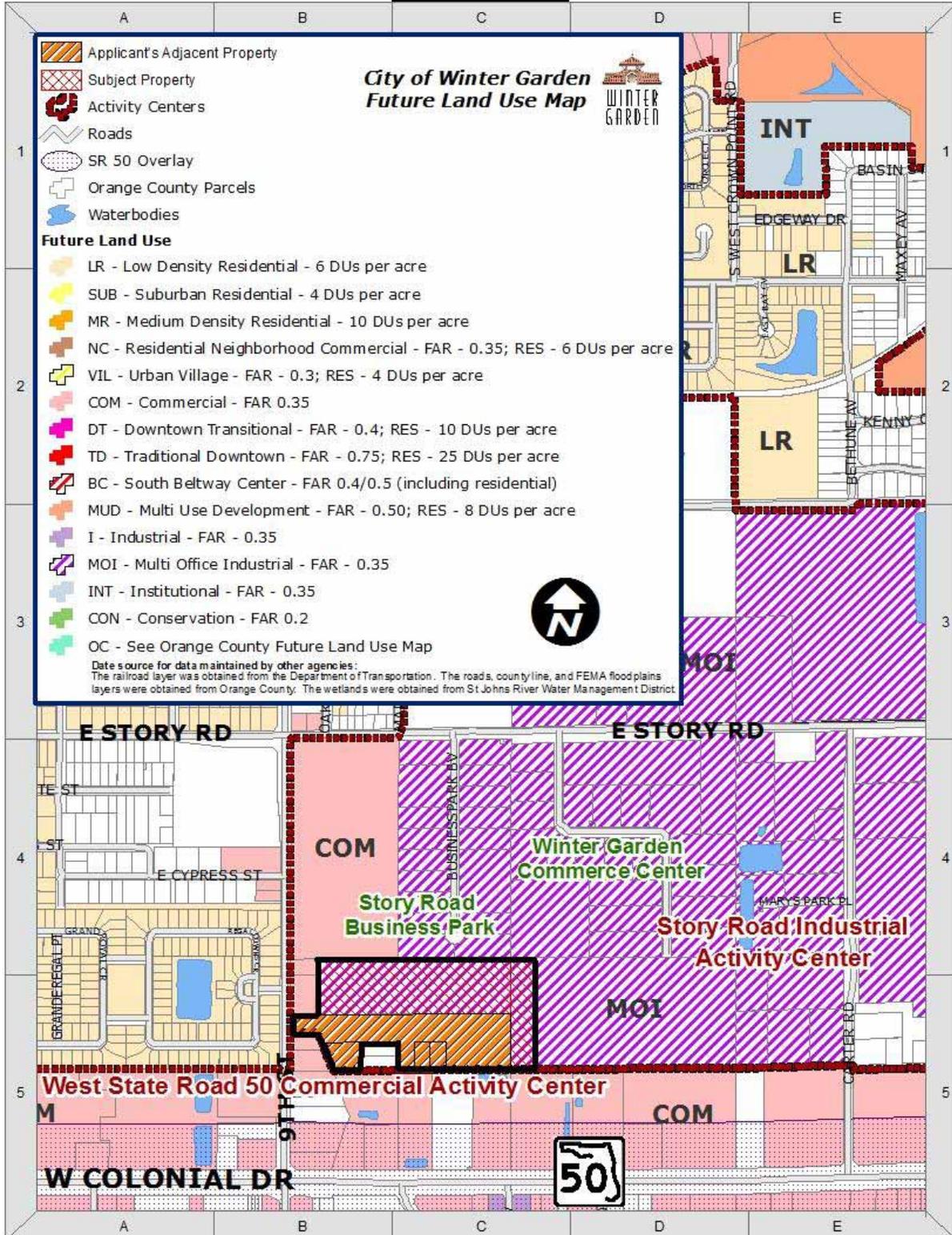
South 9th Street



ZONING MAP
South 9th Street



FUTURE LAND USE MAP South 9th Street



THE CITY OF WINTER GARDEN
CITY PLANNING AND ZONING BOARD AGENDA ITEM

ATTACHMENT 5 (Public Hearing)

DATE: September 27, 2011 **MEETING DATE:** October 3, 2011
SUBJECT: 13848 Tilden Road
Special Exception to allow a bar in the Windward Cay PCD zoning District
ISSUE: Request approval to allow a use that is not defined as permitted in the
Windward Cay Commercial development PCD to be considered through a
Special Exception Review.

SUPPLEMENTAL MATERIAL/ANALYSIS:

OWNER/APPLICANT: MMSN Investment/Michael D. Harding, P.E.
CURRENT ZONING: PCD Planned Commercial Development District
CURRENT FLU: Commercial

SUMMARY:

The developer of the proposed Cigar Lounge submitted an application for a beer and wine license to the Planning Division for an approval signature. When this application was submitted, we found that the proposed use is not allowed in the PCD and scheduled a meeting with the developer to discuss their options. In this meeting, they were told to request a Special Exception review. After submitting the application for a Special Exception Permit, staff agrees with the neighborhood that a lounge/bar is not the best use for this property.

STAFF RECOMMENDATION:

Due to the fact that the proposed use is not permitted by the PCD and is not compatible with the surrounding neighborhood, staff recommends that the Planning and Zoning Board determine that the lounge is not the type and intensity of activity desired for this property and deny the request to consider the lounge through a Special Exception request.

ATTACHMENT:

Staff Report

CITY OF WINTER GARDEN

PLANNING & ZONING DIVISION

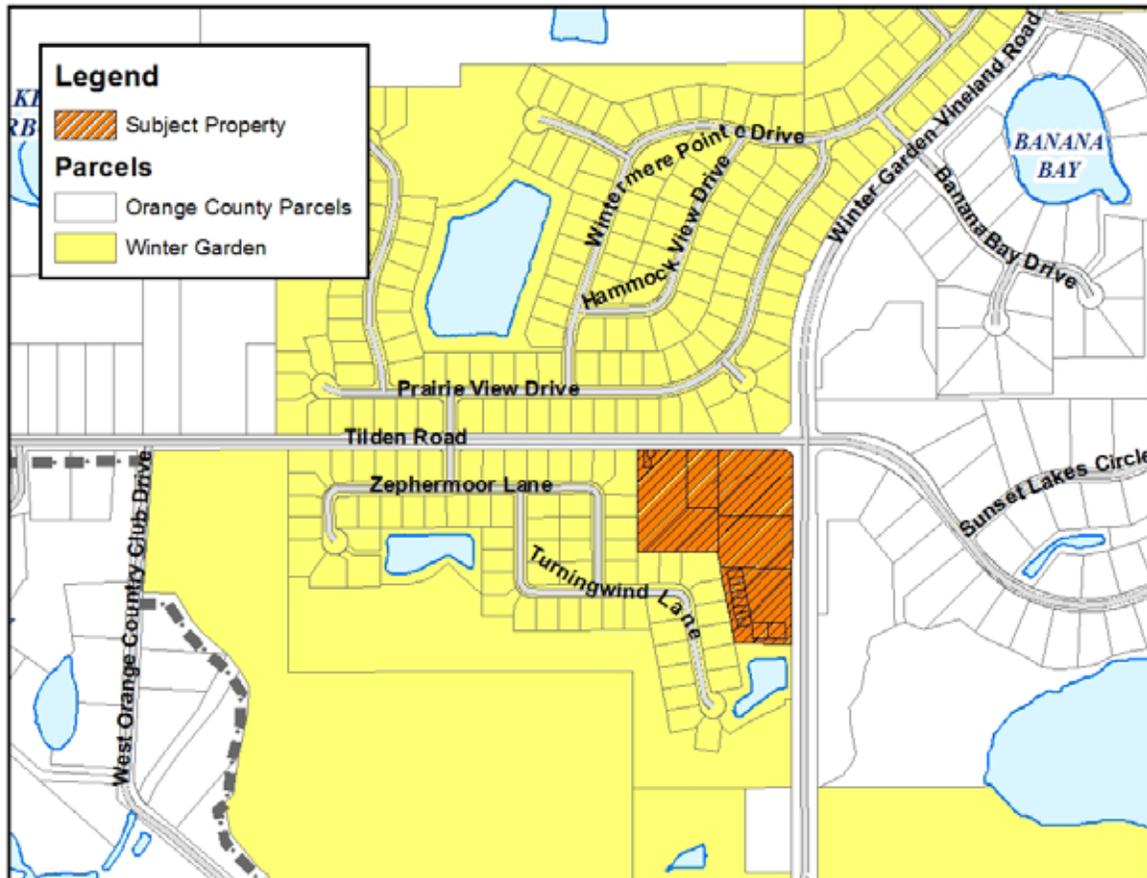
300 West Plant Street - Winter Garden, Florida 34787-3011 • (407) 656-4111

STAFF REPORT

TO: PLANNING AND ZONING BOARD
PREPARED BY: STEPHEN PASH, SENIOR PLANNER
DATE: SEPTEMBER 28, 2011
SUBJECT: SPECIAL EXCEPTION PERMIT
CASABLANCA CIGAR LOUNGE
13848 TILDEN ROAD, SUITE 184, 192 & 198
WINDWARD CAY PCD
APPLICANT: MMSN INVESTMENT/MICHALE D. HARDING, P.E.

INTRODUCTION

Request approval to allow a use that is not defined as permitted in the Windward Cay Commercial development PCD to be considered through a Special Exception Review.



CURRENT USE AND ZONING

The property is currently zoned PCD and the building is vacant commercial.

SUMMARY

1. The subject property annexation and PCD zoning was adopted on May 25, 2000. The property was platted in July 2004 as Windward Cay East. This Tract (A) was developed as phase (III) of Windward Cay Commercial in 2009.
2. The surrounding zoning consists of R-1 to the north, R-1 to the south, R-1 to the west, and R-CE-C (County) to the east. The residential property to the south and west was developed by the same owner developer.
3. Code Division 3. Industrial and Commercial Planned Unit Developments, Section 118-1022 Principal permitted uses – In a planned unit shopping center development, no building, structure, land or water shall be used, in whole or in part, except for one or more of the following uses: (6) Restaurants, tearooms, cafeterias, delicatessens and other eating and drinking establishments. The PCD allows eating and drinking establishments as a permitted use; however, when considered in context of Planned Commercial Developments eating and drinking establishments have always been interpreted to refer to restaurants, tearooms, cafeterias, delicatessens, and other similar uses.
4. The PCD allows “other uses not specifically prohibited or prohibited which the Planning and Zoning Board determines as the type and intensity of activity desired for this property” to be considered for Special Exception.
5. The applicant has submitted a site plan showing the location of the proposed lounge in the corner unit of the building along the south property line. A floor plan has also been submitted which shows a bar area, walk-in humidor, office, storage, VIP room, rest rooms, and outdoor seating. The floor plan and application indicate that food prepared from an offsite location will be sold for consumption at the outdoor seating area. The developer has proposed to add additional landscaping to help buffer the outdoor area from the neighborhood and have no music in the outdoor area.
6. The proposed use is not consistent with the surrounding development. There are single-family neighborhoods completely surrounding this site. This PCD Ordinance was approved in May 2000 with 2-story buildings and 25’ setbacks next to a single-family neighborhood. These setbacks and building heights are not consistent with what would be considered adequate buffer and separation even with the wall and landscape protection of neighborhood. Due to the setbacks and building heights, staff believes that a more appropriate use would be something specifically permitted within the PCD ordinance.
7. The developer was aware of additional restrictions to the site when he purchased the property. There is a Reciprocal Easement Agreement with Covenants, Conditions and Restrictions recorded on August 11, 2003 OR Book 07043 Page 3597. In this

agreement Section 5 Restrictions 5.1 General specifically prohibits a cocktail lounge, bar, disco, bowling alley, pool hall, billiard parlor, or any use which creates a nuisance.

8. The proposed use would have a negative impact on the surrounding properties if the lounge were allowed to be built because of the close proximity of the building to houses, hours of operation, and noise that would be generated by patrons.
9. There have been several meetings with the developer of the proposed cigar lounge and Windward Cay HOA to discuss any issues. Throughout these meetings the neighborhood has consistently expressed objection to the proposed lounge.

STAFF RECOMMENDATION

Due to the fact that the proposed use is not permitted by the PCD and is not compatible with the surrounding neighborhood, staff recommends that the Planning and Zoning Board determine that the lounge is not the type and intensity of activity desired for this property and deny the request to consider the lounge through a Special Exception request.

EXHIBITS

**EXHIBIT "A"
SITE MAP**

13848 Tilden Road

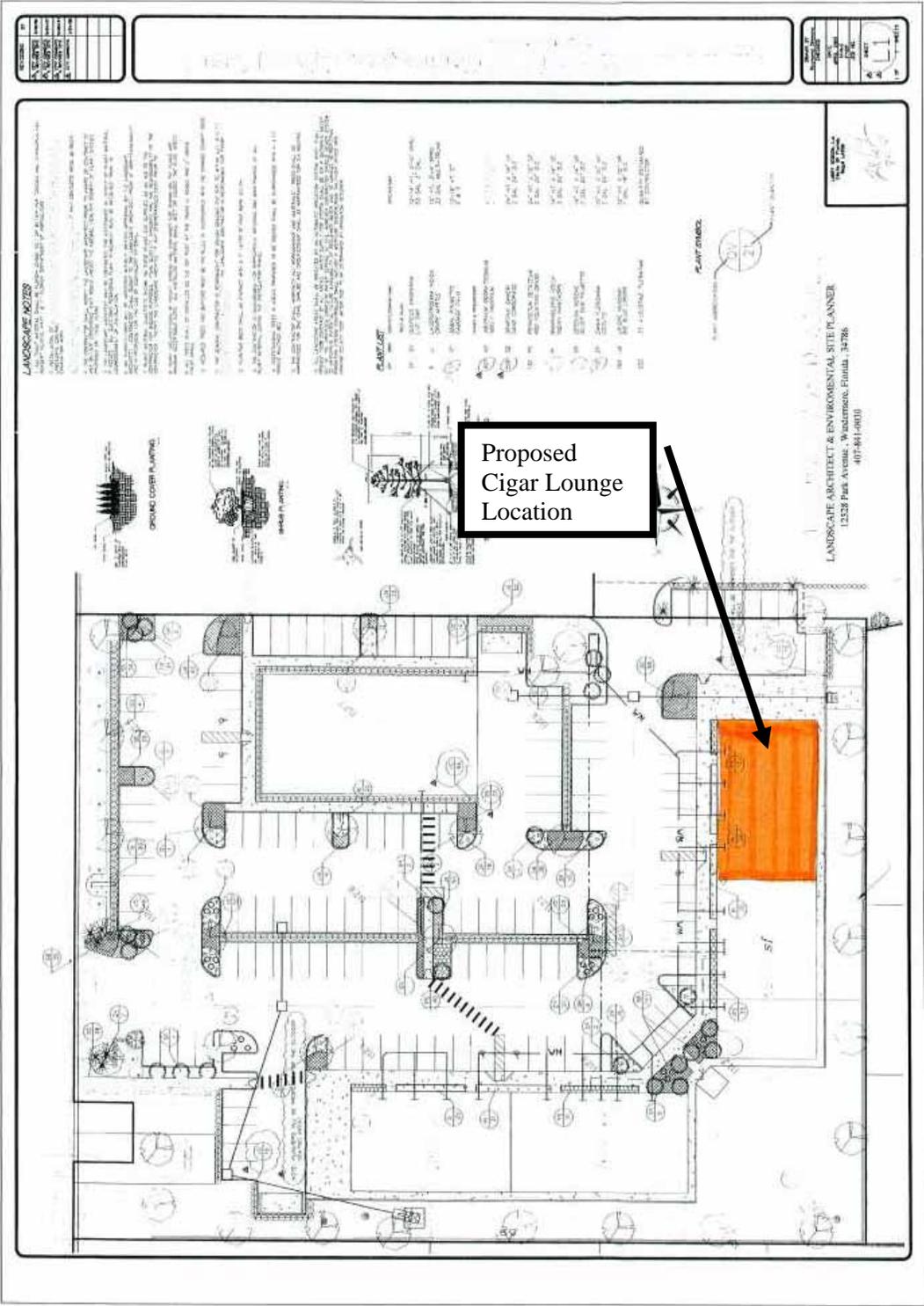


EXHIBIT "B"
CASABLANCA CIGAR LOUNGE
FLOOR PLAN

13848 Tilden Road

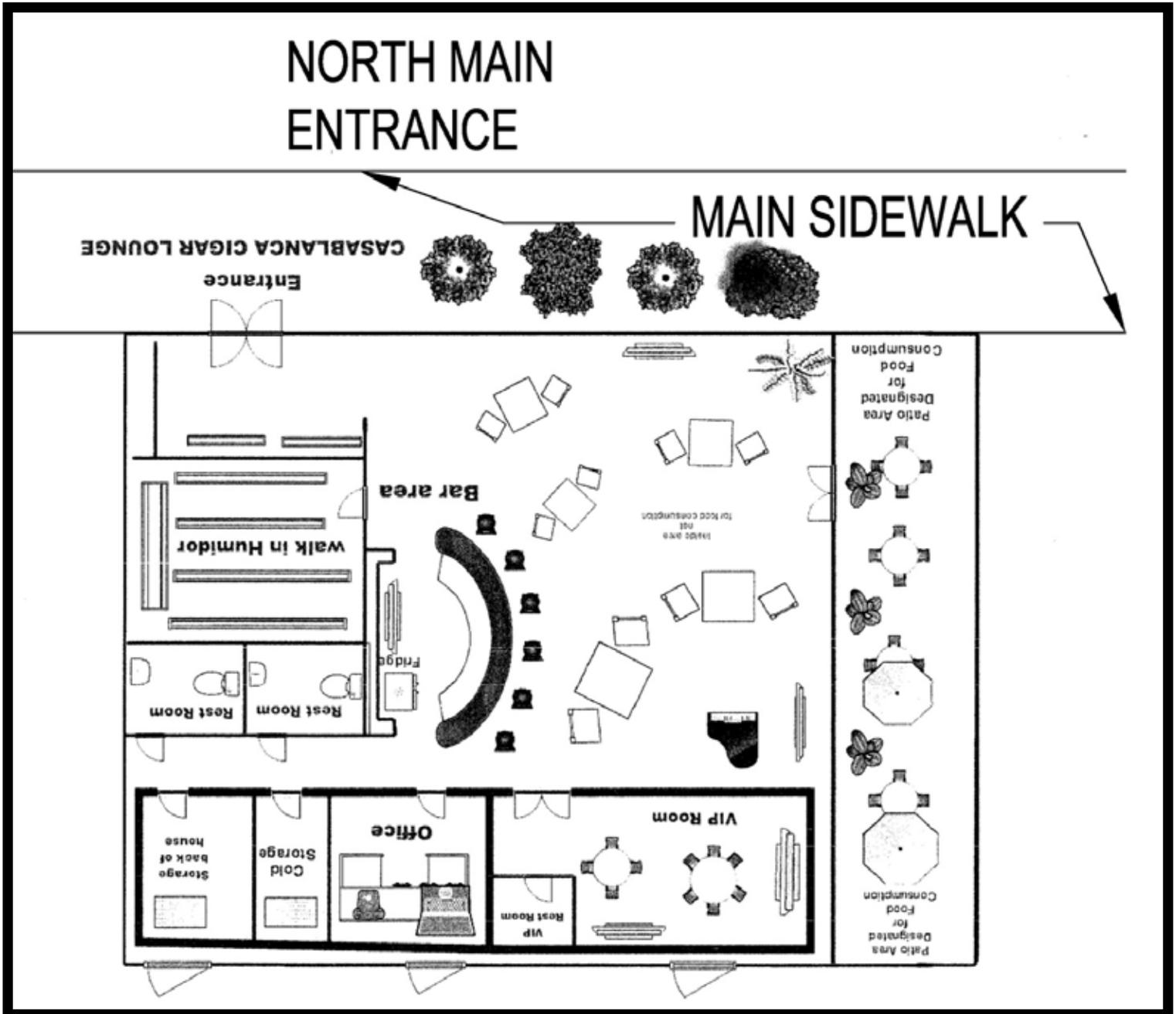


EXHIBIT "C"
AERIAL PHOTO

13848 Tilden Road

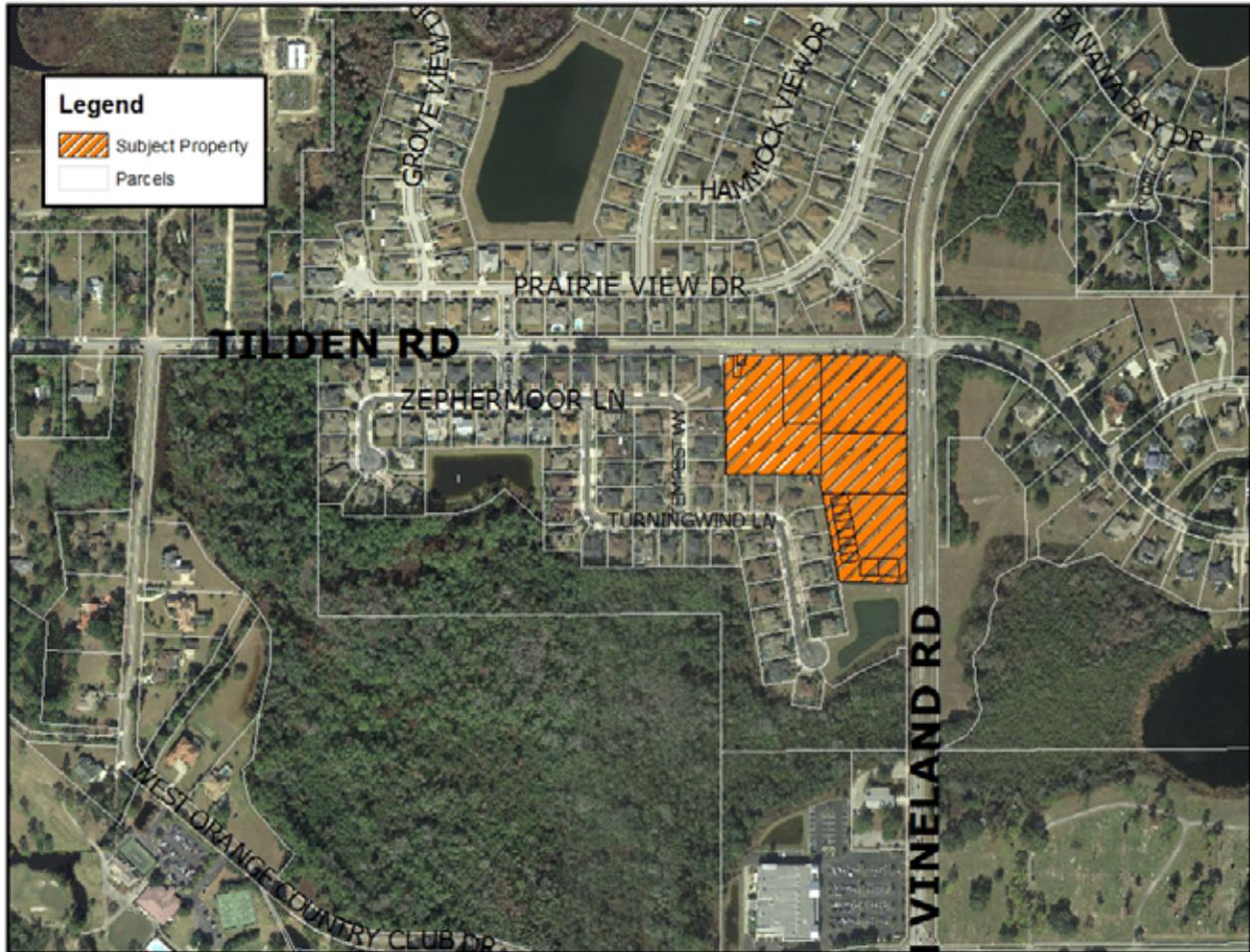


EXHIBIT "D"
ZONING MAP

13848 Tilden Road

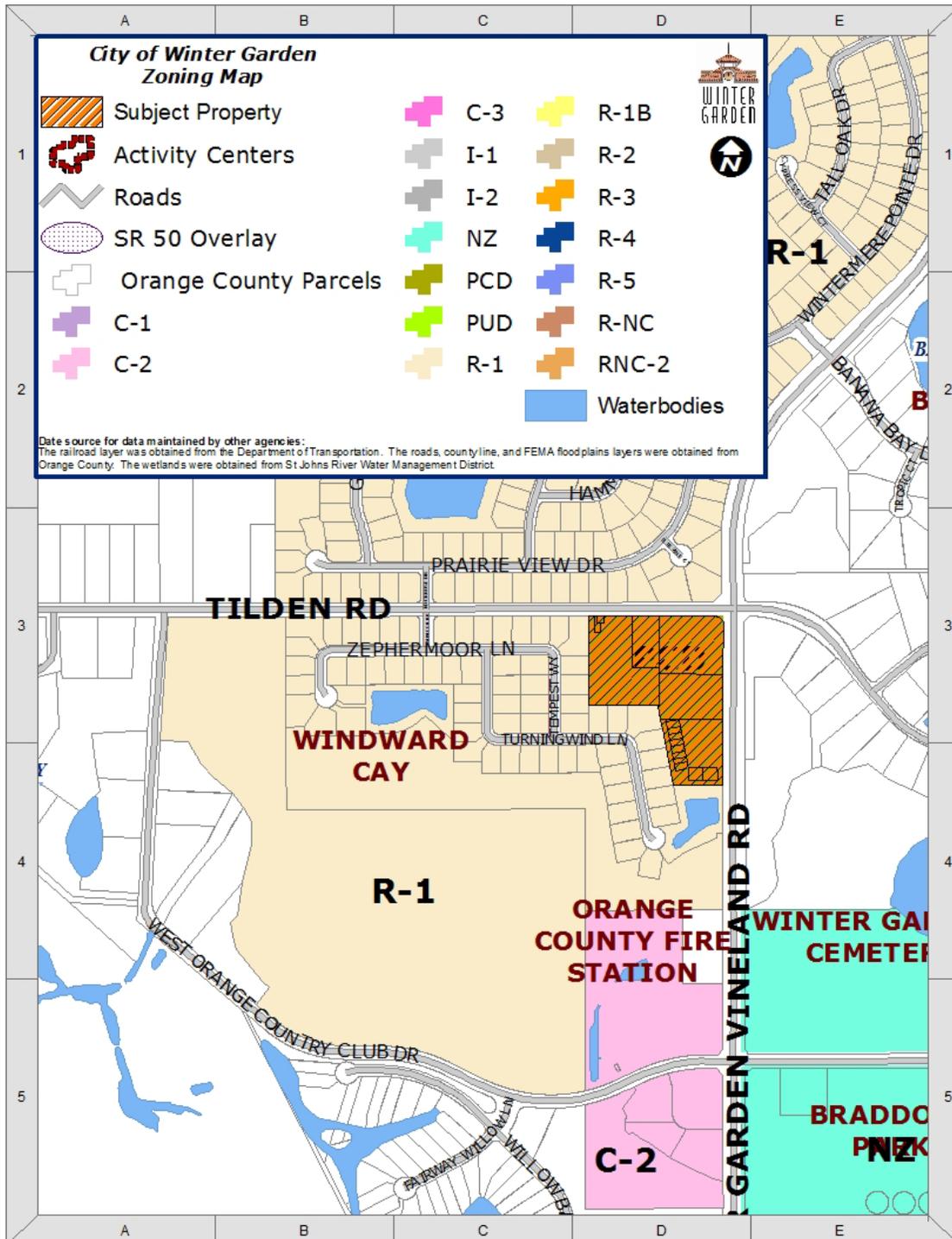


EXHIBIT "E"
FUTURE LAND USE MAP

13848 Tilden Road

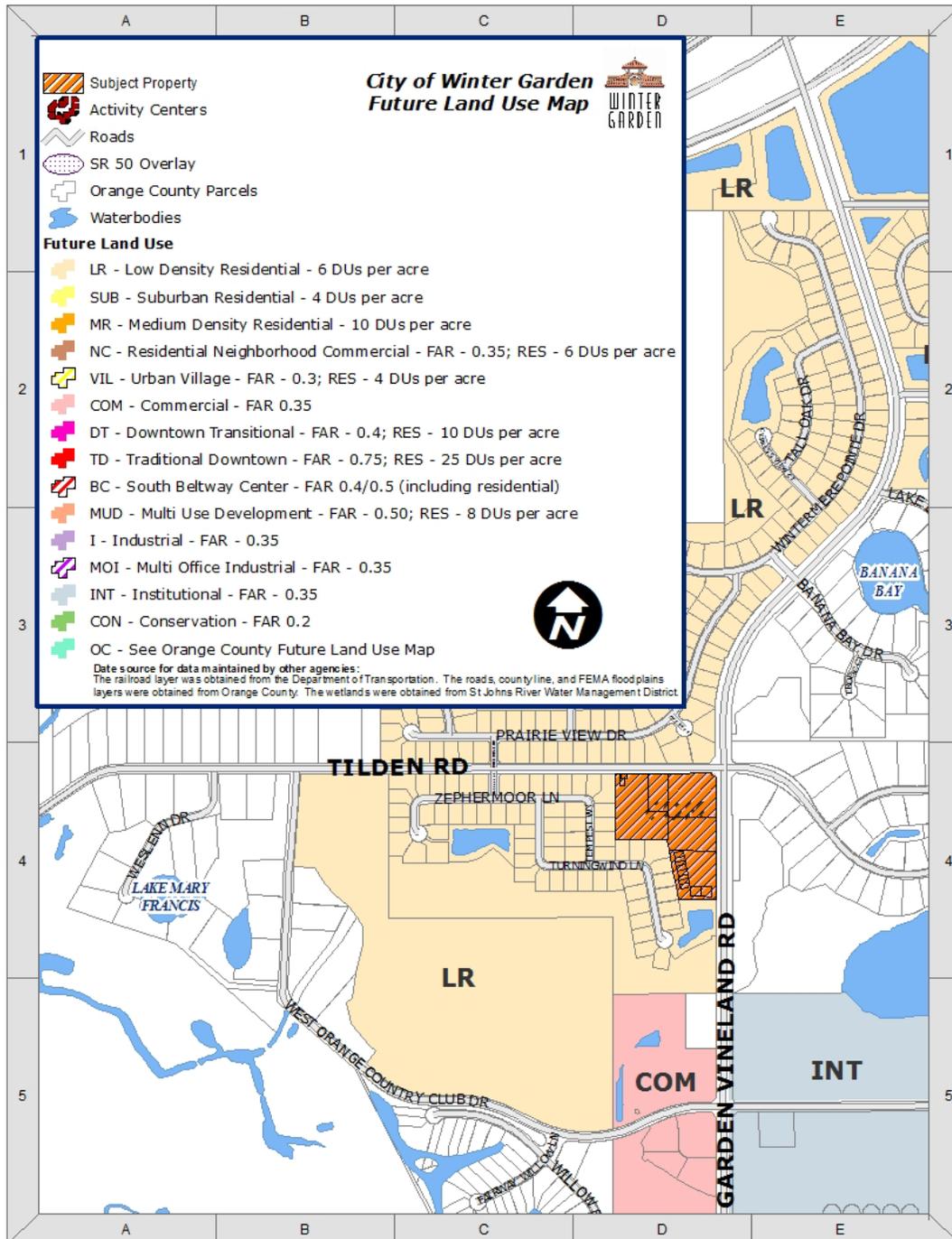


EXHIBIT "F"
RECIPROCAL EASEMENT AGREEMENT WITH COVENANTS, CONDITIONS AND RESTRICTIONS

INSTR 20030451910
OR BK 07043 PG 3604

modify, reconfigure, relocate and/or remove the Common Areas or building areas on its Parcel, subject to the following conditions: (i) the reciprocal easements between the Parcels pursuant to paragraph 2.1(a) shall not be closed or materially impaired; (ii) the Driveway and ingress and egress thereto, and to and from the Parcels and adjacent streets and roads, shall not be so altered, modified, relocated, blocked and/or removed without the express written consent of all Owners; and (iii) the same shall not violate any of the provisions and easements granted in paragraph 2. Notwithstanding the foregoing, the Owner of a Parcel shall not be required to obtain the consent of the other Owners in order to connect additional driveways to the Driveways.

3.4 Utilities. Each Owner shall at all times during the term hereof operate and maintain or cause to be operated and maintained, in good order, condition and repair, at its sole expense, any utility or other installations serving the Parcel of such Owner and from time to time existing on the Parcel of another Owner pursuant to an easement described herein.

3.5 Interim Maintenance. Notwithstanding the foregoing or anything contained in this Agreement to the contrary, until such time as a Certificate of Occupancy is issued for a building within Parcel A, the Owner of Parcel B shall maintain the Driveways, the Parcel B Stormwater Facilities, and utility lines serving Parcel B.

4. Construction of Improvements.

4.1 Every building (including its appurtenant Common Area improvements), now or in the future constructed on Parcel A or Parcel B shall be constructed, operated and maintained so that the same is in compliance with all applicable governmental requirements.

4.2 At the same time as the Owner of Parcel B develops Parcel B for Walgreen, the Owner of Parcel B shall construct the Driveways, the Parcel B Stormwater Facilities and utility lines serving Parcel B and connect the improvements to be constructed on Parcel B to the Driveway.

5. Restrictions.

5.1 General. Each Parcel shall be used for lawful purposes in conformance with all restrictions imposed by all applicable governmental laws, ordinances, codes, and regulations, and no use or operation shall be made, conducted or permitted on or with respect to all or any portion of a Parcel that is illegal. In addition to the foregoing, throughout the term of this Declaration, it is expressly agreed that neither all nor any portion of any Parcel shall be used, directly or indirectly, for purposes of a cocktail lounge, bar, disco, bowling alley,

INSTR 20030451910
OR BK 07043 PG 3605

pool hall, billiard parlor, skating rink, roller rink, amusement arcade, children's play or party facility, theatre (of any kind), carnival or amusement park, funeral home, adult book store, adult theatre, adult amusement facility, any facility selling or displaying pornographic materials or having such displays, second hand store, odd lot, closeout or liquidation store, auction house, flea market, educational or training facility of more than 2,000 gross square feet, blood bank, sleeping quarters or lodging, the outdoor housing or raising of animals, the sale, leasing or storage of automobiles, boats or other vehicles, any industrial use, a car wash, an assembly hall, off track betting establishment, bingo parlor, any use involving the use, storage, disposal or handling of hazardous materials or underground storage tanks, or any use which creates a nuisance.

5.2 Additional Parcel A Restrictions. Throughout the term of this Agreement, it is expressly agreed that neither all nor any portion of Parcel A shall be used, directly or indirectly, for any one or more of the following purposes: (i) the operation of a drug store or a so-called prescription pharmacy or for any other purpose requiring a qualified pharmacist or other person authorized by law to dispense medicinal drugs, directly or indirectly, for a fee or remuneration of any kind; (ii) the operation of a medical diagnostic lab and/or the provision of treatment services; (iii) the sale of so-called health and/or beauty aids and/or drug sundries; (iv) the operation of a business in which alcoholic beverages shall be sold for consumption off the premises; (v) the operation of a business in which photofinishing services and/or photographic film are offered for sale; (vi) the operation of a business in which greeting cards and/or gift wrap are offered for sale; and/or (vii) the operation of a business in which food items for off premises consumption are offered for sale. Further, if any restaurant, office, or sport or health club or spa is operated on Parcel A within one hundred feet (100') of the west or south boundary of Parcel B, the main entrance of such restaurant, office, or sport or health club or spa shall not at any time be oriented facing east (for such businesses located west of Parcel B) or north (for such businesses located south of Parcel B). In addition, if the main entrance for any such restaurant, office, or sport or health club or spa operated on Parcel A within one hundred feet (100') of the west or south boundary of Parcel B is located in a corner of the building, such corner shall not be oriented facing east, northeast or southeast (for such businesses located west of Parcel B), or facing north, northeast, or northwest (for such businesses located south of Parcel B). For purposes of the foregoing restrictions, "offices" shall not include either banks or offices used incidental to retail or other permitted uses.

5.3 Drive-Throughs. No facility on a Parcel for vehicular drive-up or drive-through in which the stopping or standing of motor vehicles in line at a location for dropoff and/or pickup is intended (as, for example, at a restaurant, car wash or bank) shall be assigned, constructed, used or operated in any manner such that motor vehicles in line at such facility stop or stand onto another Parcel and/or the Driveways, or otherwise interfere with the normal pattern and flow of pedestrian or vehicular traffic on and across another Parcel and/or the

END OF STAFF REPORT