



REZONING STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 4

Public Hearings: Planning & Zoning Board (PZB): July 7, 2021
Board of County Commissioners (BCC): August 3, 2021

Case No. and Project Name: RZ-21-15-5, Rutherford and Georgia Property

Applicant: Brian Denham, P.E.

Owner: Mary F. Rutherford and Joan Georgia

Requested Action: Supersede and replace Planned Commercial District (CP) Ordinance 41-87 with a new CP ordinance to allow Community Commercial (C-2) uses.

Staff Determination: Staff finds the rezoning application consistent with the Land Development Regulations (LDR) and Comprehensive Plan.

Case Manager: Janie Barrón, Senior Planner

PZB Recommendation:

Subject Property Information

Size: 5.22 +/- Acres

Location: Southeast corner of the SR 40 (aka Butler Street) and 9th Street intersection, in the Astor area.

Alternate Key No.: 3837422 and 3834603

Future Land Use Category: Urban Low Density

Existing Zoning District: Planned Commercial District (CP) by Ordinance 41-87

Proposed Zoning District: Planned Commercial District (CP), to allow new commercial uses

Joint Planning Area/ISBA: N/A

Overlay Districts: Pinecastle Military Operations Area

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Urban Low Density	Right-of-Way	Street and Commercial	Single-Family Dwelling Unit/Store, Medical Building and Undeveloped PUD North of R-O-W
South	Urban Low Density	Right-of-Way	Street and Commercial	Undeveloped Commercial Parcel South of R-O-W
East	Urban Low Density	Right-of-Way	Vacant	Undeveloped Commercial Parcel
West	Urban Low Density	Planned Commercial District (CP)	Street and Vacant	Undeveloped Commercial Parcel West of R-O-W

– Summary of Analysis –

The subject 5.22 +/- acres, identified by Alternate Key Numbers 3837422 and 3434603, are zoned Planned Commercial District (CP) by Ordinance #41-87 and designated as Urban Low Density Future Land Use Category (FLUC). Currently, the parcel is vacant and undeveloped. The property is located on the corner of SR 40 and 9th Street, in the Astor area of unincorporated Lake County. The subject parcel is located within the State Road 40 (Astor) Minor Commercial Corridor, and the Pinecastle Military Operations Area overlay district. The application seeks an amendment to CP Ordinance #41-87 to allow community commercial (C-2) uses.

The subject parcel is located within the Pinecastle Military Operations Area, so the rezoning application was sent to the U.S. Navy for determination of consistency with their regulations. The U.S. Navy had no comments or objections to the request.

- Analysis -

Land Development Regulations Section 14.03.03 Standards for Review.

A. Whether the proposed rezoning is in conflict with any applicable provisions of the Code.

The application seeks an amendment to CP Ordinance 41-87 to allow community commercial (C-2) uses, which would include a fast-food restaurant, vehicular/watercraft storage and washing center.

The proposed uses are consistent with LDR Section 3.00.02, which states that the purpose of the CP zoning district is to provide for commercial uses currently available in any other commercial districts and intended to establish CP uses individually under approved site plans.

B. Whether the proposed rezoning is consistent with all elements of the Lake County Comprehensive Plan.

The rezoning application proposes to develop the subject parcel with C-2 uses, while utilizing utilities, consistent with Comp Plan Policy I-1.1.3, which encourages direct growth and development to urban areas where public facilities and services are presently in place or planned.

Superseding and replacing PUD Ordinance 41-87 to allow C-2 uses is consistent with all applicable elements of the Comprehensive Plan. The subject parcels are designated with an Urban Low Density FLUC, which allows commercial activities pursuant to Comp Plan Policy I-1.3.10.

The subject parcels are located within the State Road 40 (Astor) Minor Commercial Corridor, which allows Commercial uses pursuant to Comp Plan Policy I-1.3.10. The proposed uses are consistent with the term “Commercial”, which is defined as commercial, retail, office, and light industrial uses, pursuant to Comp Plan Policy I-1.3.10.

C. Whether, and the extent to which, the proposed rezoning is inconsistent with existing and proposed land uses.

The subject parcels have existing commercial entitlements, and the surrounding parcels contain commercial uses or have existing commercial entitlements, which are consistent with the land uses assigned to the area and development.

D. Whether there have been changed conditions that justify a rezoning.

Superseding and replacing PUD Ordinance 41-87 to allow C-2 uses is consistent with all applicable elements of the Comprehensive Plan. The subject parcels are designated with an Urban Low Density FLUC, which allows commercial activities pursuant to Comp Plan Policy I-1.3.10. The proposed amendment to the Ordinance is compatible with the allowable commercial activities permitted for parcels located within the Urban Future Land Use Series and will result in an orderly and logical development pattern.

The subject parcels are located within the State Road 40 (Astor) Minor Commercial Corridor, which allows Commercial uses pursuant to Comp Plan Policy I-1.3.10. The proposed uses are consistent with the term “Commercial”, which is defined as commercial, retail, office, and light industrial uses, pursuant to Comp Plan Policy I-1.3.10.

- E. Whether, and the extent to which, the proposed rezoning would result in demands on public facilities, and whether, or to the extent to which, the proposed rezoning would exceed the capacity of such public facilities, including, but not limited to police, roads, sewage facilities, water supply, drainage, solid waste, parks and recreation, schools and fire and emergency medical facilities.**

Water and Sewer

St. Johns River Utility, Inc. provided documentation indicating capacity to service the project with water and wastewater service (Attachment "B"). The proposed project shall connect to public utilities, in accordance with the Comprehensive Plan and LDR, as amended.

Office of Parks and Recreation

Based on the Trail Master Plan, the Black Bear Scenic Trail is proposed to run along State Road 40. Should the proposed trail be developed, additional right-of-way may be required.

Office of Public Safety

Lake County Fire Rescue Station #110 is located less than two (2) miles of the subject property at 23023 State Road 40, Astor, and will provide advanced life support should an emergency on the property demand this service. Fire protection water supply and emergency access will be addressed during the preliminary plat review process, should the rezoning request be approved by the Board.

Schools

The request is not anticipated to adversely impact school capacities.

Solid Waste

The request is not anticipated to adversely impact solid waste capacities or levels of service.

Transportation Concurrency

The standard Level of Service (LOS) for the impacted roadway of State Road 40 is "C" with a capacity of 740 trips in the peak direction, the segment of roadway River Road to Volusia County line is currently operating at a v/c "C" fifty-two percent (52%) of its capacity during the peak period. This project will be generating nine (9) peak hour trips with six (6) directional pm peak hour trips.

The Applicant submitted and received approval of a Request for Exemption from Full Transportation Impact Study.

- F. Whether, and the extent to which, the proposed rezoning would result in significant adverse impacts on the natural environment.**

The proposed development will have an environmental impact on the current undeveloped condition of the property. All sensitive resources will be addressed through the development review process. An environmental assessment dated no older than 6 months from the application submission date will be required at the time of site plan submittal. New development will be required to meet all criteria contained within the LDR and Comprehensive Plan.

- G. Whether, and the extent to which, the proposed rezoning would affect the property values in the area.**

The application does not contain any information regarding proposed development impact on property values.

- H. Whether, and the extent to which, the proposed rezoning would result in an orderly and logical development pattern.**

The proposed amendment is consistent with the purpose and intent of the zoning district and the Urban Future Land Use Series.

The Applicant provided the following statement in support of the proposed rezoning application: "*Reduced market demand for shopping center. Surrounded uses are commercial. Commercial uses focused in areas of major arterial roadways.*"

I. Whether the proposed rezoning would be in conflict with the public interest, and in harmony with the purpose and intent of these Regulations.

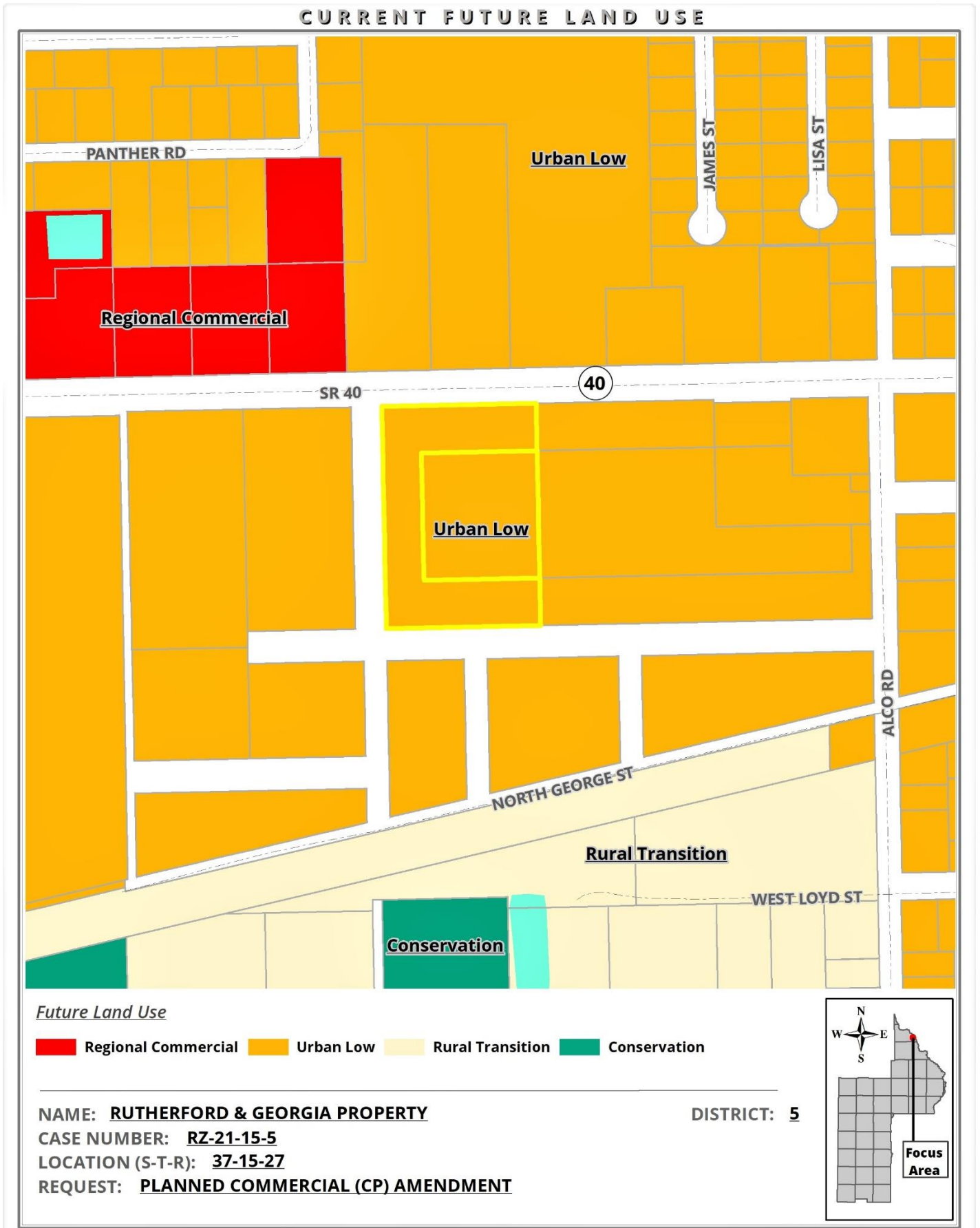
The request is in harmony with the general intent of the Comprehensive Plan and LDR as stated in Sections A through H above.

J. Any other matters that may be deemed appropriate by the Lake County Zoning Board or the Board of County Commissioners, in review and consideration of the proposed rezoning.

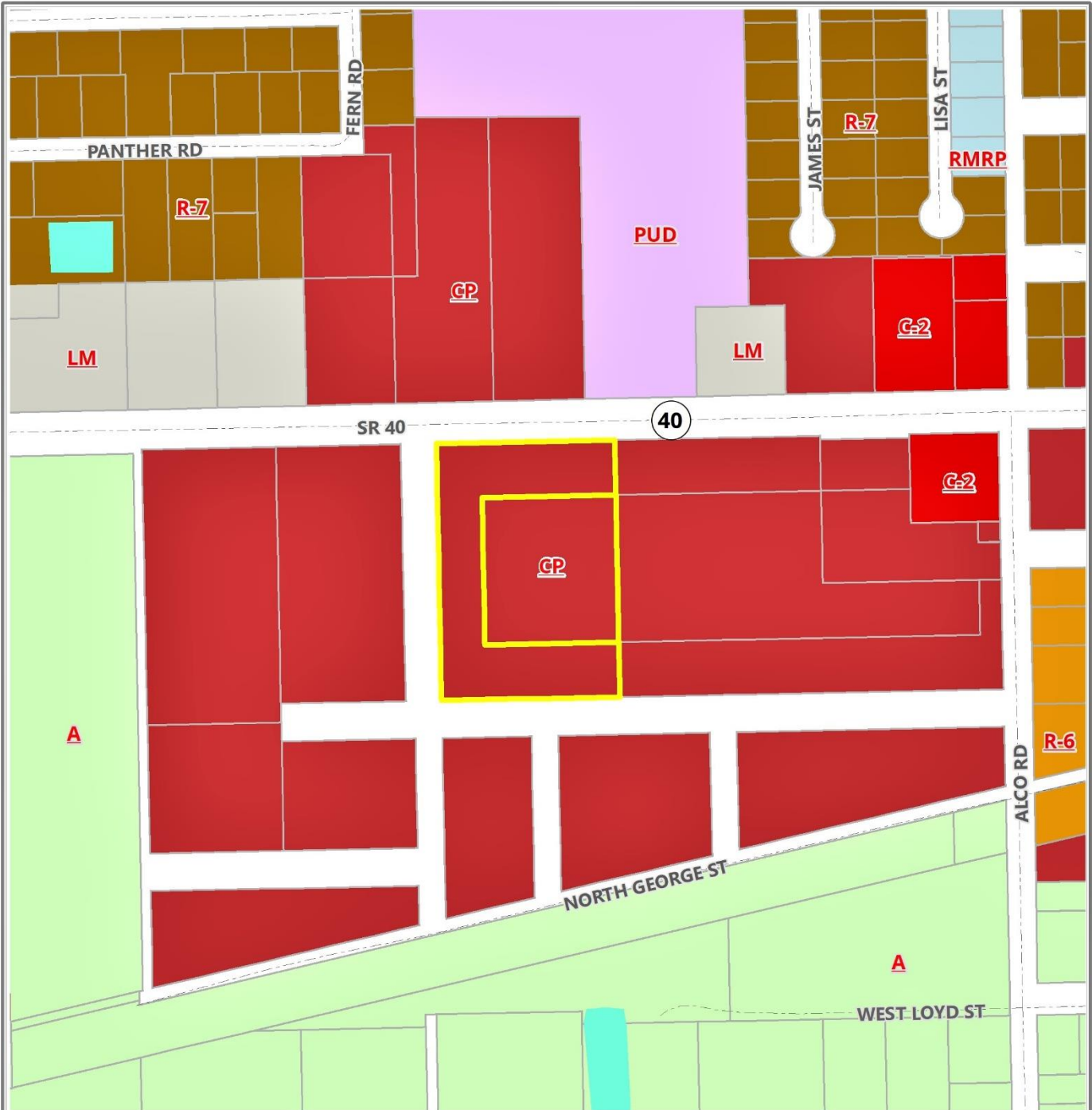
N/A

Map of Subject Parcel



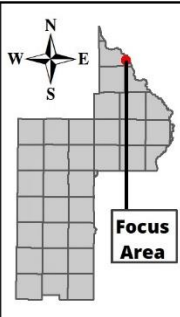


CURRENT ZONING



Zoning Legend

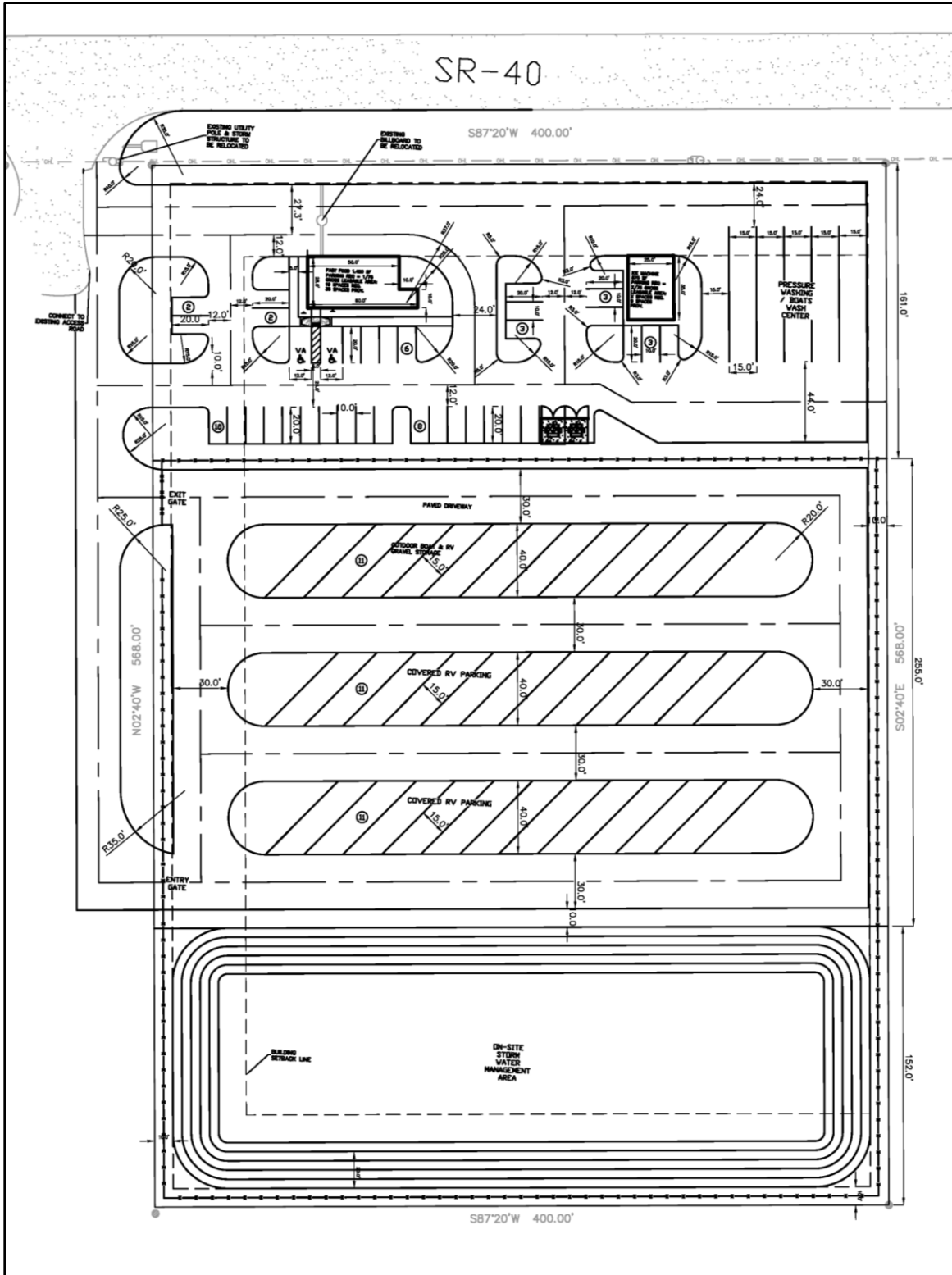
- A
- R-7
- C-2
- LM
- R-6
- RMRP
- CP
- PUD



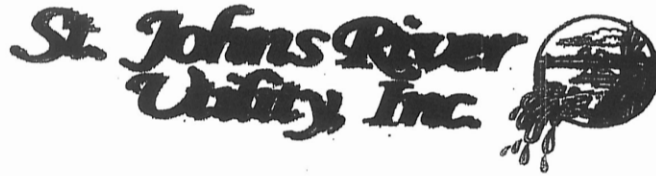
NAME: RUTHERFORD & GEORGIA PROPERTY
CASE NUMBER: RZ-21-15-5
LOCATION (S-T-R): 37-15-27
REQUEST: PLANNED COMMERCIAL (CP) AMENDMENT

DISTRICT: 5

Attachment "A" – Concept Plan



Attachment "B" – St. Johns River Utility, Inc. Availability Letter



April 22, 2021

Mr. Brian Denham, P.E.
Denham Engineering
710 North Lake Formosa Drive
Orlando, Florida 32803

Re: Five Acre Tract in Astor, FL

Dear Mr. Denham,

We have reviewed the two alternate key locations (3837422 and 3834603) listed in your recent e-mail. Both parcels are in our service area. Therefore, the St Johns River Utility, Inc. will be able to provide water and wastewater service to this five acre tract.

Please contact me or Lu Ann Van Hoose, Office Manager, if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Randall E. Meyers".

Randall E. Meyers
General Manager

REM:lvh

ORDINANCE #2021-XX
Rutherford and Georgia Property
RZ-21-15-5

1 **AN ORDINANCE OF THE LAKE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE LAKE**
2 **COUNTY ZONING MAPS; AND PROVIDING FOR AN EFFECTIVE DATE.**

3 **WHEREAS**, Brian Denham, P.E. (the “Applicant”) submitted a rezoning application on behalf of Mary F.
4 Rutherford and Joan Georgia (the “Owners”), to supersede and replace Ordinance 41-87 with a new Planned
5 Commercial (CP) ordinance to allow Community Commercial District (C-2) uses; and

6 **WHEREAS**, the subject property consists of 5.22 +/- acres, is located at the southeast corner of the State
7 Road 40 (aka Butler Street) and 9th Street intersection, in the Astor area within Section 30, Township 15 South,
8 Range 28 East, having Alternate Key Numbers 3834603 and 3837422, and are more particularly described in
9 Exhibit “A” – Legal Description; and

10 **WHEREAS**, on August 11, 1987, CP Ordinance 41-87 was approved by the Lake County Board of County
11 Commissioners to use the site for a shopping center; and

12 **WHEREAS**, the Lake County Planning & Zoning Board reviewed Petition RZ-21-15-5 on 7th day of July
13 2021, after giving notice of the hearing on the petition for a change in zoning, including notice that the petition
14 would be presented to the Board of County Commissioners of Lake County, Florida, on 3rd day of August 2021;
15 and

16 **WHEREAS**, the Board of County Commissioners reviewed the petition, the recommendations of the Lake
17 County Planning & Zoning Board, staff report, and any comments, favorable or unfavorable, from the public and
18 surrounding property owners at a public hearing duly advertised; and

19 **WHEREAS**, upon review, certain terms pertaining to the development of the above-described property
20 have been duly approved; and

21 **WHEREAS**, the approval of this ordinance shall supersede and replace any and all previous zoning
22 ordinances on the subject property, including Ordinance 41-87.

23 **NOW THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Lake County, Florida,
24 that:

25 **Section 1. Terms.** The County Manager or designee shall amend the Lake County Zoning Map to show the
26 Commercial District (CP) in accordance with this Ordinance. All uses specified must be generally
27 consistent with the Concept Plan as shown in Exhibit “B” of this Ordinance. To the extent where there
28 are conflicts between the Concept Plan and this Ordinance, the Ordinance will take precedence.
29 Ordinance 41-87 will be superseded and replaced upon the adoption of this new ordinance.

30 **A. Land Uses.**

- 31 1. Community Commercial District (C-2) uses, excluding the prohibited uses listed below.

32 Accessory uses may be approved by the County Manager or designee. Any other use of the
33 property will require approval of an amendment to this Ordinance by the Board of County
34 Commissioners.

35 **B. Prohibited Uses.**

- 36 1. Adult Use.
37 2. Amusement Commercial.
38 3. Automotive Repair.

- 1 4. College or University.
- 2 5. Hotels.
- 3 6. Hunting and Fishing Resorts.
- 4 7. Mining and Quarrying.
- 5 8. Primary or Secondary School.
- 6 9. Self-Service Storage.
- 7 10. Vehicular Sales.
- 8 11. Warehouses.
- 9 **C. Open Space, Impervious Surface Ratio, and Building Height.** Open space, impervious
- 10 surface ratio and building height shall be in accordance with the Land Development Regulations
- 11 (LDR), as amended.
- 12 **D. Development Standards/Design Criteria.** Development shall adhere to commercial design
- 13 standards in accordance with the Comprehensive Plan and LDR, as amended.
- 14 **E. Setbacks.** Setbacks shall be in accordance with the LDR, as amended.
- 15 **F. Parking Requirements.** Off-street parking must be provided in accordance with the LDR, as
- 16 amended.
- 17 **G. Landscaping, Buffering, and Screening.** All new development must provide landscaping in
- 18 accordance with the LDR, as amended.
- 19 **H. Environmental Requirements.**
- 20 1. An environmental assessment dated within six (6) months of the development application
- 21 submittal will be required. The environmental assessment must specify the presence of
- 22 vegetation, soils, and any threatened or endangered species that may exist on the site. Any
- 23 State permitting or mitigation will be required before development can commence.
- 24 2. Environmental resources shall be protected in accordance with the Comprehensive Plan
- 25 and LDR, as amended.
- 26 **I. Noise Compliance.** Development shall comply with noise protection provisions of the LDR, as
- 27 amended.
- 28 **J. Transportation Improvements.**
- 29 1. Florida Department of Transportation (FDOT) permitting will be required for the site
- 30 development.
- 31 2. The development may be required to provide additional offsite road improvements.
- 32 3. Accommodation that includes right-of-way dedication for the future Black Bear/Heart of
- 33 Florida Loop Trail along State Road 40 will be required if the criteria set forth in Section
- 34 14.00.08, LDR, is satisfied.
- 35 4. Sidewalks will be required per LDR Commercial Design Standards, as amended.
- 36 5. All access management shall be in accordance with the FDOT, Comprehensive Plan and
- 37 LDR, as amended.

- 1 **K. Utilities.** Central water and sewer connection shall be provided in accordance with the
2 Comprehensive Plan and LDR, as amended.
- 3 **L. Stormwater Management.** The stormwater management system must be designed in
4 accordance with all applicable Lake County and St. Johns River Water Management District
5 requirements.
- 6 **M. Floodplain Management.** The Developer will be responsible for any flood studies required for
7 developing the site and to comply with Federal Emergency Management Agency (FEMA)
8 regulations, Comprehensive Plan, and LDR. Any development within the floodplain as identified
9 on the FEMA maps will require compensating storage.
- 10 **N. Lighting.** Exterior lighting must be in accordance with the LDR, as amended, and consistent
11 with Dark-Sky Principles.
- 12 **O. Signage.** All signage must be in accordance with the LDR, as amended.
- 13 **P. Concurrency Management Requirements.** Any development must comply with the Lake
14 County Concurrency Management System, as amended.
- 15 **Q. Development Review and Approval.** Prior to the issuance of any permits, the Applicant shall
16 submit a development application for site plan review generally consistent with the Conceptual
17 Plan attached as Exhibit "B" to be approved in accordance with the Comprehensive Plan and
18 LDR, as amended.
- 19 **R. Future Amendments to Statutes, Code, Plans, or Regulations.** The specific references in
20 this Ordinance to the Florida Statutes, Florida Administrative Code, Lake County
21 Comprehensive Plan and LDR shall include any future amendments to the Statutes, Code,
22 Plans, or LDR.
- 23 **Section 2. Conditions.**
- 24 **A.** After establishment of the facilities as provided in this Ordinance, the property may only be used
25 for the purposes identified in this Ordinance. Any other proposed use must be specifically
26 authorized by the Lake County Board of County Commissioners.
- 27 **B.** No person, firm, or corporation may erect, construct, enlarge, alter, repair, remove, improve,
28 move, convert, or demolish any building structure, add other uses, or alter the land in any manner
29 within the boundaries of the above-described land without first obtaining the necessary
30 approvals in accordance with the Lake County Code, as amended, and obtaining the permits
31 required from the other appropriate governmental agencies.
- 32 **C.** This Ordinance will inure to the benefit of, and will constitute a covenant running with the land,
33 and the terms, conditions, and provisions of this Ordinance will be binding upon the present
34 Owners and any successor and will be subject to each and every condition set out in this
35 Ordinance.
- 36 **D.** The transfer of ownership or lease of any or all of the property described in this Ordinance must
37 include in the transfer or lease agreement, a provision that the purchaser or lessee is made good
38 and aware of the conditions established by this Ordinance and agrees to be bound by these
39 conditions. The purchaser or lessee may request a change from the existing plans and
40 conditions by following the procedures contained in the LDR, as amended.
- 41 **E.** Action by the Lake County Code Enforcement Special Master. The Lake County Code
42 Enforcement Special Master will have authority to enforce the terms and conditions set forth in
43 this Ordinance and to recommend that the ordinance be revoked.

1 **Section 3. Severability.** If any section, sentence, clause or phrase of this Ordinance is held to be invalid or
2 unconstitutional by any court of competent jurisdiction, the holding will in no way affect the validity of
3 the remaining portions of this Ordinance.

4 **Section 4. Filing with the Department of States.** The clerk is hereby directed to send a copy of this Ordinance
5 to the Secretary of State for the State of Florida in accordance with Section 125.66, Florida Statutes.

6 **Section 5. Effective Dates. This Ordinance will become effective as provided by law.**

7 **ENACTED** this _____ day of _____, 2021.

8 **FILED with the Secretary of State** _____, 2021.

9 **EFFECTIVE** _____, 2021.

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BOARD OF COUNTY COMMISSIONERS

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LAKE COUNTY, FLORIDA

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SEAN M. PARKS, CHAIRMAN

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18 **ATTEST:**

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**GARY J. COONEY, CLERK OF THE
BOARD OF COUNTY COMMISSIONERS
LAKE COUNTY, FLORIDA**

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23 **APPROVED AS TO FORM AND LEGALITY:**

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MELANIE MARSH, COUNTY ATTORNEY

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EXHIBIT "A" – Legal Description

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2 All of Blocks 136, 135, 131 and all of Block 130, less and except "from the intersection of the South Right-of-Way
3 line of State Highway No. 40, and the East boundary line of Block 130, according to the Plat of First Addition,
4 Town of Astor, recorded in Plat Book 3, Page 45, Public Records of Lake County, Florida, run South along the
5 Easterly boundary line of said Block 130 a distance of 200 feet, thence West 200 feet, thence North 200 to the
6 said South Right-of-Way line of State Road No. 40, thence East, along the said South Right-of-Way of State Road
7 No. 40 a distance of 200 feet to the P.O.B." all being located in First Addition, Town of Astor, according to the Plat
8 thereof as recorded in Plat Book 3, Page 45, of the Public Records of Lake County, Florida.

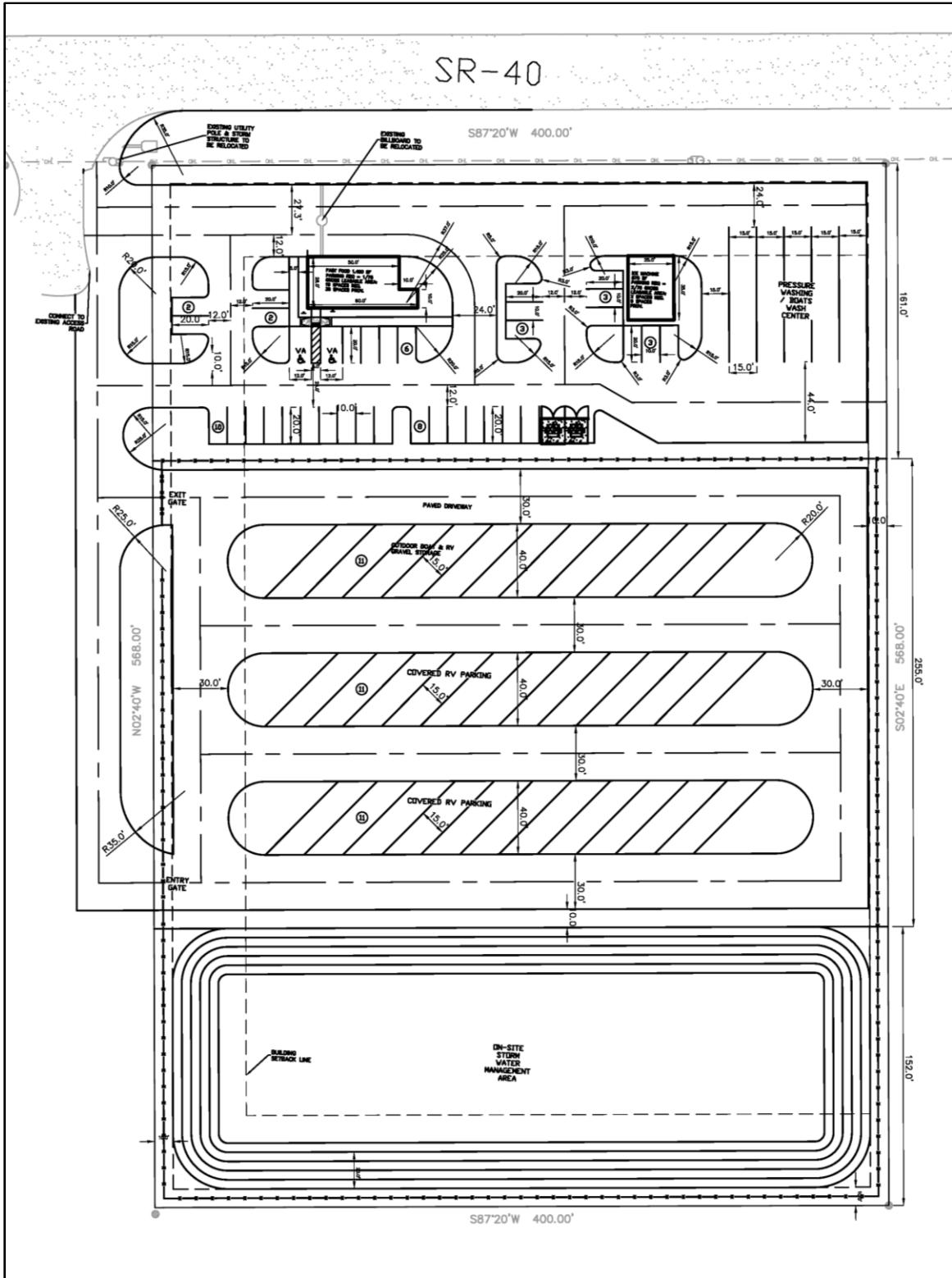
9 LESS AND EXCEPT THE FOLLOWINF DESCRIBED PROPERTY:

10 Lots 5 through 8 and 17 through 20 inclusively, also the South 38.00 feet of Lots 13 through 16, all in Block 130,
11 1st Addition Town of Astor, as recorded in Plat Book 45, Page 45, of the Public Records of Lake County, Florida.
12 Also, all of Ann Street now closed lying South of Lots 13 through 20 inclusively, Block 130, 1st Addition Town of
13 Astor, as recorded in Plat Book 45, Page 45, of the Public Records of Lake County, Florida.

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EXHIBIT "B" – Concept Plan



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