



Staff Report: Rezoning

Case No. ZON24-45692

Planning & Zoning Commission: August 12, 2024

City Council (1st Reading): September 3, 2024

City Council (Adoption): September 17, 2024

Petitioner: B I Realty, LLC & Racetrac, Inc.
Property Owner: B I Realty, LLC
Agent: Robert W. Batsel, Jr. Esq., Gooding & Batsel, PLLC
Project Planner: Emily W. Johnson, AICP
Applicant Request: from: B-2, Community Business (County)
to: B-2, Community Business (City)
Rezone from B-2, Community Business (County), to B-2, Community Business (City)

Existing Future Land Use: Commercial (County)

Associated Applications: ANX24-45690, LUC24-45691

Parcel Information

Acres: ±5.86 acres
Parcel(s)#: 22866-000-02 and 22866-000-03
Location: 4040 W Silver Springs Boulevard, along with the property located directly to the south
Existing use: Vacant, previously developed motel
Overlay(s): N/A

Adjacent Property Information

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning District</u>	<u>Current Use</u>
North	Commercial (County)	B-4, Regional Business (County)	Undeveloped Commercial & Mobile Home Park, adjacent to SR-40
East	Low Intensity (City)	B-2, Community Business (City)	Drive-through Restaurant (Burger King), adjacent to SW 40 th Avenue
		B-4, General Business (City)	Warehouse (Quality Stone), adjacent to SW 40 th Avenue
South	High Residential (County)	P-MH, Mobile Home Park (County)	Mobile Home Park (Affordable Rentals, FKA West Village MHP)
West	Commercial (County)	A-1, General Agriculture (County)	Church (Watula Baptist Church), adjacent to SW 41 st Avenue
		R-E, Residential Estate (County)	Single-Family Residence, adjacent to SW 41 st Avenue

Applicant Request

The petitioner is requesting a rezoning to B-2, Community Business (City), from B-2, Community Business (County), in association with the concurrent requested annexation of the property. The applicant has indicated the intent to redevelop the site with a Racetrac, self-service gasoline station/convenience store.

The petitioner has submitted concurrent applications to annex the subject properties into city limits (ANX24-45690); and to change the land use from Commercial (County) to Low Intensity (City) (LUC24-45691).

Background

The subject properties, identified by Parcel Identification Numbers 22866-000-02 and 22866-000-03, contain approximately 5.86 acres, and are generally located at the southwest corner of the intersection of State Road 40 (W Silver Springs Boulevard) and SW 40th Avenue. Parcel 22866-000-02 was previously developed with a motel, which was demolished in 2018 (Marion County Permit 2017121005). Current remaining improvements on the site include two access driveway aprons, pavement, a sign cabinet, and fencing. It is also noted that a city-owned well site abuts the subject properties to the west.

The subject properties are contiguous to the city limits and are adjacent to properties that are currently served with city utilities. Furthermore, the subject properties lie within an existing enclave, as defined by Florida Statutes (F.S) subsection 171.031(5)(a). The enclave encompasses approximately 238.09 acres of unincorporated land that is bounded on all sides by city limits.

Associated City Project

On June 18, 2024, the City Council and Marion County Board of County Commissioners jointly approved a right-of-way transfer from Marion County to the city for ownership and maintenance of SW 38th Avenue, SW 3rd Street, and SW 40th Avenue. The purpose of this transfer is to facilitate roadway realignment and intersection improvement at this location. While roadway design is currently in the conceptual stage, the subject properties are integral to this road project.

Existing and Proposed Zoning District Standards

	Zoning District	Intent and Purpose	Minimum Lot Area (square feet)	Maximum Building Height (feet)
Existing (County)	B-2, Community Business	Provides for the shopping and limited service needs of several neighborhoods, a community, or a substantial land area. take place in a completely enclosed building.	N/A	50-feet
Proposed (City)	B-2, Community Business	Intended for community businesses, including retail sales, personal and business services, and all office uses.	10,000 s.f.	50-feet

Staff Analysis

Pursuant to Code of Ordinances Section 122-246, all annexed territory shall be subject to the land use change process to bring the land use into compliance with the comprehensive plan. The proposed use of a self-service gasoline station/convenience store which is a permitted use within the requested B-2, zoning district, subject to the supplemental development standards contained under Code of Ordinances Section 122-1196. Most properties with frontage along State Road 40 on either side of I-75 are commercially zoned, providing further support for the requested B-2 zoning.

Future development will be subject to site plan review in accordance with Article IV of Chapter 122 of the Code of Ordinances. Additionally, at the time of development, buffer requirements in accordance with Section 122-260 will be determined.

Factual Support

1. The requested rezoning is consistent with the following Objectives and Policies of the City of Ocala Future Land Use Element:

- a. Future Land Use Element Policy 6.3: Low Intensity The intent of the Low Intensity land use classification is to identify areas that are generally oriented towards the automobile as the primary mode of transportation, with pedestrian circulation and activity being generally less than High Intensity/Central Core and Medium Intensity/Special District districts. Low Intensity may contain a single use. Mixed use development is encouraged. Permitted uses include office, commercial, public, recreation, institutional, educational facilities and residential. Light industrial shall only be allowable in designated locations as specified in the Land Development Code and must meet the intent of the Low Intensity category, including form and design guidelines as applicable. It is also the intent of this category to promote a walkable suburban form.

Staff Comment: While mixed use development is encouraged in this land use classification, single-use developments are allowable. The subject properties are in close proximity to I-75 and are located along a major arterial roadway (State Road 40), where automobiles are the primary mode of transportation, consistent with the intent and purpose of the Low Intensity land use classification.

- b. Future Land Use Element Objective 12: The Future Land Use Element shall require efficient use of existing services, facilities, and infrastructure to discourage urban sprawl and promote a clustered urban development pattern.

Staff Comment: The subject properties are contiguous to the city limits and are adjacent to properties serviced by city utilities. Additionally, annexation of the subject properties diminishes an existing enclave.

- i. Policy 12.1: The City shall require that all development have adequate services and facilities including water, roads, sewage collection and treatment, stormwater drainage, recreation, and solid waste disposal, to the extent required by state law, other provisions of this Comprehensive Plan, or the City's Land Development Code.

Staff Comment: The subject properties are contiguous to the city limits and are adjacent to properties serviced by city utilities.

2. The requested rezoning is consistent with the following Sections of the City of Ocala Code of Ordinances:

a. Section 122-246 – Annexed territory:

- a. All territory which may be annexed to the city after the effective date of the ordinance from which this section is derived (May 8, 1992) shall be considered to be zoned in the zoning classification given it by the county zoning code; provided that if no such classification exists in the zoning ordinance of the city then the property shall be zoned within the city under that classification most closely corresponding to the existing county classification.

Staff Comment: The associated rezoning application (ZON24-45692) proposes to rezone the property to B-2, Community Business (city). The city’s B-2 zoning district is the most similar classification to the existing county, B-2, Community Business zoning in terms of intensity and allowable uses.

b. Section 122-244 - District criteria: Zoning districts allowed under each land use classification.

Low Intensity	R-1, R-1A, R-1AA, R-2, R-3, RZL, RBH-1, RBH-2, RBH-3, OH, RO, O-1, OP, B-1, B-1A, B-2 , B-2A, B-4, B-5, SC, M-1, M-2, G-U, INST, A-1, PD, FBC
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Staff Comment: The requested B-2, Community Business, zoning district is consistent with the proposed Low Intensity Future Land Use Classification.

Level of Service Analysis

Transportation: The congestion management data from the Ocala-Marion TPO for the affected roadway is provided below. Developments proposing to generate 100 or more peak hour trips are required to submit a traffic study as part of the site plan review.

Road/Street Name	Lanes	Speed Limit	Functional Classification	Adopted LOS	LOS Capacity	2023 AADT	Existing LOS
SR 40 (From SW 46 th Ave to I-75 Ramp)	4	50 MPH	Arterial	D	38,430	31,500	C

Electric: The subject properties are within the Ocala Electric Utility service territory.

Internet: Service is available. A city fiber optic cable runs along SW 41st Avenue, along the eastern boundary of the subject properties.

Potable Water: Service is available. City water mains run along State Road 40 in front of the properties, and along SW 41st Avenue and SW 40th Avenue on either side of the properties. Connections will be determined during the site plan or subdivision review and approval process.

Sanitary Sewer: Service is available. City gravity mains run along State Road 40 in front of the properties, and along SW 41st Avenue and SW 40th Avenue on either side of the properties. Connections will be determined during the site plan or subdivision review and approval process.

Stormwater: The subject properties are not located within a FEMA Flood Zone. For any future development, runoff must be retained on-site to match pre-development conditions. Facilities must be designed to provide flood protection for a 100 year, 24-hour storm event.

Solid Waste: Service is available.

Fire Service: Service is available. Ocala Fire Rescue Station #4 is located approximately 2.2 miles from the subject properties, at 3300 SW 20th Street.

Schools: The proposed rezoning is not anticipated to affect any schools.

Staff Findings and Recommendation

- The proposed rezoning is consistent with the requested Low Intensity Future Land Use classification, pursuant to Section 122-244 of the Code of Ordinances.
- The proposed rezoning is consistent with zoning criteria for annexed territory. The city's B-2 zoning district is the most closely corresponding classification to the existing B-2, Community Business (county) zoning in terms of intensity and allowable uses.
- Pursuant to Code of Ordinances Section 122-621, the community business (B-2) district is "intended for community businesses, including retail sales, personal and business services, and all office uses. Businesses shall be based on walk-in trade, rather than delivery of supplies and large commodities."
- The proposed zoning is compatible with the surrounding area. Most properties with frontage along State Road 40 on either side of I-75 are commercially zoned.
- Adequate public facilities exist to service the proposed development.
- Approval of this request will not adversely affect the health, safety, convenience, prosperity, or general welfare of the community.

Staff Recommendation: <i>Approval</i>
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Permitted Uses Table:

Permitted Use Type	B-2, Community Business (County)	B-2, Community Business (City)
<i>Residential Operation</i>	<ul style="list-style-type: none"> • Model home sales lot, model home complex 	<ul style="list-style-type: none"> • Bed and breakfast • Community residential home • Fraternity or sorority house • Residence-Gallery • Residence-Office • Rooming/Boarding House
<i>Residential Type</i>	<ul style="list-style-type: none"> • Dwelling units for owner or employee 	<ul style="list-style-type: none"> • Single-family dwelling • Single-family dwellings (attached) • Two-family dwelling • Multi-family dwelling*
<i>General Retail</i>	<ul style="list-style-type: none"> • Artisan shops, antiques, art gallery, art supplies, astrologer, books and stationary, camera, clocks, clothing, craft, gifts, hobby supplies, ice cream shop, jewelry, leather goods, luggage, radio and television, shoes, souvenirs, smoke shop, tobacco, toys, watches and similar establishments including repair • Automobile parts, new • Bait and tackle, sporting goods • Bakery, meats, delicatessen, or confectionary • Bakery, industrial, commercial* • Garden supply • Gun shop • Household appliance, furnishings, sales, repair • Package liquor store • Pawnshop* • Plant nursery, retail • Plant nursery wholesale* • Produce, outside building* • Seafood shop • Stores, department, furniture, hardware, household appliances, optical, pet • Stores, drug • Swimming pool supplies* • Used merchandise, inside building • Used merchandise, outside building, including flea market* 	<ul style="list-style-type: none"> • Auto supply store • Bakery store • Department store • Drugstore • Electronics store • Furniture store • Garden and nursery sales • Grocery store • Hardware store • Home decorating store • Pharmacy • Roadside fruit and vegetable sales • Specialty retail store • Swimming pool sales (enclosed) • Used merchandise store • Videotape store

<i>Vehicular Sales</i>	<ul style="list-style-type: none"> • Automobile, truck sales, new, used* • Automobile rental • Bicycle sales, rentals • Boats, marine motors sales, service • Golf cart, LSV sales • Motorcycle sales, service* • Recreational vehicle rental • Recreational vehicle sales* • Trailers, sales, and service* 	
<i>Agricultural Use</i>	<ul style="list-style-type: none"> • Agricultural uses as an interim use, excluding livestock • Horses or cattle, not a sales operation* • Land, farm management 	
<i>Business Service</i>	<ul style="list-style-type: none"> • Air-conditioning, heating, ventilation equipment sales, service, repair • Construction or contractor yard* • Lawn mowers, power, sales, repair • Lumber yards, building material sales* • Office furniture, equipment, sales, service • Paint and wallpaper • Parking garage, public • Parking lot • Parking of commercial vehicles for permitted business as an accessory use • Parking of commercial vehicles in excess of 16,000 lbs. not used by permitted business* 	<ul style="list-style-type: none"> • Equipment rental and leasing • General business service • Parking lot • Parking garage • Radio/TV broadcasting facility • Security systems service
<i>Eating or Drinking Establishment</i>	<ul style="list-style-type: none"> • Bar, alcohol sales • Food catering • Restaurant • Restaurant, including fast food, drive through 	<ul style="list-style-type: none"> • Alcoholic beverage establishment (off-premises consumption) • Alcoholic beverage establish (on-premises consumption) • Fast food restaurant • Restaurant (enclosed), (drive-through window permitted as an accessory use) • Drive-in or drive-through restaurant*
<i>Hospitality and Tourism</i>	<ul style="list-style-type: none"> • Museum • Hotel, motel 	<ul style="list-style-type: none"> • Antique gallery/art gallery/museum • Conference center • Hotel/convention center • Motel

<i>Office Use</i>	<ul style="list-style-type: none"> • Advertising specialties • Bank, credit union, financial and loan • Employment office • Professional office 	<ul style="list-style-type: none"> • Commercial photography (art and graphic design service) • Computer maintenance and repair • Financial institution • Photocopying and duplicating service • Photofinishing laboratory • Prepackaged software services • Professional and business office • Print shop
<i>Personal Service</i>	<ul style="list-style-type: none"> • Barber, beauty shop • Personal services, detective agency, dressmaker, dry-cleaning - including picking-up, florist, interior design, locksmith, laundry, laundromat, pressing, mending clothes, shoes including repair, tailor, travel agency • Pest control agency, supplies* • Storage, mini-warehouses • Tattoo, body-piercing parlor • Taxidermist • Cemetery, crematory, mausoleum* 	<ul style="list-style-type: none"> • Check cashing establishment • Coin-operated laundry • Emergency shelter • Funeral home/crematory • Hairstyling shop • Laundry and dry-cleaning pickup • Laundry and dry-cleaning service • Major household repair establishment • Mini-warehouse • Minor household repair establishment • Recreational vehicle park • Recycling collection point • Tattoo of body piercing establishment
<i>Adult Use Establishment</i>	<ul style="list-style-type: none"> • Nightclub 	
<i>Vehicular Service</i>	<ul style="list-style-type: none"> • Automobile paint and body shop* • Convenience store, gas station • Automobile repair, no paint or body work 	<ul style="list-style-type: none"> • Auto repair, minor • Automobile cleaning, detailing service • Drive-through facility (non-restaurant), accessory use only • Full-service station • Self-service station/convenience store
<i>Community Service</i>	<ul style="list-style-type: none"> • Church, Places of Worship • Club, private, lodge, fraternity, sorority • Daycare, child, adult • Library • Orphanage 	<ul style="list-style-type: none"> • Church/place of worship • Day care facility • Library • Private club
<i>Educational Use</i>	<ul style="list-style-type: none"> • Schools, public, and accredited private or parochial 	<ul style="list-style-type: none"> • College/university • Community education center • School, private elementary and secondary • Speech and language center/school • Vocational/professional school

<i>Recreational Use</i>	<ul style="list-style-type: none"> • Bowling alley • Fitness centers and gymnasiums • Game arcade, coin-operated • Golf course • Studios, art, dance, music, photography, radio, television • Marina • Poolroom • Recreation building • Theater 	<ul style="list-style-type: none"> • Bowling center • Commercial recreation, indoor • Dance/art/music studio • Motion picture theatres, except drive-in • Physical fitness center • Recreation facility, indoor • Commercial outdoor baseball batting facility* • Commercial recreation, outdoor* • Driving range* • Miniature golf*
<i>Public Use</i>	<ul style="list-style-type: none"> • Public parks, playgrounds • Post Office, privately owned, leased • Sewage treatment plans (inflow exceeding 5,000 gallons per day)* • Sprayfields / effluent disposal area* • Utility company service yards* • Water wellfields* 	<ul style="list-style-type: none"> • Post office • Park/open space area* • Public transportation terminal*
<i>Health Care Use</i>	<ul style="list-style-type: none"> • Hospital • Veterinary clinic, small animals 	<ul style="list-style-type: none"> • Assisted living facility • Medical and dental laboratory • Medical and dental office • Transitional recovery facility • Transitional treatment facility • Veterinarian office
<i>High-Impact Industrial Use</i>	<ul style="list-style-type: none"> • Garbage transfer station 	
<i>Low-Impact Industrial Use</i>	<ul style="list-style-type: none"> • Bottling plant (non-alcoholic beverages)* • Gas, bottled, refill cylinders* • Gas meter facility and supply lines, high pressure* • Storage warehouses* 	<ul style="list-style-type: none"> • Microbrewery/ microdistillery • Assembly of electronic components*

*Permitted by Special Exception