



GROWTH AND RESOURCE MANAGEMENT DEPARTMENT  
PLANNING AND DEVELOPMENT SERVICES DIVISION  
123 West Indiana Avenue, DeLand, Florida 32720  
(386) 736-5959

**PUBLIC HEARING:** June 21, 2018 – Planning and Land Development  
Regulation Commission (PLDRC)

**CASE NO:** Z-18-050

**SUBJECT:** Rezoning from Transitional Agriculture (A-3) to Urban  
Single-Family Residential (R-4)

**LOCATION:** 190 Spring Garden Ranch Road, DeLeon Springs, FL

**OWNER/APPLICANT:** Roger L. and Linda K. Swartz

**STAFF:** Trish Smith, AICP, Planner II

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## I. SUMMARY OF REQUEST

The applicant is requesting a rezoning of a 16,000 square foot parcel from Transitional Agriculture (A-3) to Urban Single-Family Residential (R-4) zoning classification. The purpose of the request is to make the zoning classification consistent with the adjacent parcel to the east, which is held in common ownership with the subject parcel. The rezoning will recognize historical property ownership conditions on the county's Official Zoning Map.

### ***Staff Recommendation:***

Forward the rezoning application, case number Z-18-050, to county council for final action with a recommendation of approval.

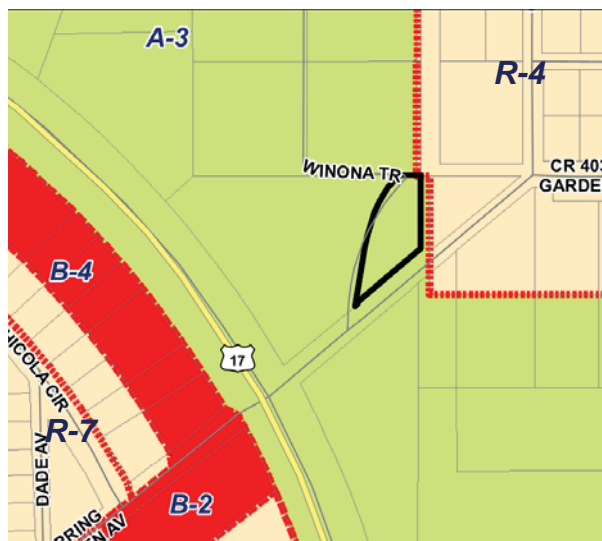
## II. SITE INFORMATION

1. Location: North side of Spring Garden Ranch Road approximately 270 feet northeast of its intersection with US Highway 17 North, DeLeon Springs
2. Parcel Number: 6938-01-13-0012
3. Property Size:  $\pm$  16,000 square feet
4. Council District: 1
5. Zoning: Transitional Agriculture (A-3)
6. Future Land Use: Rural Community (RLC)
7. ECO Map: Yes
8. NRMA Overlay: No

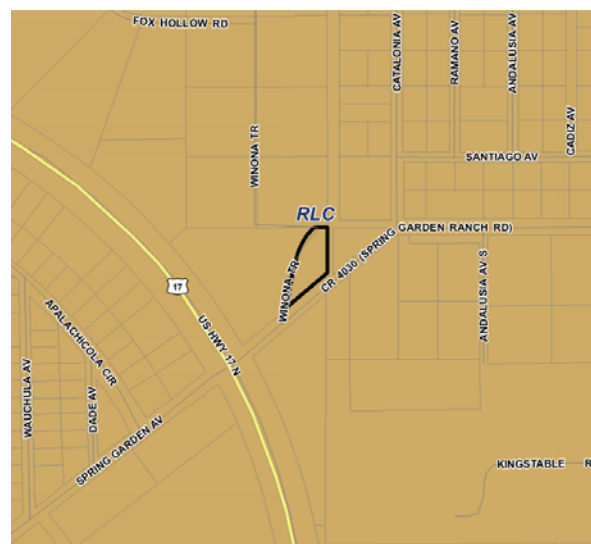
### 9. Adjacent Zoning and Land Use:

DIRECTION	ZONING	FUTURE LAND USE	CURRENT USE
North	Transitional Agriculture (A-3)	Rural Community (RLC)	Single-family residential
East	Urban Single-Family Residential (R-4)	Rural Community (RLC)	Power transmission line; undeveloped; single-family residential
South	Transitional Agriculture (A-3); Neighborhood Commercial (B-2); General Commercial (B-4)	Rural Community (RLC)	undeveloped woodlands
West	Transitional Agriculture (A-3),	Rural Community (RLC)	undeveloped woodlands

### 10. Maps



**ZONING MAP**



**FUTURE LAND USE MAP**

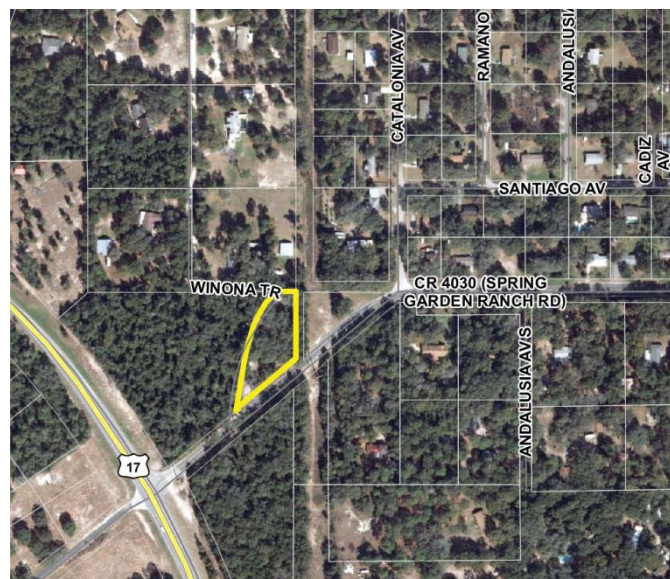
### III. BACKGROUND AND OVERVIEW

The subject parcel is a 16,000 square-foot undeveloped property located on the north side of Spring Garden Ranch Road in DeLeon Springs. It is bound to the east by a vacated county right-of-way and a 100-foot wide, high voltage power transmission line. Winona Trail bounds the property to the north, and the road curves in a south/southwesterly direction to follow the western property boundary to Spring Garden Ranch Road. A heavily wooded parcel is located west of Spring Garden Ranch Road. The subject parcel is zoned Transitional Agriculture (A-3), and it is a nonconforming lot since it does not meet the minimum one-acre requirement of the A-3 zoning classification.

The subject parcel (#6938-01-13-0012) is held in common ownership with the parcel located immediately to the east (#6901-00-00-0933) of the high-voltage power line. Both parcels were purchased as a unified parcel by the applicant in March 2003. Prior to that, they were held in common ownership by Roger King, who received a single deed for both parcels in December 1977 from his parents. A review of the 1972 tax rolls confirmed that Joseph and Doris King owned the properties at that time. The applicant has asserted that he did not initiate the subdivision of the unified parcel. The Property Appraiser records confirmed that Parcel #6901-00-00-0933 was separated from the subject parcel in 2012 due to the presence of a county right-of-way that bisects the two parcels. Further research by the Public Works staff revealed that the road had already been vacated in 1952 (OR 466/472).

Parcel #6938-01-13-0012 (subject parcel) is zoned Transitional Agriculture (A-3). Parcel #6901-00-00-0933 (adjacent parcel) is zoned Urban Single-Family Residential (R-4). With the A-3 classification and small size, the subject parcel is a nonconforming lot. By re-combining both parcels into a single parcel and rezoning the subject parcel to R-4, the applicant will eliminate a nonconforming lot, and the combined parcel will meet the minimum lot size of 7,500 square feet required by the R-4 zoning classification.

At 16,000 square feet, the shape of the property and the larger yard sizes of the A-3 zoning classification severely restrict development potential for the subject parcel. The minimum yard requirements in the A-3 zoning classification are 40 feet in the front yard, 25 feet in the side yard, and 40 feet in the rear yard. The parcel fronts Winona Trail and Spring Garden Ranch Road, so it is considered to have two front yards and one side yard for zoning purposes.



If the PLDRC approves the rezoning application, the parcel will become triangular in shape and will have three front yards. The 100-foot wide power transmission line will bisect the parcel in a north/south direction. No development is allowed in the power easement.

The R-4 front yard requirement is 25 feet. Even by reducing the 40-foot front yard requirement of the A-3 zoning classification to the less restrictive yard requirement of the R-4 zoning classification, Parcel #6901-00-00-0933 is still too small to accommodate a principal structure. Therefore, when the parcels are combined and rezoned, any future development would be located west of the power transmission line.

#### ZONING COMPARISON

Under the existing A-3 classification, single-family dwellings and agricultural pursuits are allowed. These uses require a minimum one acre lot size. Since the parcel is a nonconforming lot that does not meet the minimum lot size, this would equate to one single-family dwelling or permitted principal use.

The purpose and intent of the proposed R-4 zoning classification is to provide medium-density residential developments, while preserving the character of existing or proposed residential neighborhoods. This classification allows single-family dwellings on a minimum lot size of 7,500 square feet. The subject parcel is ±16,000 square feet. By gross area, if the rezoning is approved, this would equate to enough land for two home sites. When Parcel #6938-01-13-0012 is combined with Parcel #6901-00-00-0933, the unified parcel will total 38,651 square feet in area. This would equate to a gross density of five single-family dwellings. However, the presence of the high voltage power transmission line, the irregular parcel shape, and other development constraints will present significant challenges for realizing the maximum density potential. In reality, there is enough buildable area to allow construction of one single-family dwelling unit.

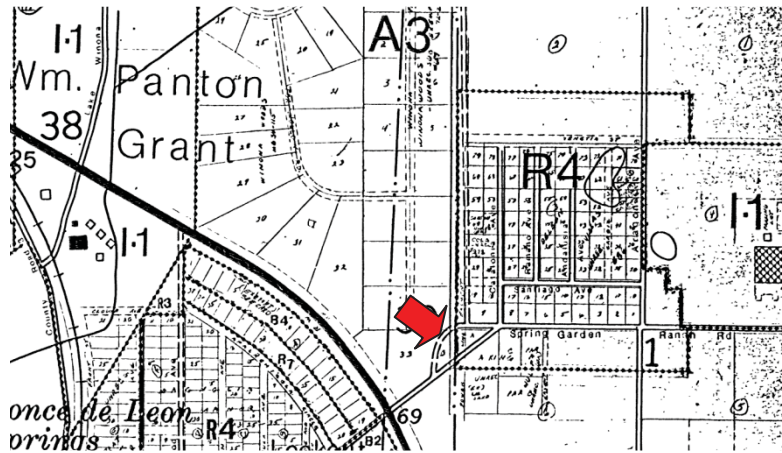
Agricultural pursuits, including the processing, packaging, storage, and sale of agricultural products raised on the premises will no longer be allowed if the property is rezoned. This is the most notable change between the current and proposed zoning classifications. An additional change is a decrease in the minimum lot size from one acre to 7,500 square feet in area and the slight increase in density potential.

The development potential under either zoning classification is dependent on land development issues such as roads, environmental impacts, stormwater management, utilities, etc. These and other issues would be addressed through the land development review process. The parcel does not meet the minimum standards for the current A-3 zoning classification, but it does meet the minimum standards for the R-4 zoning classification.

A review of historical zoning maps revealed that the subject parcel was zoned A-3 prior to May 5, 1994 and Parcel #6901-00-00-0933 was zoned R-4. New zoning maps were adopted on that date as part of the west side Volusia County administrative rezoning action. Prior to 1994, the R-4 zoning boundary followed the north/south section line and



bisected the parcels. Only the eastern half of the property was granted the R-4 zoning classification. Based on the fact that both the subject parcel and Parcel #6901-00-00-0933 were held in common ownership since at least the early 1970's and updates to the zoning maps did not fix the nonconformity of the subject parcel, it would appear that the current property owner is faced with a hardship.



The parcels sit on the edge of a section line. The unified parcel was incorrectly split-zoned. The subject parcel should be rezoned to reflect historic ownership that existed prior to establishing county zoning regulations.

The county's Environmental Permitting staff reviewed the rezoning application due to the parcel's presence in the county's Environmental Corridor Overlay Zone. Staff noted the presence of historic live oaks that will need to be protected and/or mitigated for during the development process. Portions of the property are also suitable for gopher tortoise. If a 25-foot buffer cannot be maintained around gopher tortoise burrows during development, a Florida Fish and Wildlife Conservation Commission gopher tortoise relocation permit will be required.

#### IV. ANALYSIS AND REVIEW CRITERIA

##### ZONING AMENDMENT CRITERIA

Section 72-414(e) of the zoning code includes the following criteria for review of rezoning applications:

***(1) Whether it is consistent with all adopted elements of the comprehensive plan.***

The future land use designation of the subject parcel is Rural Community (RLC), a subcategory of the Rural Future Land Use designation. Lands designated as rural shall be developed at a density of one (1) dwelling unit per five acres. DeLeon Springs is one of six rural communities identified in the comprehensive plan. They generally contain existing lots less than one acre in size, much smaller than the 1:5 development ratio of the Rural designation. Any new development must comply with current county regulations. A change in zoning must be consistent with the overlying land use.

According to the future land use/zoning consistency matrix, the proposed R-4 zoning classification is not compatible with the RLC future land use designation. The reason for the inconsistency is because the R-4 zoning allows a density of one dwelling unit per

7,500 square feet instead of the one dwelling unit per five acres. The R-4, R-7, B-2, and B-4 zoning classifications, all which are located in the vicinity of the subject parcel, are considered conditionally compatible with RLC if they existed on April 3, 1990. The subject parcel was zoned A-3 in 1990.

In this case; however, additional staff research has revealed that this inconsistency may have occurred in error. The entire area surrounding the subject parcel is identified as RLC on the Future Land Use Map. The area east of the subject parcel, which has been held in common ownership with the subject parcel since the early 1970s, is zoned R-4 and has an RLC Future Land Use designation. The zoning line should have followed the ownership of the parcel instead of the section line. At 16,000 square feet, the subject parcel is more similar to the smaller-sized, R-4 lots to the east than the larger-sized A-3 lots to the west. The staff has determined that a hardship exists that should allow the rezoning of the subject parcel to the same classification as the adjacent parcel. By doing so, the A-3 segment (if rezoned to R-4), would be conditionally compatible with the Future Land Use Map. There is a high probability that the development constraints faced by the subject parcel will result in a maximum development potential of only one single-family dwelling, even after the two parcels are combined. Based on the hardship identified above, staff finds that the proposed request is consistent with the Volusia County comprehensive plan.

***(2) Its impact upon the environment or natural resources.***

The property is currently undeveloped. Staff finds that in its current state, there is no impact upon the environment. Any future development will require review by the county's environmental staff for wetlands, specimen trees, and protected species. The small parcel size, front yard setbacks, and the presence of the power line corridor are some development constraints that will significantly limit future development potential. Environmental staff does not object to the rezoning, but they will require the applicant to demonstrate compliance with the environmental provisions of the land development code during the development process. Staff finds that the proposed rezoning request will not have an impact on the environment or natural resources as long as the applicant complies with the required environmental codes.

***(3) Its impact upon the economy of any affected area.***

In its current undeveloped state, the parcel has no significant impact on the economy regardless of its zoning classification. The affected area east of the property consists of small lots and is part of an existing rural community.

Under the current A-3 zoning classification, the raising, processing, and sale of agricultural products is possible; however, the small parcel size significantly limits the economic viability of agricultural operations. Rezoning to R-4 to make it consistent with the adjacent, smaller sized lots to the east would not have an impact on the economy of the area.

***(4) Notwithstanding the provisions of Article III, Division 14 of the Land Development Regulations, its impact upon necessary governmental services such as schools, sewage disposal, potable water, drainage, fire and police protection, solid waste or transportation systems.***

The rezoning of this property from A-3 to R-4 is being requested to recognize historical ownership conditions on the official zoning map. Significant constraints will continue to limit the development potential for the parcel. It does not appear that there will be significant impacts to schools, sewage disposal, potable water, drainage, fire and police protection, solid waste, or to the transportation system with the rezoning. If the rezoning is approved, any future development of the property will be required to comply with Volusia County zoning and land development regulations.

***(5) Any changes in circumstances or conditions affecting the area.***

There are no changes in circumstances or conditions affecting the area.

***(6) Any mistakes in the original classification.***

There is a mistake in the property's current zoning classification. The A-3 parcel was held in common ownership with the adjacent R-4 parcel prior to the implementation of the zoning regulations. The zoning boundary was initially drawn geographically to follow the section line, without taking property ownership into consideration. This rezoning provides the opportunity to fix the mistake and make the zoning classification for the small-sized parcel consistent with the smaller-sized, adjacent parcels.

***(7) Its effect upon the use or value of the affected area.***

Changing the zoning classification from A-3 to R-4 will affect the use of the property. The new designation will not allow for agricultural pursuits, including the processing, packaging, storage, and sale of agricultural products that are raised on the premises. It will allow for residential use.

At its current size, the parcel is generally unbuildable due to the large setback requirements of the A-3 zoning classification. Due to the split zoning, the owner is unable to combine the lots that he purchased together, and which were split apart through an action by the Property Appraiser. If the applicant is able to combine the lots and rezone to R-4, the nonconforming lot will become conforming, and the parcel can be developed with at least one single-family residence. With the presence of the 100 foot-wide power transmission line and the yard requirements of the R-4 zoning classification, it is unlikely that the applicant will be able to develop more than one single-family residence. Bringing the parcel from an unbuildable nonconforming lot to a conforming status will increase the value of the property and the affected area.

***(8) Its impact upon the public health, welfare, safety, or morals.***

The property is currently undeveloped. A change in zoning from A-3 to R-4 will have no negative impacts on the public health, welfare, safety, or morals.

**V. STAFF RECOMMENDATION**

Forward the rezoning application, case number Z-18-050 to county council for final action with a recommendation of approval.

**VI. ATTACHMENTS**

- Resolution
- Survey
- Staff Comments
- Map Exhibits

**VII. AUTHORITY AND PROCEDURE**

Pursuant to Section 72-414, the county council shall hold a public hearing after due public notice on all recommendations from the commission. It may accept, reject, modify, return, or seek additional information on those recommendations. No approval of a rezoning application shall be made unless, upon motion, four members of the county council concur. The county council will thereafter forward its decision to the applicant.

Any new information presented at the planning and land development regulation commission for any application will be grounds to continue an application to the next planning and land development regulation commission. Applicants shall inform and provide staff with the new information prior to the planning and land development regulation commission.

Any new information presented at the county council meeting not previously presented to the planning and land development regulation commission for any application will be grounds to return an application to the planning and land development regulation commission for further review. Applicants shall inform and provide staff with the new information prior to the council meeting.



**RESOLUTION 2018-\_\_\_\_\_**

A RESOLUTION OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AMENDING THE OFFICIAL ZONING MAP OF VOLUSIA COUNTY, FLORIDA, BY CHANGING THE ZONING CLASSIFICATION OF CERTAIN HEREIN DESCRIBED PROPERTY FROM A-3 TO R-4; PROVIDING AN EFFECTIVE DATE.

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WHEREAS, in accordance with Chapter 72, Article II, Section 72-414 of Volusia County Code of Ordinance, as amended, the Volusia County Council held public hearings after due public notice on July 24, 2018, on the application of Roger Swartz, owner, Zoning case Z-18-050, for an amendment to the Official Zoning Map of Volusia County; NOW THEREFORE,

BE IT RESOLVED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE THOMAS C. KELLY ADMINISTRATION CENTER, DELAND, FLORIDA, ON THIS 24TH DAY OF JULY A.D. 2018, AS FOLLOWS:

**SECTION I:** In accordance with Volusia County Zoning Ordinance, as amended, the Volusia County Council hereby amends the Official Zoning Map of Volusia County, Florida, from Transitional Agriculture (A-3) zoning classification to the Urban Single-Family Residential (R-4) zoning classification, on the following described real property:

LOTS 1 & 2 E OF OLD SPRING GARDEN RD & N OF SPRING GARDEN AVE BLK  
13 WILSONS DELEON SPRINGS MB 1 PG 131 EXC 50/S RTS PER OR 5046 PG  
531

Parcel No.: 3221-11-00-0080

**SECTION II:** The Zoning Enforcement Official is hereby directed to amend the Official Zoning Map of Volusia County to conform with Section I of this Resolution.

**SECTION III:** This Resolution shall take effect immediately upon its adoption.

DONE AND ORDERED IN OPEN HEARING THIS 24TH DAY OF JULY, A.D. 2018.

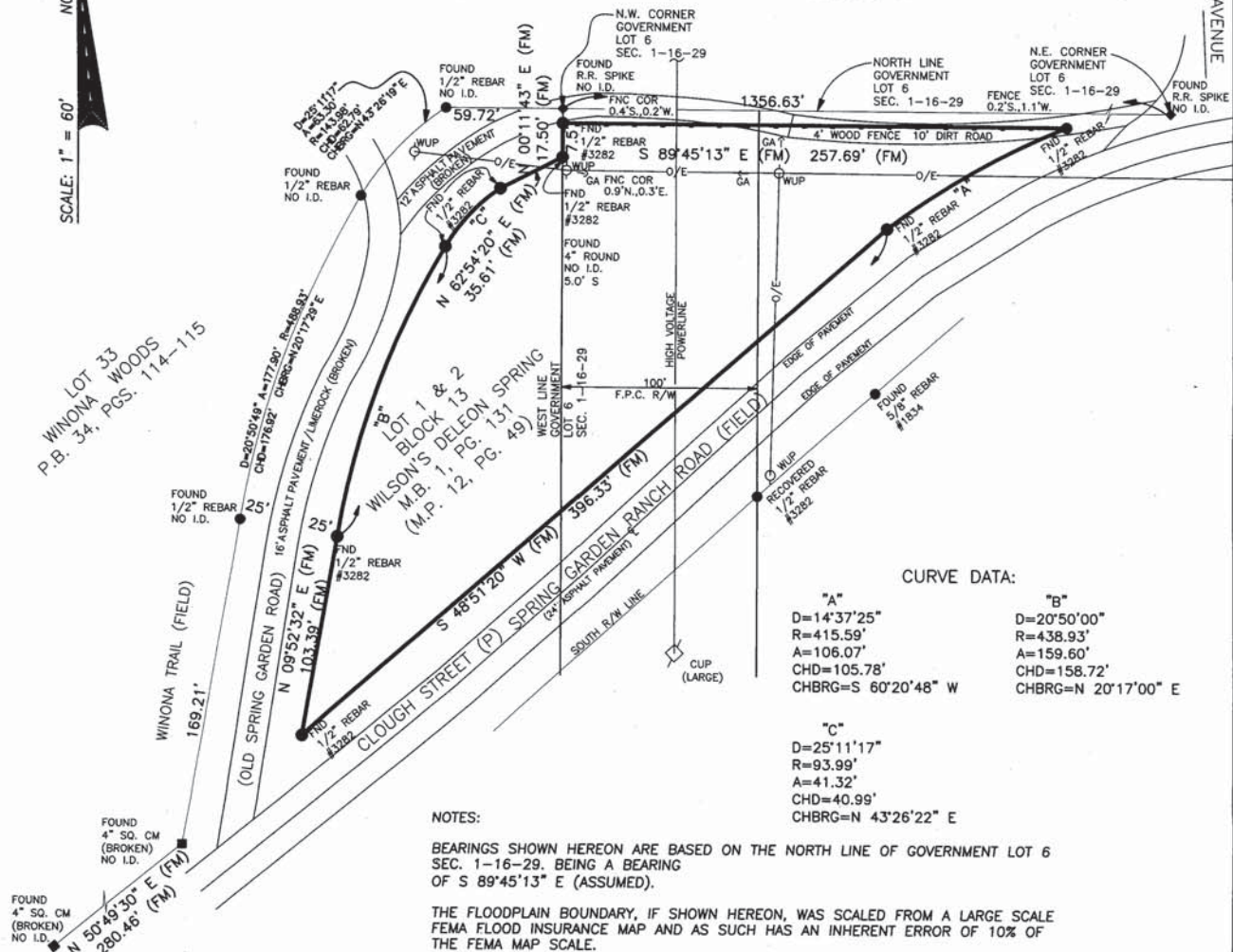
COUNTY COUNCIL  
VOLUSIA COUNTY, FLORIDA

ATTEST: \_\_\_\_\_  
James T. Dinneen  
County Manager

BY: \_\_\_\_\_  
Ed Kelley  
County Chair

SCALE: 1" = 60'

NORTH



BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF GOVERNMENT LOT 6  
SEC. 1-16-29. BEING A BEARING  
OF S 89°45'13" E (ASSUMED).

THE FLOODPLAIN BOUNDARY, IF SHOWN HEREON, WAS SCALED FROM A LARGE SCALE FEMA FLOOD INSURANCE MAP AND AS SUCH HAS AN INHERENT ERROR OF 10% OF THE FEMA MAP SCALE.

UNDERGROUND UTILITIES AND FOUNDATION MAY EXIST AND HAVE NOT BEEN LOCATED,  
EXCEPT AS SHOWN.

I HEREBY CERTIFY THAT THE SURVEY SHOWN HEREON WAS MADE UNDER MY RESPONSIBLE CHARGE AND THAT IT HAS BEEN PREPARED IN ACCORDANCE WITH THE STANDARDS OF PRACTICE (MINIMUM TECHNICAL STANDARDS) AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17, OF THE FLORIDA ADMINISTRATIVE CODE, SECTION 472.027, FLORIDA STATUTES.

LEGAL DESCRIPTION: (OR 5046 PG 531)

The North 639.5 feet of the West 1280.2 feet, EXCEPT the East 1036 feet thereof, Government Lot 6, of Section 1, Township 16 South, Range 29 East, Volusia County, Florida.

AND

That portion of Lots 1 and 2 in Block 13 of WILSON'S DELEON SPRINGS, according to the plat thereof as recorded in Map Book 1, Page 131 of the Public Records of Volusia County, Florida lying Easterly of Old Spring Garden Road and Northerly of existing Spring Garden Ranch Road.

CUP=CONCRETE UTILITY POLE  
GA=GUY ANCHOR  
O/E=OVERHEAD ELECTRIC  
WUP=WOOD UTILITY POLE

BOUNDARY SURVEY RECERTIFIED TO ROGER L. SWARTZ. DATED: MARCH 30, 2018.

BOUNDARY SURVEY REFERENCED TO ROGER L. SWARTZ, DATED: MARCH 30, 2018.					
ABBREVIATIONS	A=Arc Length C=Center Line BM=Benchmark C=Center Line CATV=Cable TV Service C=Concrete Block L=Interior Bearing C=Chord Distance	CONC=Concrete C=Center (Central Angle) D=Dred Canal ELEV=Elevation L=Line F=Finish Floor Elevation T=Total Field Measurement F/M=Force Main	INV=Invert L=Length of Arc LS=Land Surveying Station LS=Land Surveyor (Registered) M=Map Book M=Monument T=Total Field Measurement O.R.=Official Record Book	(P)=Pit L=Length of Curve PCP=Permanent Control Point PC=Point of Reverse Curve PM=Permanent Reference Monument SP=Point of Street Intersection PVC=Proposed-Vegetation R=Radius of Curve or Road Line	RCP=Reinforced Concrete Pipe LS=Licensed Land Surveyor T=Target TM=Temporary Benchmark P=POLE W=Water M=WITH WATER METER REC=RECORDED
	This Plot of Survey is certified to and prepared for the sole and exclusive benefit of the entities and/or individuals shown herein, valid on the most current date shown herein, and shall not be relied upon by any other entity or individual whomsoever.	This Survey / Sketch has been prepared without benefit of abstract or title search unless otherwise noted herein.	There may be additional restrictions and/or other matters of record not shown on this Survey. Sketch that may be found in the Public Records of the county or contained within the Title Commitment.		
NOTES					

NOT VALID WITHOUT THE SIGNATURE  
AND THE ORIGINAL RAISED SEAL OF  
A FLORIDA LICENSED SURVEYOR  
AND MAPPER.

BLACKWELL & ASSOCIATES  
LAND SURVEYORS, INC.

P.O. BOX 1013 • ORANGE CITY, FL.  
995 W. VOLUSIA AVE. • DELAND, FL. • PH: (386)-734-8050

BOUNDARY SURVEY CERTIFIED TO:

ROGER L. SWARTZ

SYMBOLS :

- = REBAR FOUND (SIZE SHOWN HEREON)
- = 1/2" REBAR & CAP SET
- = 4"x4" CONCRETE MONUMENT & CAP SET
- = CONCRETE MONUMENT FOUND (SIZE SHOWN HEREON)
- = R.L.S. DISC/NAIL FOUND (SIZE SHOWN HEREON)
- = R.L.S. DISC/NAIL SET
- = IRON PIPE FOUND (SIZE SHOWN HEREON)
- ◆ = RAILROAD SPIKE FOUND
- = BOLT FOUND (SIZE SHOWN HEREON)
- = P/K NAIL FOUND

DATE : 4/4/03

DATE : 4/4/03  
W.O. No. 3-265-03

DRAWN BY : CADD/TLW

FIELD BOOK : 485/04

FILE No. : 3-265-03

BLACKWELL & ASSOCIATES  
LAND SURVEYORS, INC.  
(LB-#2791)

ROBERT R. EVERS  
REGISTERED LAND SURVEYOR  
FLORIDA CERTIFICATE No. 5075

*Inter-Office  
Memorandum*



**TO:** Patricia Smith, Planner II     **DATE:** May 14, 2018

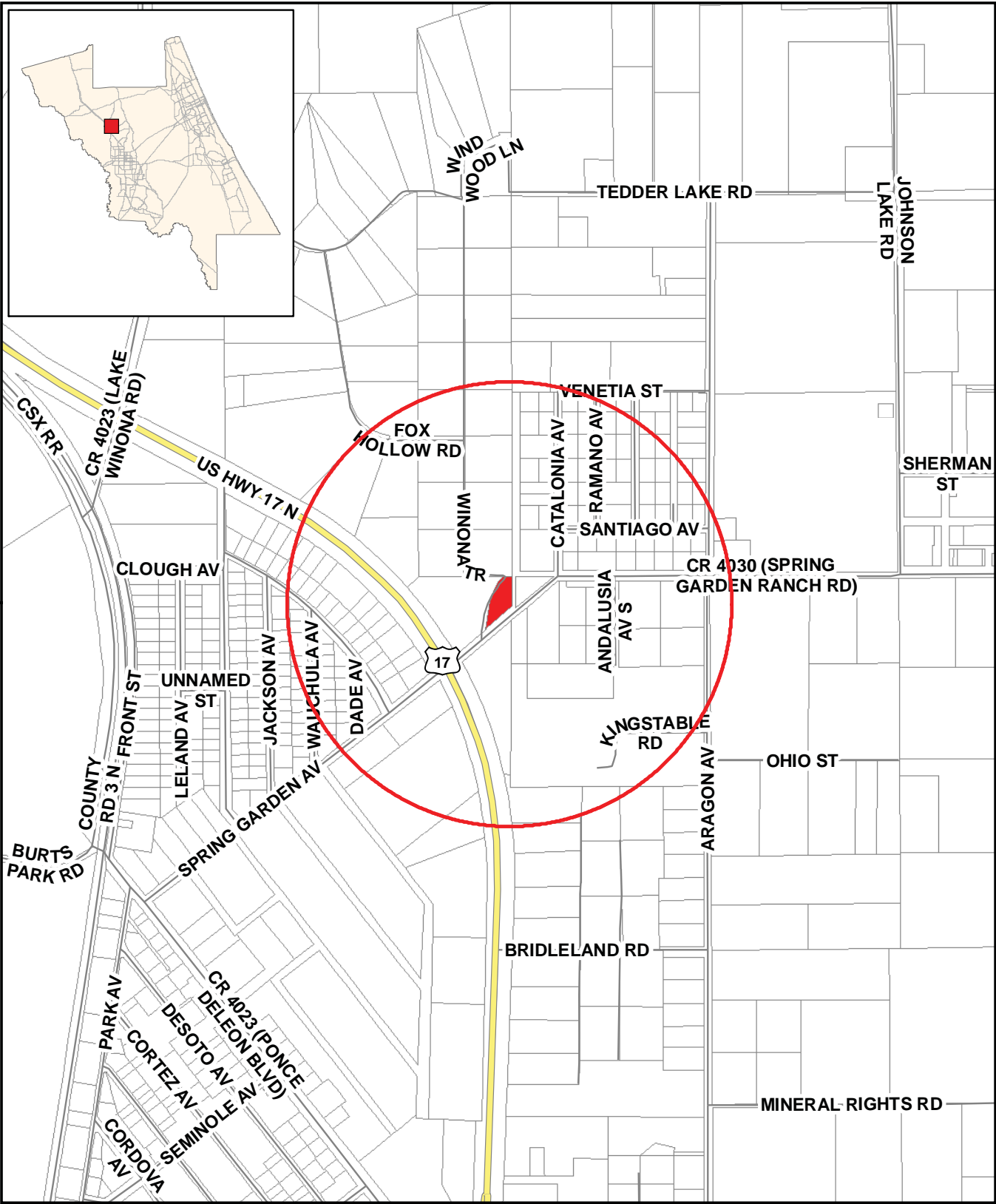
**FROM:** Keith Abrahamson, Environmental Specialist III

**SUBJECT:** Planning & Land Development Regulation Commission meeting for  
Date: June 21, 2018  
Parcel #: 6938-01-13-0012  
Case #: Z-18-050

Environmental Permitting (EP) has reviewed the application and conducted a site inspection for this project. This parcel contains historic live oaks. Portions of the property contain suitable habitat for the gopher tortoise (GT), a threatened species. Per Section 72-1140 of the Land Development Code. If any GT burrows are found on site and their 25 foot buffers cannot be avoided, a Florida Fish and Wildlife Conservation Commission GT relocation permit will be required.

EP does not object to the rezoning on a conceptual level, But EP may request adjustments to plans during future reviews, when the applicant will be required to demonstrate compliance with the environmental provisions of the land development regulations. This will include tree protection, tree minimum standards, tree removal and replacement, and gopher tortoise requirements. Additional information may be requested at that time.

PROPERTY LOCATION  
Z-18-050



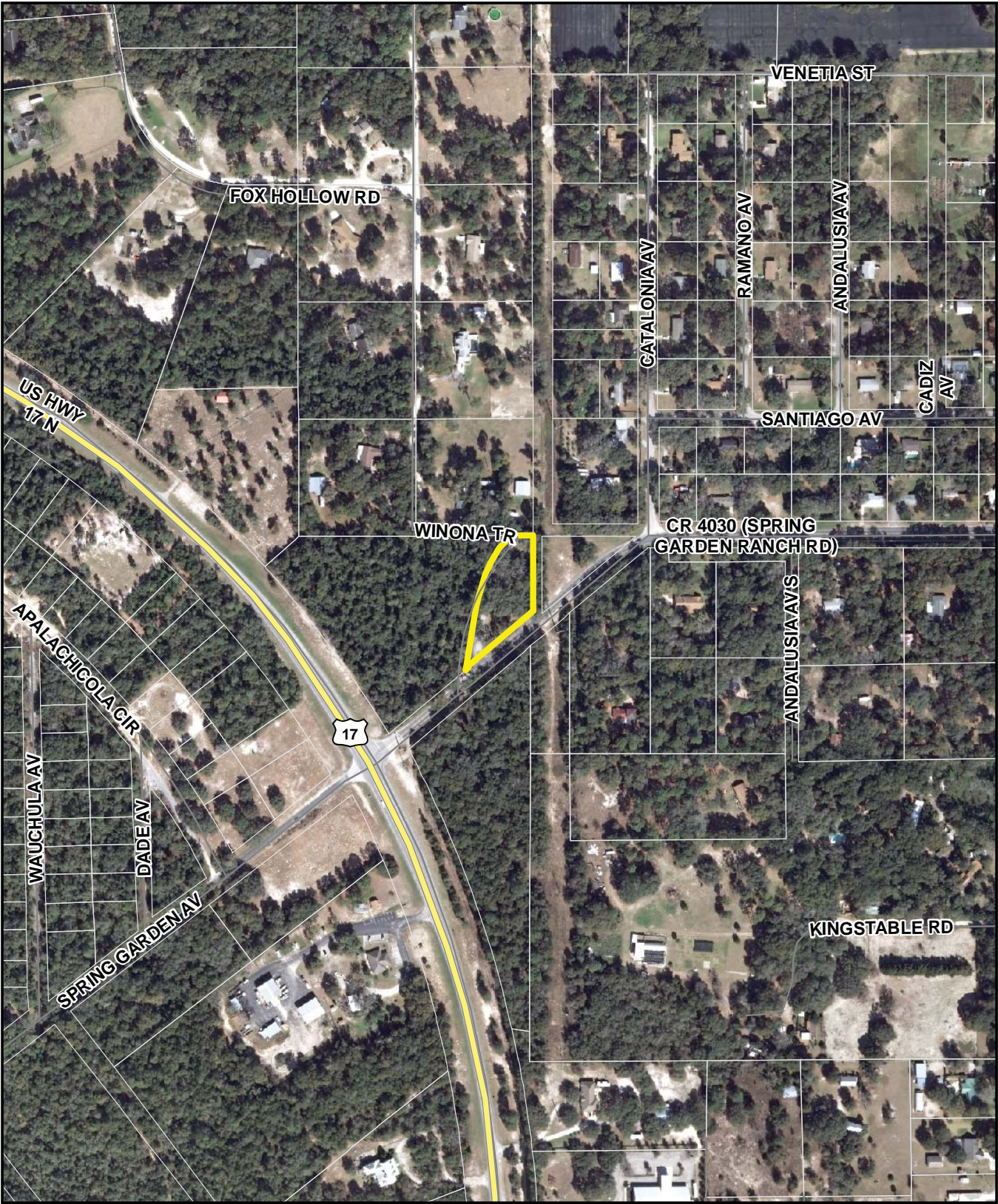
 SUBJECT PROPERTY



1" = 1,000'  
4/30/2018



AERIAL  
Z-18-050



 SUBJECT PROPERTY

IMAGE DATE 2015



1 " = 400 '  
4/30/2018






# ZONING CLASSIFICATION

## Z-18-050



 SUBJECT PROPERTY

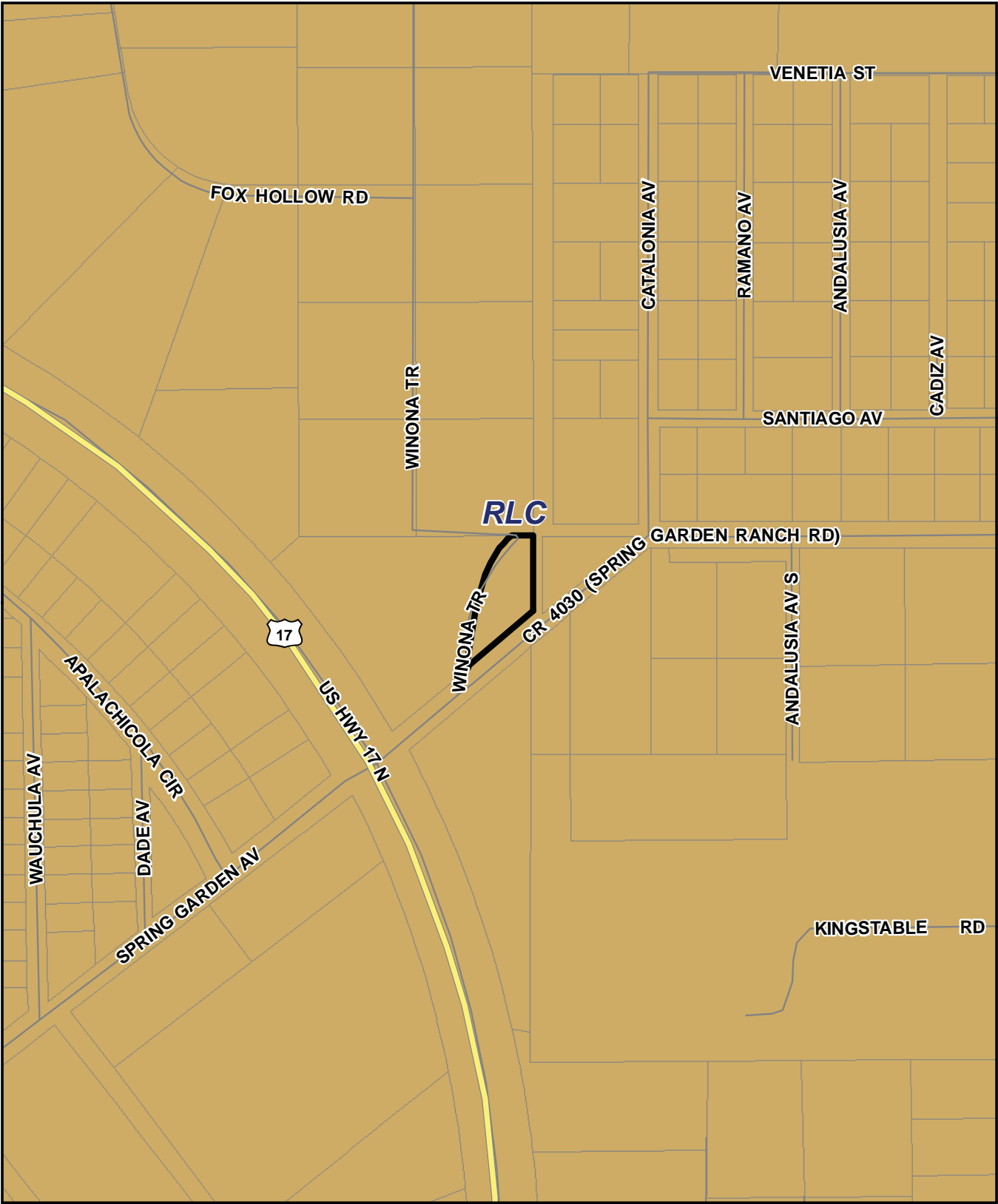
 COMMERCIAL  AGRICULTURAL  
 RESIDENTIAL

FROM: A-3  
TO: R-4



1" = 400'  
4/30/2018

FUTURE LAND USE  
Z-18-050



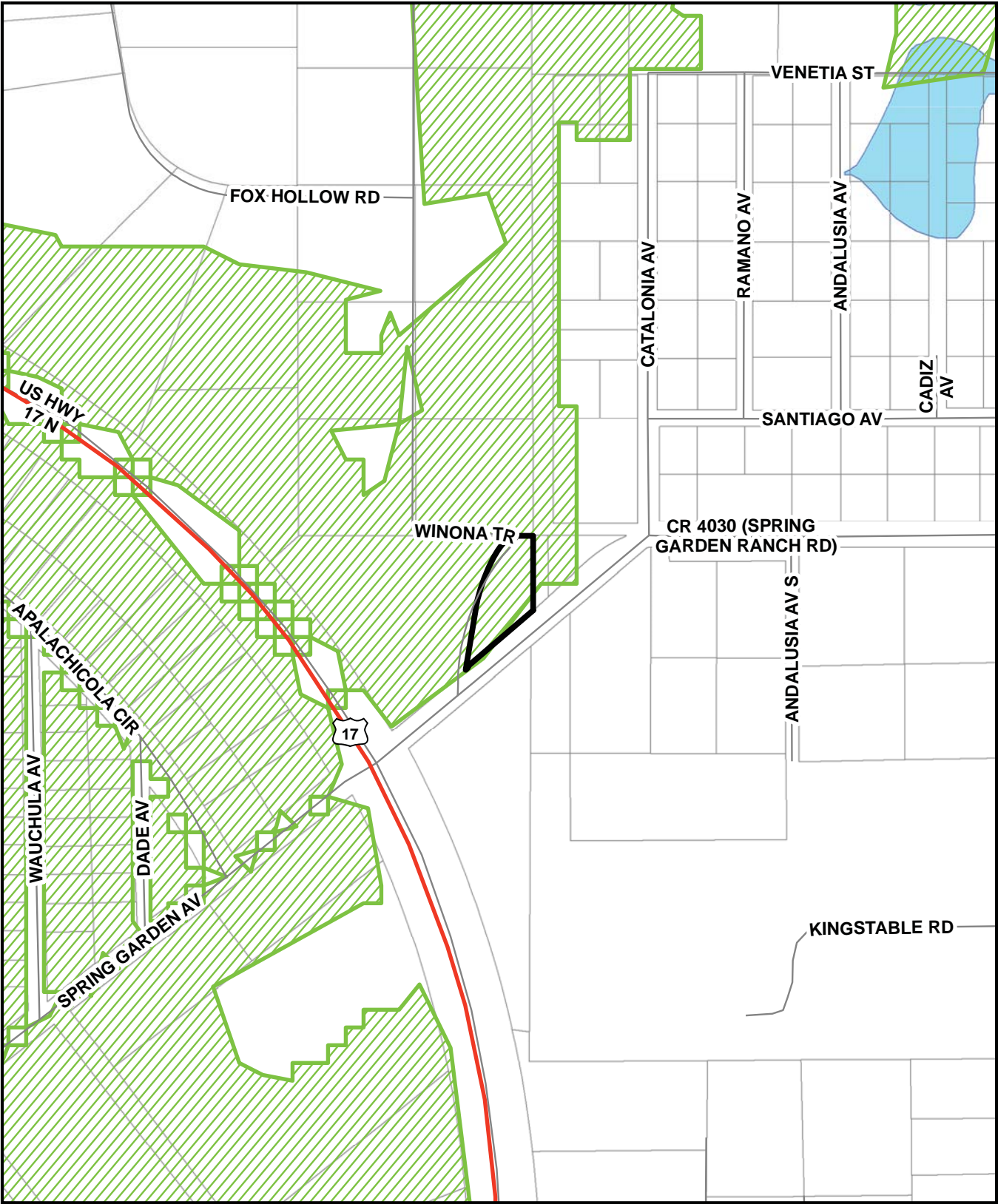
 SUBJECT PROPERTY




 RURAL COMMUNITY



1" = 400'  
4/30/2018

ECO/NRMA OVERLAY  
Z-18-050



-  SUBJECT PROPERTY
-  ECO
-  NRMA



1" = 400'  
6/13/2018