



Interoffice Memorandum

October 3, 2023

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

FROM: Andres Salcedo, P.E., Acting Director
Planning, Environmental and Development
Services Department *Andres*

CONTACT PERSON: Jason Sorensen, AICP, Chief Planner
Planning Division
(407) 836-5602

SUBJECT: October 24, 2023 – Board-Called Rezoning Public Hearing
Asif Huda Khan
RZ-23-07-057 / District 3

The subject property is located at 1975 4th Street, generally located north of 4th street, west of Hoenstine Avenue, and south of Pine Street. The applicant is seeking to rezone the property from A-2 (Farmland Rural District) to R-2 Restricted (Residential District) in order to allow for 80 age-restricted townhome units.

On August 17, 2023, the Planning and Zoning Commission (PZC) recommended approval of the request on a 6 to 2 vote with one restriction which limits the project to an age restriction of 55+. At the hearing, there were two members of the public who spoke in favor of the request and five who spoke in opposition. Commissioners had comments and questions related to wetlands, density, traffic, and crime.

A community meeting was held on July 27, 2023. There were 28 members of the community in attendance. The residents expressed opposition to the proposed development stating concerns of incompatibility, lack of services in the area for seniors, flooding, and traffic. One resident was in favor of the proposal as it would be beneficial for veterans 55 plus who are looking for residence in close proximity to the VA hospital in Lake Nona.

Finally, the required Specific Project Expenditure Report and Relationship Disclosure Forms have been completed in accordance with the requirements of Article X, Chapter 2, Orange County Code, as may be amended from time to time, and copies of these may be found in the Planning Division for further reference.

ACTION REQUESTED: Make a finding of consistency with the Comprehensive Plan (CP) and approve the requested R-2 Restricted (Residential District) zoning, subject to one restriction listed under the PZC Recommendation in the staff report.
District 3

AS/JS
Attachments

CASE # RZ-23-07-057

Commission District: #3

GENERAL INFORMATION

APPLICANT: Asif Huda Khan, Land Markis, LLC

OWNERS: J & B Trust, Belkis & Jose Luis Guzman Trustee

HEARING TYPE: Planning and Zoning Commission – Board Called Rezoning

REQUEST: **A-2** (Farmland Rural) **to**
R-2 Restricted (Residential District)

LOCATION: 1975 4th St; generally south of Pine Street, west of Hoenstine Avenue and north of 4th Street

PARCEL ID NUMBER: 06-24-30-7268-00-040

SIZE/ ACREAGE: 8.89-gross acres

PUBLIC NOTIFICATION: The notification area for this public hearing was 500 feet [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Four hundred twelve (412) notices were mailed to those property owners in the surrounding area.

COMMUNITY MEETING: An in-person community meeting was held on July 27, 2023, and is summarize further in this report.

PROPOSED USE: Eighty (80) single-family attached dwelling units (Townhomes) Age Restricted

STAFF RECOMMENDATION

PLANNING

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the requested R-2 Restricted (Residential District) zoning, subject to the following restriction:

- 1) Because the project includes approval for senior housing, the developer shall restrict occupancy to senior adults that comply with the requirements of the Housing for Older Persons Act [42 U.S.C. §3607(b).] No permanent residency by school-aged children shall be generated as a result of any development on this property. Any proposed future conversion of the senior housing to unrestricted housing or any proposal to add permanent residency by school-aged children shall require a rezoning that must be approved by the BCC at a public hearing. If the rezoning is approved, school impact fees in effect at that time shall be paid and the project shall comply with any school capacity and school concurrency regulations in effect at that time.

SUBJECT PROPERTY ANALYSIS

Overview

The applicant is seeking to rezone the subject parcel from A-2 (Farmland Rural District) to R-2 Restricted (Residential District) with the intent to construct eighty (80) single-family attached dwelling units. The proposed development is intended to be age restricted, fifty-five plus (55+).

Through this rezoning, the development shall be a deed restricted fifty-five plus (55+) community. At the time of Preliminary Subdivision Plan (PSP) review, there will be an additional condition of approval which will require a restriction to 55+ in the CC&R's (Covenants and Restrictions) at the time of platting. If the restriction is proposed at any point to be removed, a rezoning would be required to remove the zoning restriction and an OCPS capacity determination would be required.

The subject property is partially developed with an abandoned single-family residence and is otherwise undeveloped. The area surrounding the subject property consists primarily of single-family residential developments to the east, south, and west. A religious use is also located to the west, and the industrial use to the north is within the City of Orlando. The Future Land Use Map (FLUM) designates the subject property as Low-Medium Density Residential (LMDR) and this rezoning request will bring the property into conformance with the underlying FLUM designation.

Land Use Compatibility

The R-2 (Residential District) zoning would allow for development that is compatible with the character of the surrounding area and would not adversely impact adjacent properties.

Site Analysis

Rural Settlement

The subject property is not located within a Rural Settlement.

Joint Planning Area (JPA)

The subject property is not located in a JPA.

Overlay District Ordinance

The subject property is not located within an Overlay District.

Airport Noise Zone

The subject property is not located in an Airport Noise Zone.

Code Enforcement

Parcel ID: 06-24-30-7268-00-040

Inspector: Mark McSwain

Incident #: 618354 / Case #: CEB-2023-477357H

Description: Abatement (abandon home must be demolished/unhabitable)

Comprehensive Plan (CP) Consistency

The underlying CP Future Land Use Map (FLUM) designation of the subject property is Low-Medium Density Residential (LMDR) which allows consideration of up to ten (10) units per acre. The proposed R-2 Restricted (Residential District) zoning is consistent with the Low-Medium Density Residential (LMDR) FLUM designation, therefore a CP amendment is not necessary. The proposed request is consistent with the following Comprehensive Plan provisions:

FLU1.4.2 states that Orange County shall ensure that land uses changes are compatible with and serve existing neighborhoods.

FLU1.4.4 states that the disruption of residential areas by poorly located and designed commercial activities shall be avoided.

FLU8.1.1 states that the zoning and future land use correlation shall be used to determine consistency with the Future Land Use Map. Land use compatibility, the location, availability and capacity of services and facilities, market demand, and environmental features shall also be used in determining which specific zoning district is most appropriate. Density is restricted to the maximum and minimum allowed by the Future Land Use Map designation regardless of zoning.

OBJ FLU8.2 states that compatibility will continue to be the fundamental consideration in all land use and zoning decisions.

FLU8.2.1 states that land use changes shall be required to be compatible with existing development and development trend in the area. Performance restrictions and/or conditions may be placed on property through the appropriate development order to ensure compatibility. No restrictions or conditions shall be placed on a Future Land Use Map change.

FLU8.2.2 states that continuous stretches of similar housing types and density of units shall be avoided. A diverse mix of uses and housing types shall be promoted.

H1.3.8 states that in order to stabilize and improve existing neighborhoods, Orange County shall continue to support compatible infill development in existing neighborhoods where infrastructure already exists.

FLU8.2.11 states that compatibility may not necessarily be determined to be a land use that is identical to those uses that surround it. Other factors may be considered, such as the design attributes of the project, its urban form, the physical integration of a project and its function in the broader community, as well its contribution toward the Goals and Objectives in the CP. The CP shall specifically allow for such a balance of considerations to occur.

SITE DATA

Existing Use	Vacant Residential
Adjacent Zoning	N: City of Orlando E: R-1AA (Single-Family Dwelling District) A-2 (Farmland Rural District) W: R-1 (Single-Family Dwelling District) City of Orlando S: City of Orlando
Adjacent Land Uses	N: City of Orlando E: Single-Family Residence W: Church, Single-Family Residence S: City of Orlando

R-2 (Residential District) Development Standards

One-Family Dwelling

Min. Lot Area:	4,500 sq. ft.
Min. Lot Width:	45 ft.
Max. Height:	35 ft.
Min. Living Area:	1,000 sq. ft.
Building Setbacks:	
<i>Front:</i>	20 ft.
<i>Rear:</i>	20 ft.
<i>Side:</i>	5 ft.
<i>Side Street:</i>	15 ft.

Two Dwelling Units

Min. Lot Area:	8,000 sq. ft. / 9,000 sq. ft.
Min. Lot Width:	80 ft. / 90 ft.
Max. Height:	35 ft.
Min. Living Area:	500 sq. ft. / 1,000 sq. ft.
Building Setbacks:	
<i>Front:</i>	20 ft.
<i>Rear:</i>	20 ft.
<i>Side:</i>	5 ft.
<i>Side Street:</i>	15 ft.

Three Dwelling Units

Min. Lot Area:	11,250 sq. ft.
Min. Lot Width:	85 ft. (attached units only)
Max. Height:	35 ft.
Min. Living Area:	500 sq. ft. per dwelling unit
Building Setbacks:	
<i>Front:</i>	20 ft.
<i>Rear:</i>	30 ft.

Side:	10 ft.
Side Street:	15 ft.

Four or More Dwelling Units

Min. Lot Area:	15,000 sq. ft.
Min. Lot Width:	85 ft.
Max. Height:	35 ft.
Min. Living Area:	500 sq. ft. per dwelling unit
Building Setbacks:	
Front:	20 ft.
Rear:	30 ft.
Side:	10 ft. (30 ft. where adjacent to single-family)
Side Street:	15 ft.

* These regulations may not reflect the actual requirements for all situations; see the Orange County Zoning Code for actual regulations for site requirements for this zoning district.

Permitted Uses

The R-2 (Residential District) zoning district is composed of lands and structures used primarily for the construction of detached and attached single-family dwelling units, containing a maximum of four (4) units per building and associated residential uses.

Specific uses shall be identified by the letter "P" in the use table set forth in Section 38-77 of the Orange County Code.

SPECIAL INFORMATION**Staff Comments****Environmental**

Binding Determination of Exemption (BDE) - EPD has no record of a Conservation Area Determination (CAD) for this site to verify the presence or absence of wetlands on site. The site contains portions of semi-hydric soils as a potential indicator of wetlands. It is recommended that the applicant submit a Binding Determination of Exemption to Orange County EPD to confirm if there are no wetlands on site.

Habitat Protection - Development of the subject property shall comply with all state and federal regulations regarding wildlife and plants listed as imperiled species (endangered, threatened, or species of special concern). The applicant is responsible to determine the presence of these concerns and to verify and obtain, if necessary, any required habitat permitting of the U.S. Fish and Wildlife Service (USFWS) and the Florida Fish & Wildlife Conservation Commission (FWC).

Existing Septic and Well - If any existing septic tanks or wells are required or in use, the applicant shall notify the Florida Department of Health (FDOH) and local Water Management District, about the system permit application, modification or abandonment prior to earthwork or construction. Permits shall be applied for and issued by the appropriate agencies. Contact the FDOH for the septic system and both FDOH and the Water Management District for wells. Refer to Orange County Code Chapter 37 Water

and Wastewater, Article XVII Individual On-Site Sewage Disposal for details on Individual On-Site Sewage Disposal.

Demolition - Prior to demolition or construction activities associated with existing structures, provide a Notice of Asbestos Renovation or Demolition form to the Orange County Environmental Protection Division (EPD). For more information, or to determine if an exemption applies, contact the EPD Air Quality Management staff at 407-836-1400 or AsbestosInquiriesOrangeCounty@ocfl.net. Reference OC Code Chapter 15 Environmental Control, Article III Air Quality Control, Division 4 Asbestos requirements, Sec.108 Notification procedure and requirements, Subsection A(1)

Erosion Control - Use caution to prevent erosion during construction along the boundary of the property, into surface waters, wetlands and buffers, and into all drainage facilities and ditches. Construction will require Best Management Practices (BMPs) for erosion control. Minimize the extent of area exposed at one time, apply perimeter controls where necessary, and perform maintenance checks every seven (7) days and after every 1/2 inch rain. The construction entry area shall be designed to prevent trucks from tracking soil onto local roads and the affected storm drainage system shall be protected. This may require periodic street sweeping. Reference OC Code Chapter 34 Subdivision Regulations, Article VII Stormwater Management, Division 2 General Design Criteria, Sec. 250 Open Drainage Facilities, (g).

Transportation / Access

Based on the Concurrency Management database (CMS) dated 6/14/2023, capacity exists within the project's impact area. This information is dated and subject to change. Prior to building permit approval, a Concurrency Application through the Concurrency Management office will be required. A Traffic Study may be required at that time.

Schools

No school capacity determination is required as long as the project remains a 55+ community. If this community becomes unrestricted, a capacity determination will be required.

Parks and Recreation

No comments.

Community Meeting Summary

A community meeting was held on July 27, 2023. Twenty-eight (28) members of the community attended. The residents expressed opposition to the proposed development stating concerns of incompatibility, lack of services in the area for seniors, flooding, and traffic. One resident was in favor of the proposed 80 townhomes development as it would be beneficial for veterans 55 plus who are looking for residence in close proximity to the VA hospital in Lake Nona.

Utilities

Water: Taft Water Association

Wastewater: City of Orlando

Reclaim Water: City of Orlando

Detailed Utility Information:

This property is within the Taft Water Association Water Service Area.

This property is within City of Orlando Wastewater and Reclaimed Water Service Area.

State of Florida Notice

Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

Specific Project Expenditure Report and Relationship Disclosure Form

The original Specific Project Expenditure Report and Relationship Disclosure Form are currently on file with the Planning Division.

ACTION REQUESTED

Planning and Zoning Commission (PZC) Recommendation – (August 17, 2023)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the R-2 Restricted (Residential District) zoning, subject to restriction:

- 1) Because the project includes approval for senior housing, the developer shall restrict occupancy to senior adults that comply with the requirements of the Housing for Older Persons Act [42 U.S.C. §3607(b).] No permanent residency by school-aged children shall be generated as a result of any development on this property. Any proposed future conversion of the senior housing to unrestricted housing or any proposal to add permanent residency by school-aged children shall require a rezoning that must be approved by the BCC at a public hearing. If the rezoning is approved, school impact fees in effect at that time shall be paid and the project shall comply with any school capacity and school concurrency regulations in effect at that time.

PLANNING AND ZONING COMMISSION (PZC) PUBLIC HEARING SYNOPSIS

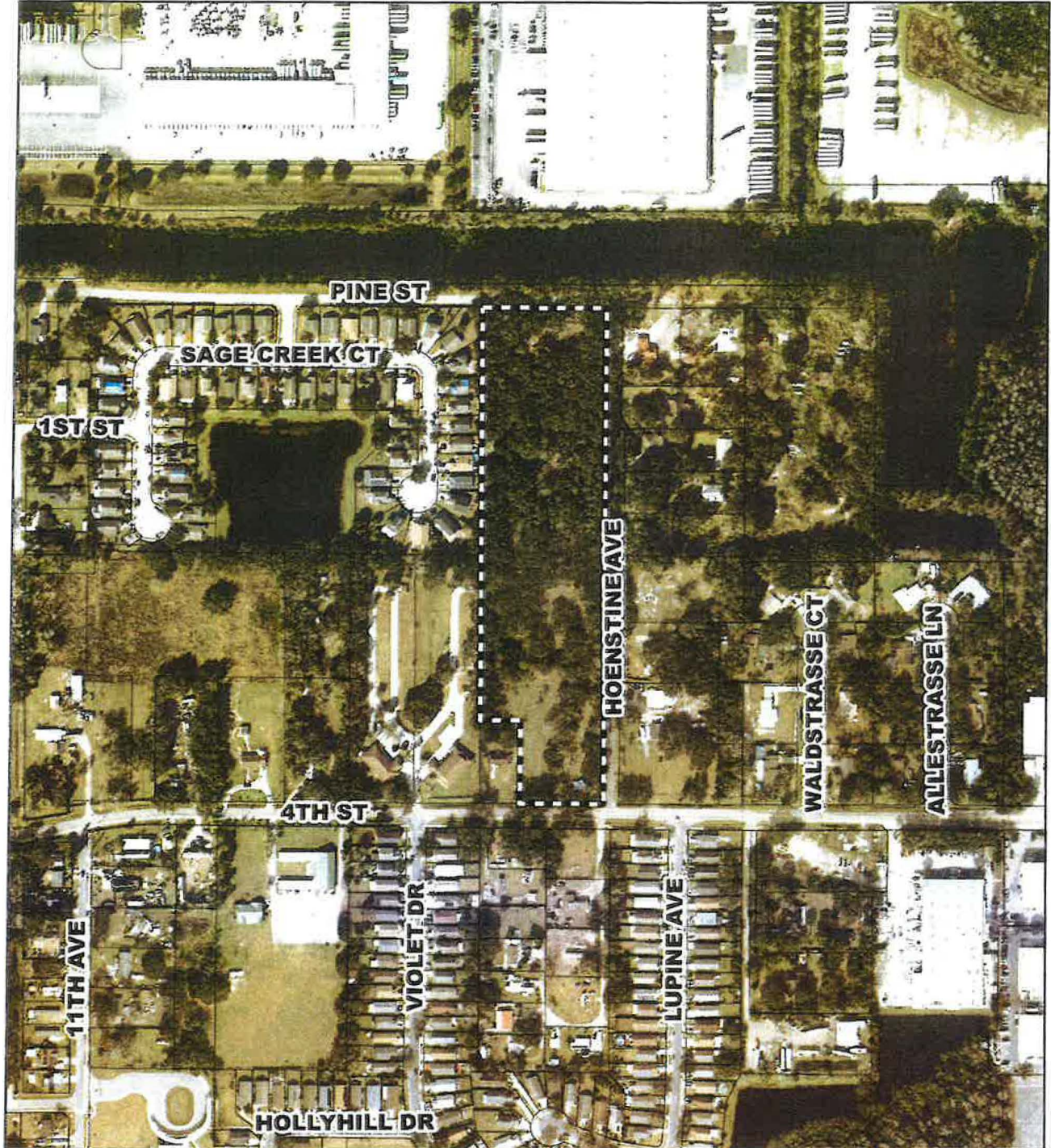
The staff report was presented with the recommendation that the PZC make a finding of consistency with the Comprehensive Plan and recommend approval of the requested R-2 Restricted (Residential District) zoning. The applicant was present and agreed with the staff recommendation. Three members of the community spoke in opposition of the request during public comment and two spoke in favor of the proposed development.

Staff indicated that four hundred twelve (412) notices were mailed to those property owners in the mailing area extending 500 feet of the surrounding property, and that staff received twenty (20) commentaries in opposition to the request and one (1) in support. Some of the concerns mentioned were lack of services, traffic, loss of Florida wildlife, incompatibility with the surrounding neighborhood, and homelessness in the area. During public comments two (2) members of the public were present and spoke in support of the request and five (5) members of the public were present to speak in opposition of the request, with concerns that there is no guarantee to keep the development 55+, flooding, homeless, drugs, traffic, stormwater retention, crime, and parking.

After discussion addressing wetlands, density, traffic, and crime, a motion was made by Commissioner Fernandez, and seconded by Commissioner Evans to recommend approval of the requested R-2 Restricted (Residential District) zoning, subject to one (1) restriction. The motion carried on a 6-2 vote.

Motion / Second	<i>Eddie Fernandez / Camille Evans</i>
Voting in Favor	<i>Eddie Fernandez, Camille Evans, Gordon Spears, Nelson Pena, Evelyn Cardenas, Michael Arrington</i>
Voting in Opposition	<i>George Wiggins / David Boers</i>
Absent	<i>Walter Pavon</i>

RZ-23-07-057

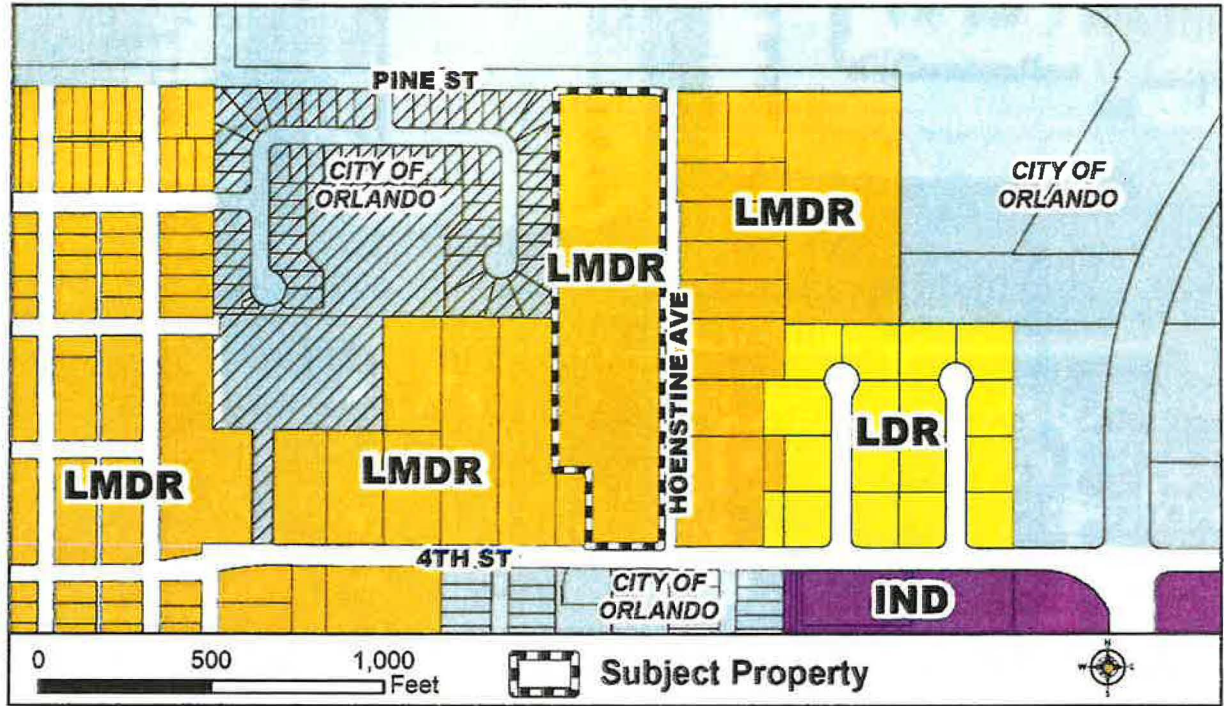


 Subject Property

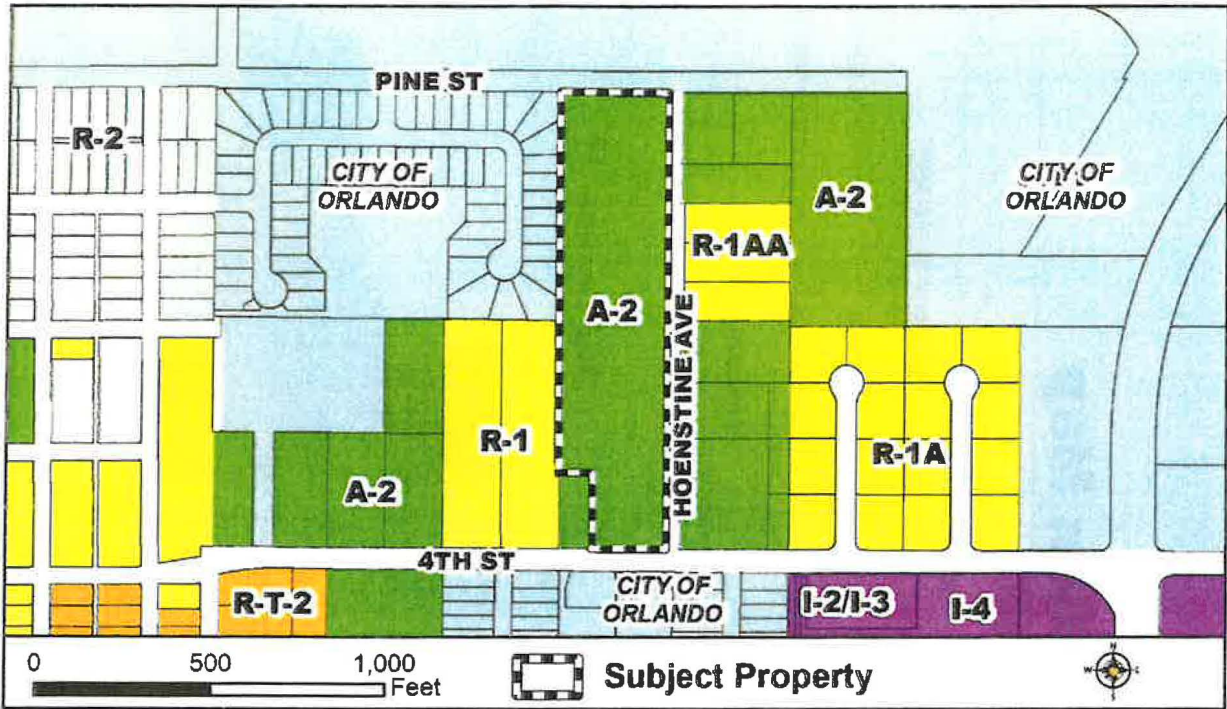


1 inch = 335 feet

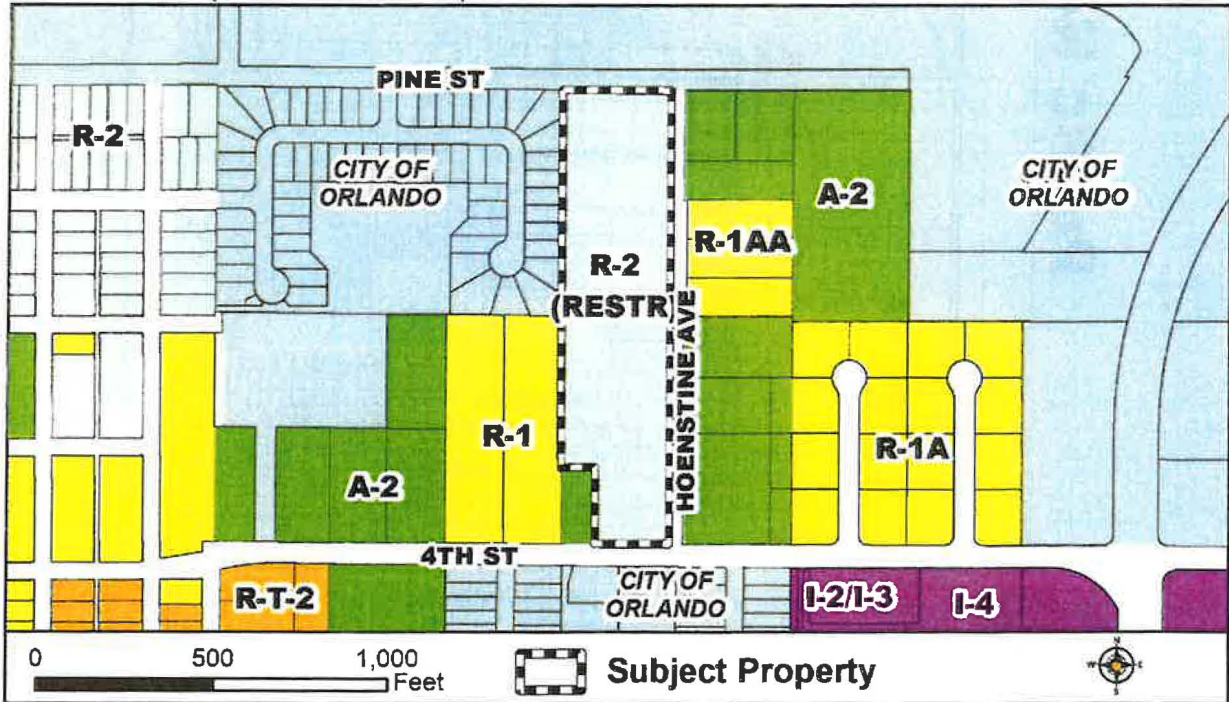
FUTURE LAND USE – CURRENT
Low-Medium Density Residential (LMDR)



ZONING – CURRENT
A-2 (Farmland Rural)



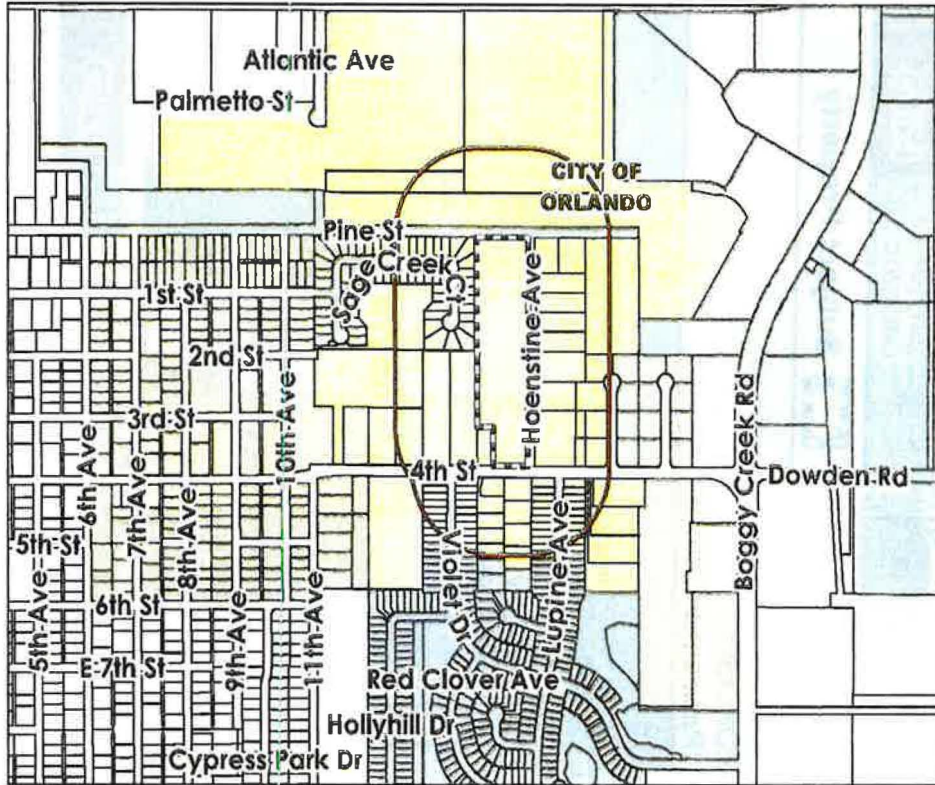
ZONING – PROPOSED
R-2 Restricted (Residential District)





Public Notification Map

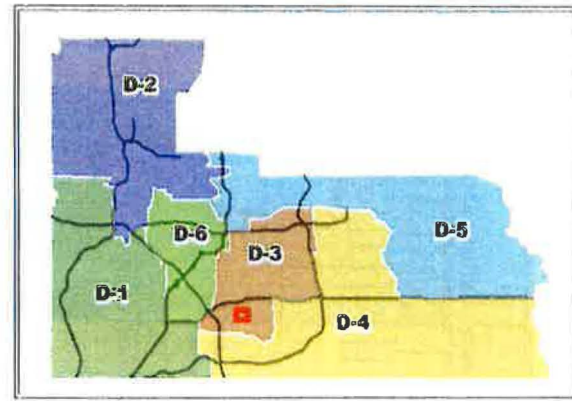
RZ-23-07-057



MAP LEGEND

	SUBJECT SITE		NOTIFIED PARCELS
	500FT BUFFER		COURTESY PARCELS
	1 MILE BUFFER		
	PARCELS		

BUFFER DISTANCE: 500
OF NOTICES: 412



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NOTIFICATION MAP

Rezoning Staff Report
 Case # RZ-23-07-057
 BCC Hearing Date: October 24, 2023