




Interoffice Memorandum

DATE: May 1, 2023

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

THROUGH: Tim Boldig, Interim Director
Planning, Environmental, and Development Services Department

FROM: Alberto A. Vargas, MArch., Manager, Planning Division

SUBJECT: Adoption Public Hearing – May 23, 2023, Small-Scale Future Land Use Map Amendment
Applicant: Glenys Rojas
SS-23-04-007

Please find the attached staff report and associated back-up material for the **Small-Scale Future Land Use Map Amendment** scheduled for a Board adoption public hearing on May 23, 2023.

The subject property is located at 1421 Victor Drive; generally bounded by Victor Drive to the south, S Roger Williams Road to the west, Rolling Green Drive to the north and Busbee Avenue to the east. The request is to change the Future Land Use Map designation from Commercial (C) to Low-Medium Density Residential (LMDR). The applicant is proposing one duplex (two residential units). There is no change to the zoning required since it is already R-2 (Residential District)

A virtual community meeting was held on April 3, 2023, with no residents in attendance.

The adoption public hearing for Small-Scale Development Amendment SS-23-04-007 was conducted before the Planning and Zoning Commission / Local Planning Agency on April 20, 2023, where the request was recommended for approval.

If the Board adopts the proposed amendment, the Small-Scale Development Amendment will become effective 31 days after the public hearing, provided no challenges are brought forth for this amendment.

Any questions concerning this document should be directed to Alberto A. Vargas, MArch, Manager, Planning Division, at 407-836-5802 or Alberto.Vargas@ocfl.net, or Jason Sorensen, AICP, Chief Planner, at 407-836-5602 or Jason.Sorensen@ocfl.net.

**ACTION REQUESTED: Make a finding of consistency with the Comprehensive Plan and ADOPT the Low-Medium Density Residential (LMDR) Future Land Use Map designation and APPROVE the associated ordinance.
District 2**

TB/JHS/np

c: Jon V. Weiss, P.E., Deputy County Administrator
Joel Prinsell, Deputy County Attorney
Whitney Evers, Assistant County Attorney
Roberta Alfonso, Assistant County Attorney
Jason Sorensen, AICP, Chief Planner, Planning Division
Olan D. Hill, AICP, Assistant Manager, Planning Division
Nicolas Thalmueller, AICP, Planning Administrator, Planning Division

CASE # SS-23-04-007

Commission District: #2

GENERAL INFORMATION

APPLICANT: Glenys Rojas

OWNER: Marilyn Castillo

HEARING TYPE: Small-Scale Future Land Use Map (FLUM) Amendment

REQUEST: **Commercial (C) to
Low-Medium Density Residential (LMDR)**

LOCATION: 1421 Victor Drive; generally bounded by Victor Drive to the south, S Roger Williams Road to the west, Rolling Green Drive to the north and Busbee Avenue to the east.

PARCEL ID NUMBER: 14-21-28-8876-00-110

SIZE/ ACREAGE: 0.47-gross acre

PUBLIC NOTIFICATION: The notification area for this public hearing was 600 feet [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. One hundred forty-three (143) notices were mailed to those property owners in the surrounding area.

COMMUNITY MEETING: A virtual community meeting was held on April 03, 2023, and is summarized further in this report.

PROPOSED USE: One (1) Duplex (two residential units)

STAFF RECOMMENDATION

PLANNING

Make a finding of consistency with the Comprehensive Plan and recommend ADOPTION of the requested Low-Medium Density Residential (LMDR) Future Land Use Map designation.

SUBJECT PROPERTY ANALYSIS

Overview

Through this request the applicant is seeking to amend the Future Land Use designation from Commercial (C) to Low-Medium Density Residential. The proposed Future Land Use will correct the inconsistency with the existing R-2 (Residential District) zoning. The applicant intends to keep the existing duplex on the property and obtain all required permits through the Orange County permitting divisions to bring this property into compliance with Orange County Code.

On October 20, 2005, a rezoning request (case no. RZ-05-09-113) was heard in front of the Planning and Zoning Commission to rezone from R-2 (Residential District) to C-1 (Retail Commercial District). The Planning and Zoning Commission recommended approval of the rezoning request with the restriction for a six-foot masonry wall or six-foot PVC (vinyl type) fence to be constructed along the northern and eastern property lines. On December 6, 2005, the Board of County Commissioners voted aye and found the rezoning request to be inconsistent with the Comprehensive Policy Plan; and further, denied the request for the owner at the time to rezone from Residential District R-2 (Residential District) to Retail Commercial District (C-1), on the subject property.

In 2021, the property owner sold the subject property to Marilyn Castillo. Prior to purchase, the subject property was altered from a single-family home into a duplex, which the current owner altered further with an addition and structural alterations to the residence. In May of 2021, the new owner received their first code violation for tree debris which was addressed, and violation was closed. In July 2022, the owner received a violation for an accessory structure, exterior alterations, front porch, addition, and gravel driveway. The owner has continued to work with the permitting divisions and code compliance to remove illegal structures from the subject property and will need to continue to work through the Planning and Zoning process to obtain approval of the future land use amendment and the permits which remain in review.

The subject property platted as a 100-foot wide lot in 1951 as part of the Victor Heights and was originally zoned as R-2 (Residential District) since 1957. The general surrounding area consists of developed single-family residences within R-1 and R-1A zoning. The surrounding single-family homes are located on 75-foot to 100-foot wide lots, and commercial uses are located along N. Orange Blossom Trail. The proposed Low-Medium Density Residential (LMDR) would be compatible with the current land uses established throughout the surrounding area.

Land Use Compatibility

The Low-Medium Density Residential (LMDR) future land use 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 in a Rural Settlement.

Joint Planning Area (JPA)

The subject property is in the City of Apopka JPA. The City of Apopka has no objection to this request.

Overlay District Ordinance

The subject property is located in the N/A.

Airport Noise Zone

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

Code Enforcement

1. Parcel: 14-21-28-8876-00-110

Inspector: Nick Shortman

Case #: SM-2023-474015Z / Incident #: 610835

Description: Exterior alterations, Porch, addition to house and gravel driveway all done without permits and zoning approval.

2. Parcel: 14-21-28-8876-00-110

Inspector: Nick Shortman

Case #: SM-2022-460693Z / Incident #: 598713

Description: The neighbor has roosters, chicken and ducks on the property. not gated.

Comprehensive Plan (CP) Consistency

The underlying CP Future Land Use Map (FLUM) designation of the subject property is Commercial (C). The proposed LMDR Future Land Use Map designation 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 | Duplex |
| Adjacent FLUM | N: Low-Medium Density Residential (LMDR) E: Low-Medium Density Residential (LMDR) W: Commercial (C) S: City of Apopka |
| Adjacent Zoning | N: R-1A (Single-Family Dwelling District) 1971 E: R-1 (Single-Family Dwelling District) 1962 W: C-2 (General Commercial District) 1992 S: City of Apopka |
| Adjacent Land Uses | N: Single-Family E: Vacant residential W: Retail commercial S: Vacant |

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. |

Side: 5 ft.
Side Street: 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:
 Front: 20 ft.
 Rear: 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.*

Intent, Purpose, and 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

Wekiva Study Area -This site is located within the Wekiva Study Area, as established by the Wekiva Parkway and Protection Act, Section 369.316 F.S. Additional environmental regulations apply, but are not limited to: septic tank criteria, open space, stormwater treatment and conservation, and increased buffer widths. Reference OC Code Chapter 15 Environmental Control, Article XIII Wekiva River Protection.

Wekiva Priority Focus Area -This site is located within the Wekiva Priority Focus Area. If a septic system is required, the Springs and Aquifer Protection Act (section 373.811(2)

F.S.) requires advanced treatment of Onsite Sewage Treatment and Disposal System (OSTDS) loads in the WekiwaSpring and Rock Springs Basin Management Plan (BMAP) of June 2018. Per this requirement, lots less than one acre within the Priority Focus Area must comply with the OSTDS Remediation Plan that requires systems with nitrogen reducing enhancements within the BMAP. Contact the Florida Department of Health (FDOH) for details of advanced septic treatment system requirements.

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.

Transportation / Access

Two units is de minimus.

Schools

Two units is de minimus.

Parks and Recreation

Parks and recreation staff reviewed the request and did not identify any issues or concerns.

Community Meeting Summary

A virtual community meeting was held on April 3, 2023 with no residents in attendance.

Utilities

Water: Apopka

Wastewater: Apopka

Reclaim Water: Apopka

Detailed Utility Information:

This property is within the City of Apopka Water Service Area.

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

This residence would be reliant on septic tanks for wastewater disposal.

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 - (April 20, 2023)

Future Land Use Map Amendment

Make a finding of consistency with the Comprehensive Plan and recommend ADOPTION of the requested Low-Medium Density Residential (LMDR) future land use.

PLANNING AND ZONING COMMISSION (PZC) PUBLIC HEARING SYNOPSIS

The staff report was presented to the PZC with the recommendation that they make a finding of consistency with the Comprehensive Plan and recommend ADOPTION of the requested Low-Medium Density Residential (LMDR) future land use. The applicant was present and agreed with the staff recommendation. Zero members of the public appeared during the public comment portion of the hearing.

Staff indicated that one hundred forty-three (143) notices were sent to property owners and residents in a 600 foot radius surrounding the property, and that staff had received zero (0) responses in favor, and three (3) responses in opposition of the request.

A motion was made by Commissioner Cardenas and seconded by Commissioner Boers to recommend ADOPTION of the requested Low-Medium Density Residential (LMDR) future land use. The motion carried on a 4-1 vote with Commissioner Spears voting in opposition.

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

SS-23-04-007



 Subject Property

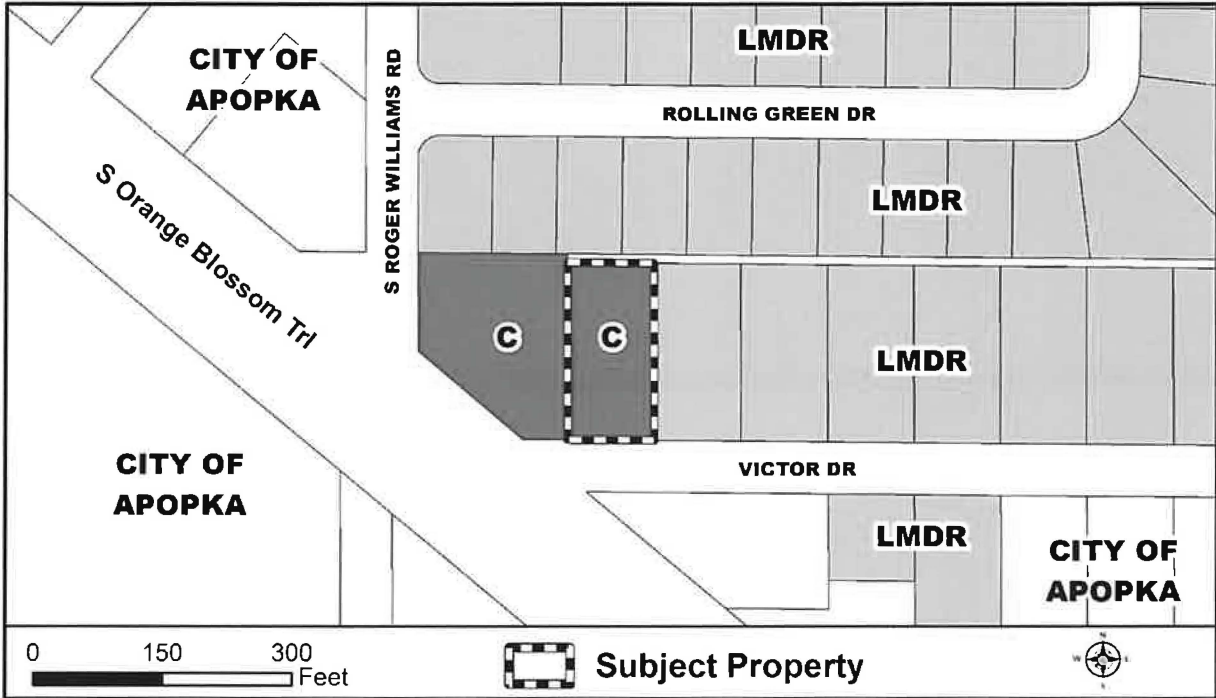


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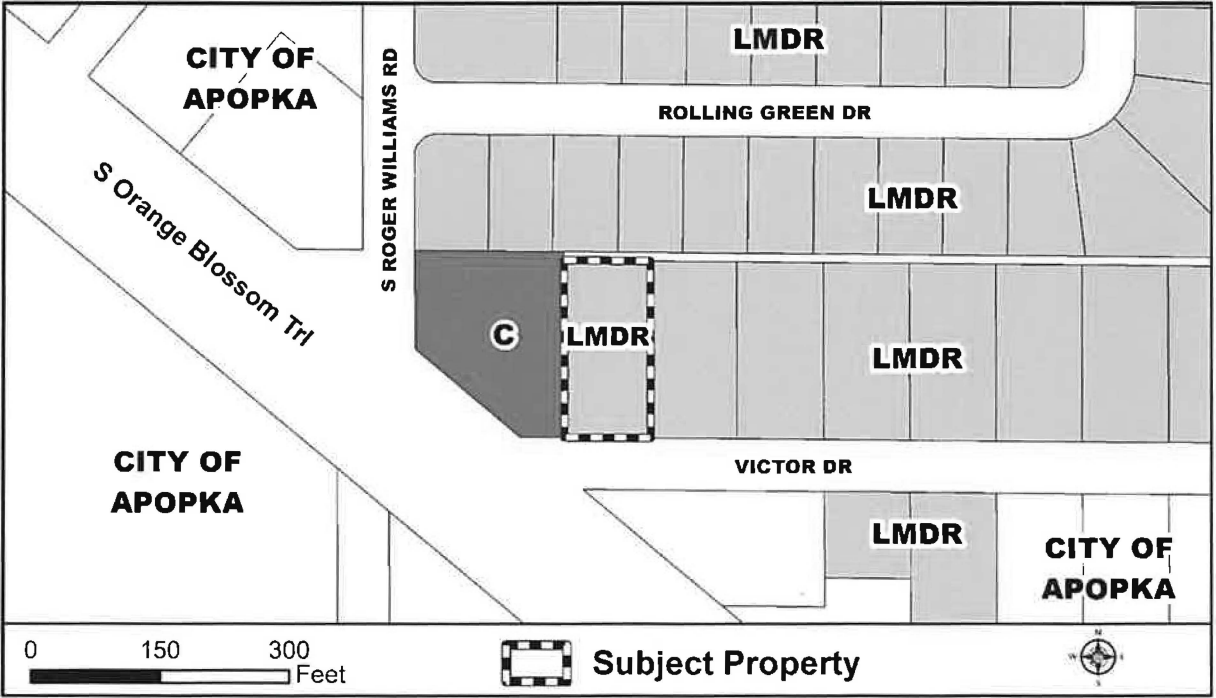
FUTURE LAND USE – CURRENT

Commercial (C)



FUTURE LAND USE – PROPOSED

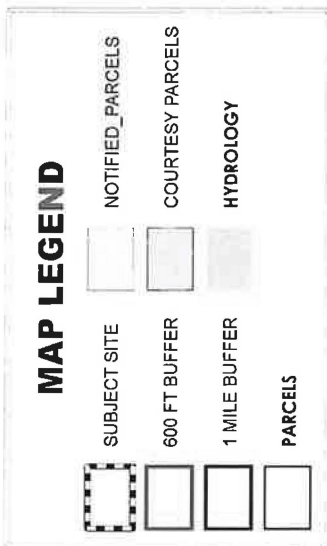
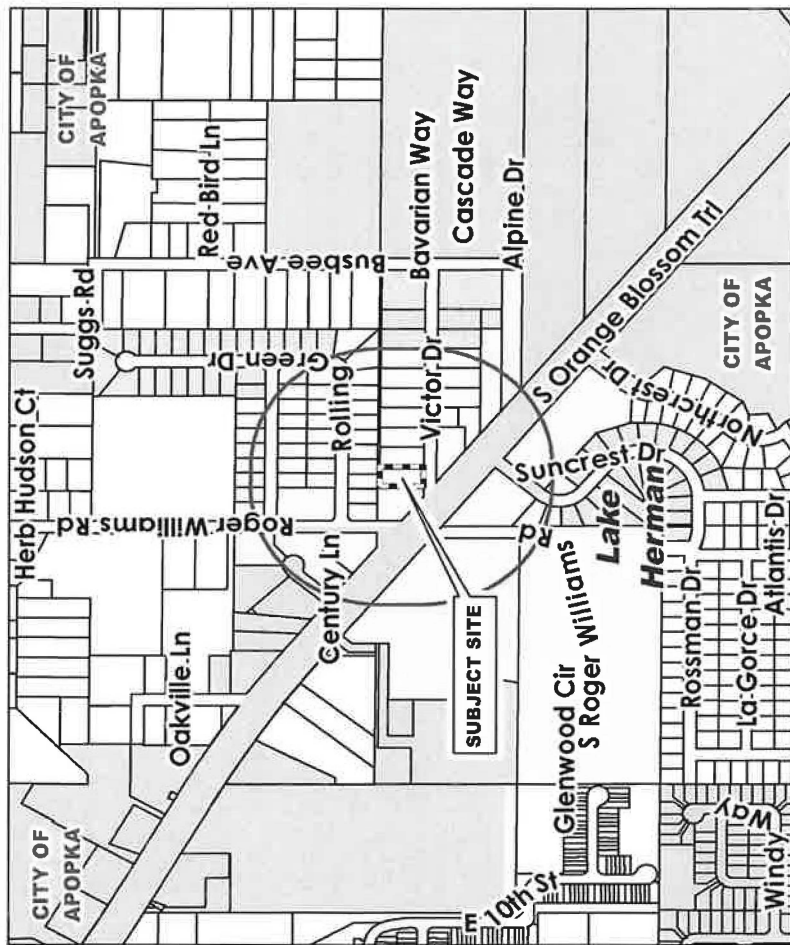
Low-Medium Density Residential (LMDR)



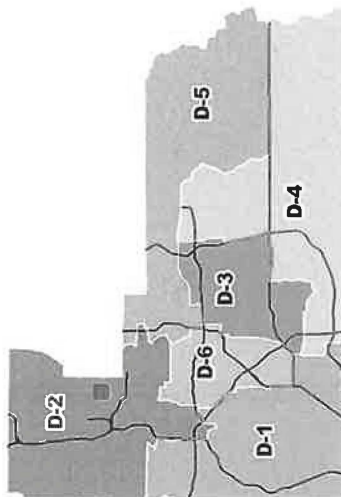
NOTIFICATION MAP

Public Notification Map

SS-23-04-007



BUFFER DISTANCE: 600
 # OF NOTICES: 143



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ORDINANCE NO. 2023-_____

AN ORDINANCE PERTAINING TO COMPREHENSIVE PLANNING IN ORANGE COUNTY, FLORIDA; AMENDING THE ORANGE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE “2010-2030 COMPREHENSIVE PLAN,” AS AMENDED, BY ADOPTING A SMALL SCALE DEVELOPMENT AMENDMENT PURSUANT TO SECTION 163.3187, FLORIDA STATUTES; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY:

Section 1. Legislative Findings, Purpose, and Intent.

a. Part II of Chapter 163, Florida Statutes, sets forth procedures and requirements for a local government in the State of Florida to adopt a comprehensive plan and amendments to a comprehensive plan;

b. Orange County has complied with the applicable procedures and requirements of Part II of Chapter 163, Florida Statutes, for amending Orange County’s 2010-2030 Comprehensive Plan;

c. On May 23, 2023, the Board of County Commissioners held a public hearing on the adoption of the proposed amendment to the Comprehensive Plan, as described in this ordinance, and decided to adopt it.

Section 2. Authority. This ordinance is adopted in compliance with and pursuant to Part II of Chapter 163, Florida Statutes.

Section 3. Amendment to Future Land Use Map. The Comprehensive Plan is hereby amended by amending the Future Land Use Map designation as described at **Appendix “A,”**

31 attached hereto and incorporated herein.

32 * * *

33 ***Section 4. Effective Dates for Ordinance and Amendment.***

34 (a) This ordinance shall become effective as provided by general law.

35 (b) Pursuant to Section 163.3187(5)(c), Florida Statutes, the small scale development
36 amendment adopted in this ordinance may not become effective until 31 days after adoption.
37 However, if an amendment is challenged within 30 days after adoption, the amendment that is
38 challenged may not become effective until the Department of Economic Opportunity or the
39 Administration Commission issues a final order determining that the adopted amendment is in
40 compliance.

41 (c) In accordance with Section 163.3184(12), Florida Statutes, any concurrent zoning
42 changes approved by the Board are contingent upon the related Comprehensive Plan amendment
43 becoming effective. Aside from any such concurrent zoning changes, no development orders,
44 development permits, or land uses dependent on this amendment may be issued or commence
45 before the amendment has become effective.

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48 ADOPTED THIS 23rd DAY OF MAY, 2023.

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50 **ORANGE COUNTY, FLORIDA**
51 By: Board of County Commissioners

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By: _____
Jerry L. Demings
Orange County Mayor

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59 ATTEST: Phil Diamond, CPA, County Comptroller
60 As Clerk to the Board of County Commissioners

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64 By: _____

65 Deputy Clerk

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APPENDIX "A"

FUTURE LAND USE MAP AMENDMENT

| <i>Appendix A*</i> | | |
|---|---------------------------------------|---------------------------------------|
| <i>Privately Initiated Future Land Use Map Amendment</i> | | |
| Amendment Number | Future Land Use Map Designation FROM: | Future Land Use Map Designation TO: |
| SS-23-04-007 | Commercial (C) | Low-Medium Density Residential (LMDR) |
| *The Future Land Use Map (FLUM) shall not depict the above designation until such time as it becomes effective. | | |

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