



## Interoffice Memorandum

DATE: August 23, 2023

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

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

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

SUBJECT: September 12, 2023 - Adoption Public Hearing  
Small-Scale Future Land Use Map Amendment and Concurrent  
Rezoning Request  
Applicant: Robert D. Smith  
SS-23-07-040 and RZ-23-07-041

The subject property is located at 7513 Edgewater Drive; on the east side of Edgewater Drive, east of Rose Avenue. The request is to change the Future Land Use Map designation from LDR (Low Density Residential) to Commercial (C) and rezone the property from R-1 (Single-Family Dwelling District) to C-1 Restricted (Retail Commercial District). The applicant is proposing a retail garden center.

A community meeting was held on July 10, 2023, with 15 residents in attendance. Generally, residents were in support of the proposed change based on the nature of the business. However, some residents were concerned about other uses that may be allowed, so staff has proposed two restrictions to prohibit gas stations, automobile related uses, and smoke shops.

The adoption public hearing for Small-Scale Development Amendment SS-23-07-040 and RZ-23-07-041 was conducted before the Planning and Zoning Commission / Local Planning Agency on July 20, 2023, where the request was recommended for adoption and 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.

Please find the attached staff report and associated back-up material for the Small-Scale Future Land Use Map Amendment and Concurrent Rezoning Request scheduled for a Board adoption public hearing on September 12, 2023.

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](mailto:Alberto.Vargas@ocfl.net), or Jason Sorensen, AICP, Chief Planner, at 407-836-5602 or [Jason.Sorensen@ocfl.net](mailto:Jason.Sorensen@ocfl.net).

**ACTION REQUESTED: Make a finding of consistency with the Comprehensive Plan and Adopt the Commercial (C) Future Land Use Map designation, Approve the associated ordinance, and Approve the C-1 Restricted (Retail Commercial District) zoning, subject to the two (2) restrictions listed in the staff report. District 2**

TB/JHS/IP

c: Jon V. Weiss, P.E., Deputy County Administrator  
Joel D. 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

**Small-Scale Future Land Use Map Amendment and  
Rezoning Staff Report  
Orange County Planning Division  
BCC Hearing Date: September 12, 2023**

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**CASE # SS-23-07-040  
RZ-23-07-041**

Commission District: #2

**GENERAL INFORMATION**

**APPLICANT:** Robert D. Smith

**OWNERS:** Donna Smith, Robert Smith

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

**FLUM REQUEST:** **Low Density Residential (LDR) to Commercial (C)**

**ZONING REQUEST:** **R-1 (Single-Family Dwelling District) to C-1 Restricted (Retail Commercial District)**

**LOCATION:** 7513 Edgewater Drive; on the east side of Edgewater Drive, east of Rose Avenue.

**PARCEL ID NUMBER:** 32-21-29-0000-00-206

**TRACT SIZE:** 0.25-gross acre

**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]. Two hundred forty (240) notices were mailed to those property owners in the surrounding area.

**COMMUNITY MEETING:** An in-person community meeting was held on July 10, 2023, and is summarized further in this report.

**PROPOSED USE:** C-1 uses including a Retail Garden Center

**STAFF RECOMMENDATION**

**Future Land Use Map Amendment**

**Make a finding of consistency with the Comprehensive Plan and recommend ADOPTION of the requested Commercial (C) Future Land Use Map designation.**

**Rezoning**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the requested C-1 Restricted (Retail Commercial District) zoning, subject to two restrictions:**

1. New billboards and pole signs shall be prohibited.
2. The following uses shall be prohibited: gas stations, smoke shops, and automobile related uses.

## **SUBJECT PROPERTY ANALYSIS**

### **Overview**

Through this request, the applicant is requesting to change the Future Land Use Map (FLUM) designation from Low Density Residential (LDR) to Commercial (C) and rezone the subject property from R-1 (Single-Family Dwelling District) to C-1 Restricted (Retail Commercial District) for allowance of permitted commercial uses as outlined in OC code 38-79 permitted use table. The applicant is proposing a retail garden center under SIC Group 5261. No growing of plant species is proposed to take place on the subject property. The business will utilize the space for retail products.

The existing house on the property was demolished. Presently, there is a 12 ft by 14 ft structure that applicant is intending to use as a shop. The immediate area is developed with religious, institutional uses to the north and south, and single-family uses to the east. The request appears to be compatible with the surrounding area.

### **Land Use Compatibility**

The Commercial 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**

No cases found.

### **Comprehensive Plan (CP) Consistency**

The underlying CP Future Land Use Map (FLUM) designation of the subject property is currently Low Density Residential (LDR). The proposed Commercial zoning is consistent with the proposed Commercial (C) FLUM designation. 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

<b>Adjacent</b>	<b>FLUM</b>	<b>Zoning</b>
<b>North</b>	Low Density Residential (LDR)	R-1 (Single-Family Dwelling District) (1957)
<b>East</b>	Low Density Residential (LDR)	R-1 (Single-Family Dwelling District) (1957)
<b>West</b>	Institutional (INST)	R-1 (Single-Family Dwelling District) (1957)

South	Low Density Residential (LDR)	R-1A (Single-Family Dwelling District) (1957)
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**Adjacent Land Uses**

N: Church  
E: Single-Family Residential  
W: Church  
S: Lockhart Elementary School

**C-1 (RETAIL COMMERCIAL DISTRICT) DEVELOPMENT STANDARDS\***

Min. Lot Area:	6,000 sq. ft.
Min. Lot Width:	80 ft. (on major streets, see Article XV) 60 ft. (on all other streets)
Max. Height:	50 ft. (35 ft. within 100 ft. of all residential districts)
Min. Floor Area:	500 sq. ft.
Building Setbacks:	
Front:	25 ft.
Rear:	20 ft.
Side:	0 ft. (15 ft. when abutting residential districts)
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 intent and purpose of this C-1 retail commercial district are as follows: this district is composed of lands and structures used primarily for the furnishing of selected commodities and services at retail. This district is encouraged:

- (1) At intersections of collectors and/or arterials;
- (2) Where it will not direct commercial traffic through residential districts;
- (3) Where adequate public facilities and services are available, as defined in the comprehensive policy plan;
- (4) Where compatible with adjacent areas or where buffers can be provided to ensure compatibility; and
- (5) To a limited extent in rural settlements throughout the county to meet the needs of an identified community, or in growth centers as defined in the comprehensive policy plan. 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 Wekiwa Spring 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 individual determination and details of this advanced septic treatment system requirement.

**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.

**Proximity to FDEP Cleanup Site** - This property is located within 500 feet of an FDEP petroleum cleanup site located at Lockhart Elementary School. No activity will be permitted on the site that may disturb, influence, or otherwise interfere with: areas of soil or groundwater contamination, or any remediation activities, or within the hydrological zone of influence of any contaminated area, unless prior approval has been obtained through the Florida Department of Environmental Protection (FDEP) and such approval has been provided to the Environmental Protection Division of Orange County. An owner/operator who exacerbates any existing contamination or does not properly dispose of any excavated contaminated media may become liable for some portion of the contamination pursuant to the provisions in section 376.308, F.S

#### **Transportation / Access**

For the purposes of transportation analysis, a project is considered de minimis if its impacts are less than a total p.m. peak of five (5) peak hour trips on the roadway within the area of influence.

#### **Schools**

The applicant is proposing to utilize the property for commercial purposes. Orange County Public Schools (OCPS) did not comment on this case, as it does not involve an increase in residential units or density.

**Parks and Recreation**

No comments.

**Community Meeting Summary**

An in-person community meeting was held on July 10, 2023, at Lockhart Elementary School. It was attended by fifteen (15) residents and four (4) members of the applicants team. Generally, community was in support of the proposed change based on the nature of the business. However, some residents were concerned about the future use of the property when the applicant decides to sell the business or move out. Residents expressed a desire to limit / prohibit certain uses such as gas stations, smoke shops, and automobile related uses.

**Utilities**

Water: Orange County Utilities

Wastewater: Orange County Utilities

Reclaim Water: Orange County Utilities

**Detailed Utility Information:**

This property is within Orange County Utilities Water, Wastewater, and Reclaimed Water Service Areas. In accordance with Orange County Code Chapter 37:

Water: There are no watermains in the vicinity of this property. Development on this property will be reliant on wells for potable water.

Wastewater: Development within this property will be required to connect to Orange County Utilities wastewater system. The connection points will be assessed during Final Engineering/Construction Plan permitting.

Reclaimed water: There are no reclaimed water mains within the vicinity of this property. Reclaimed water is considered not available. Connection is not required.

**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 – July 20, 2023**

**Future Land Use Map Amendment**

**Make a finding of consistency with the Comprehensive Plan and recommend ADOPTION of the requested Commercial (C) Future Land Use Map designation.**

**Rezoning**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the requested C-1 Restricted (Retail Commercial District) zoning, subject to restrictions:**

1. New billboards and pole signs shall be prohibited.
2. The following uses shall be prohibited: gas stations, smoke shops, and automobile related uses.

**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 Commercial (C) Future Land Use Map designation and make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the requested C-1 Restricted (Retail Commercial District) zoning. The applicant was present and agreed with the staff recommendation. No members of the public spoke during public comment.

Staff indicated that two hundred forty (240) notices were sent to property owners and residents extending beyond 600 feet surrounding the property, and that staff had received zero (0) responses in favor, and zero (0) responses in opposition of the request.

A motion was made by Commissioner Spears and seconded by Commissioner Evans to recommend ADOPTION of the requested Commercial (C) Future Land Use and APPROVAL of the requested C-1 Restricted (Retail Commercial District) zoning subject to two (2) restrictions. The motion carried unanimously.

**Motion / Second**

*Gordon Spears / Camille Evans*

**Voting in Favor**

*Nelson Pena, Michael Arrington, Camille Evans, Gordon Spears, and Evelyn Cardenas*

**NAY**

*None*

**Absent**

*George Wiggins, Eddie Fernandez, Walter Pavon and David Boers*

SS-23-07-040 / RZ-23-07-041



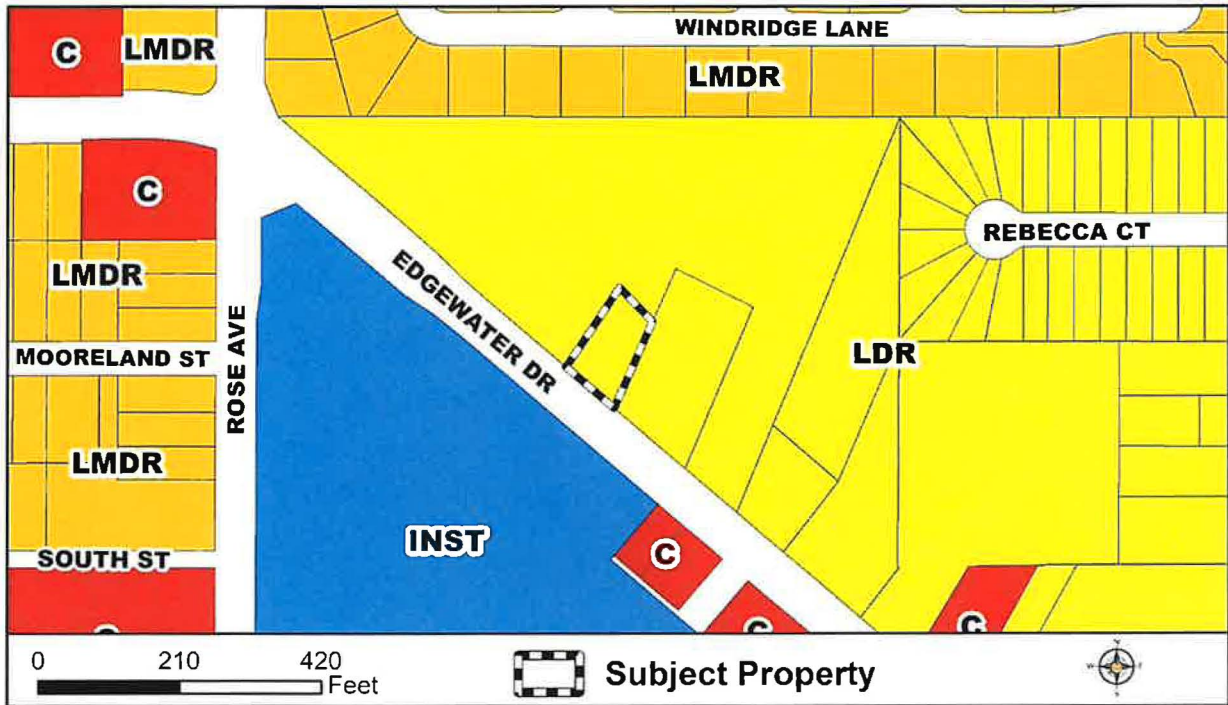
 Subject Property



1 inch = 125 feet

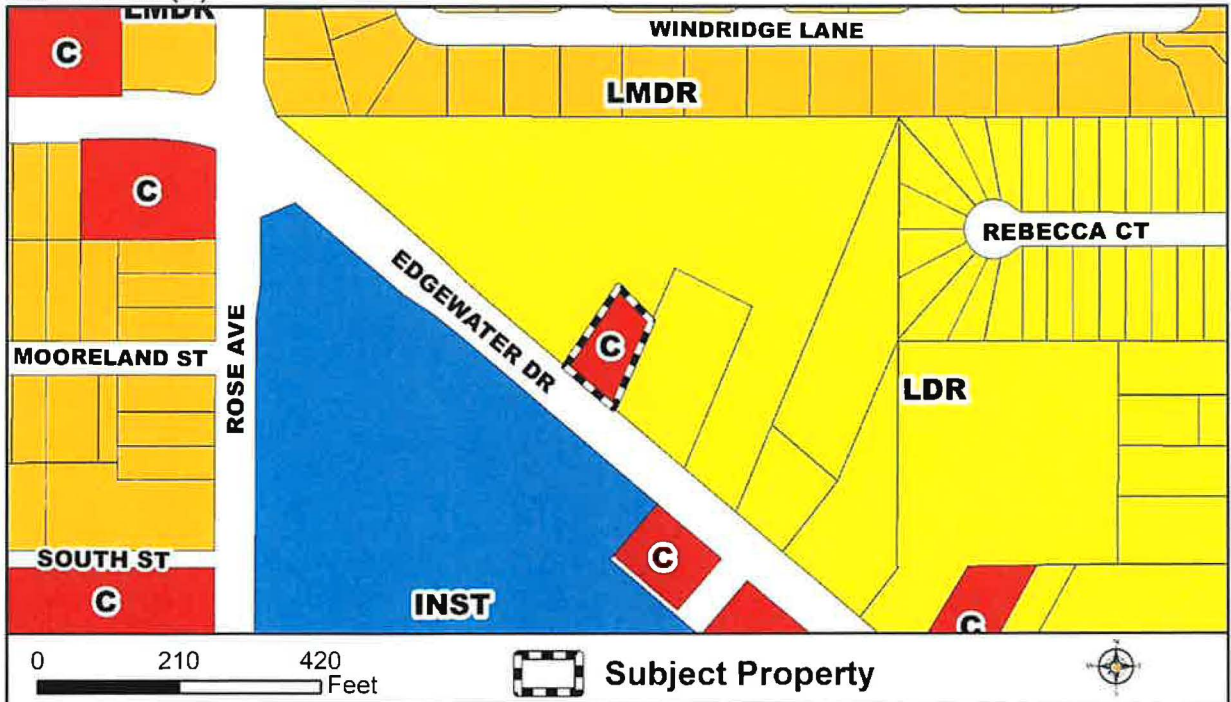
**FUTURE LAND USE – CURRENT**

Low Density Residential (LDR)



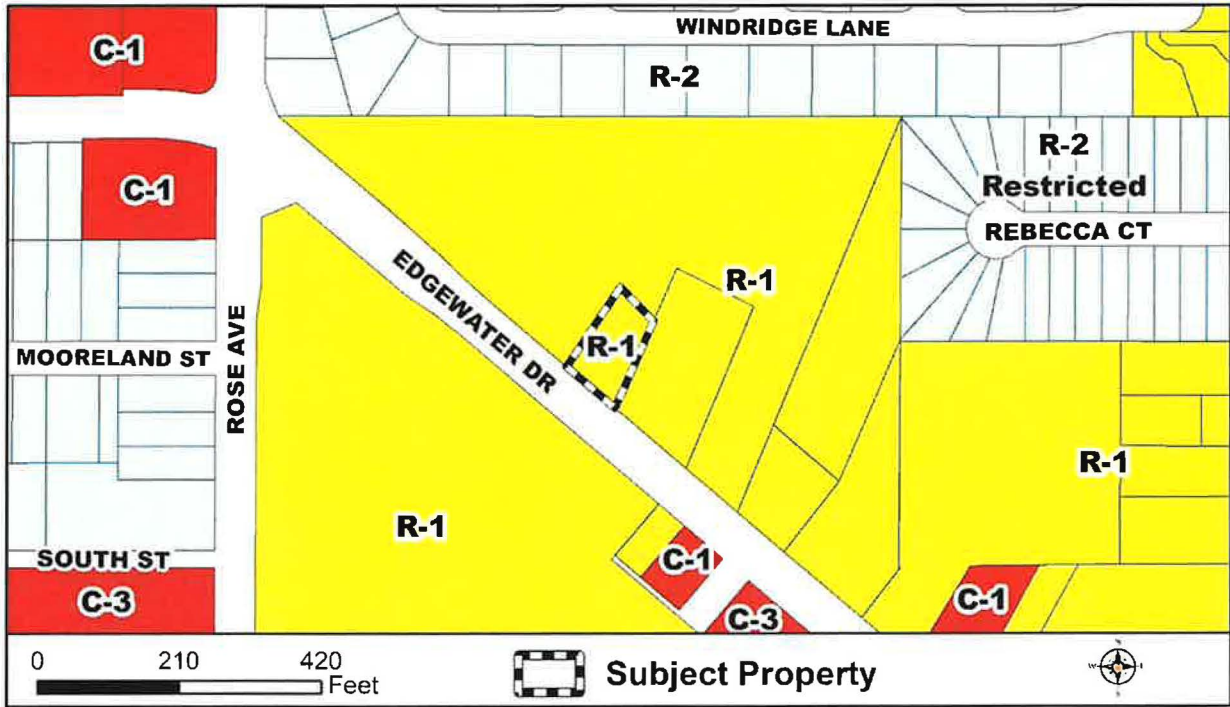
**FUTURE LAND USE – PROPOSED**

Commercial (C)



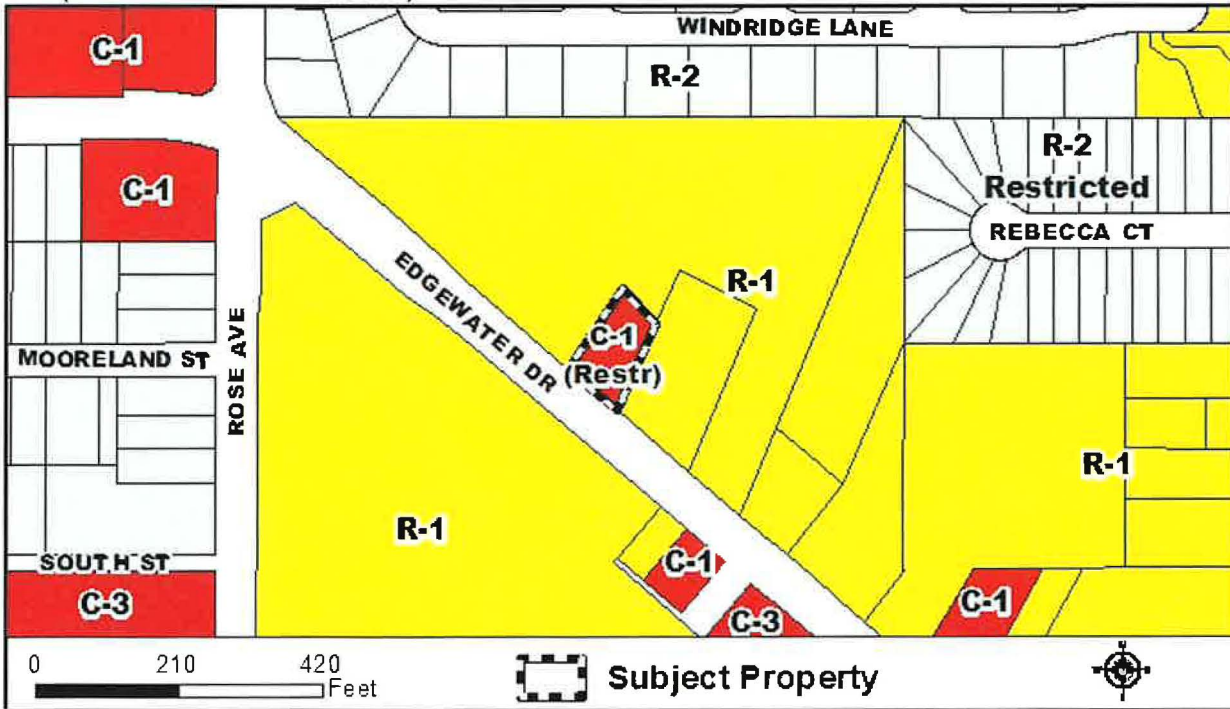
**ZONING – CURRENT**

R-1 (Single-Family Dwelling District)



**ZONING – PROPOSED**

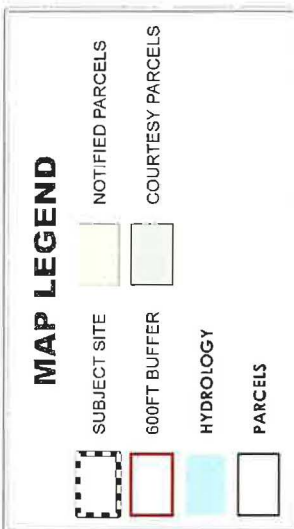
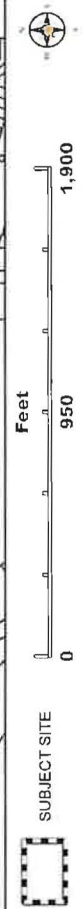
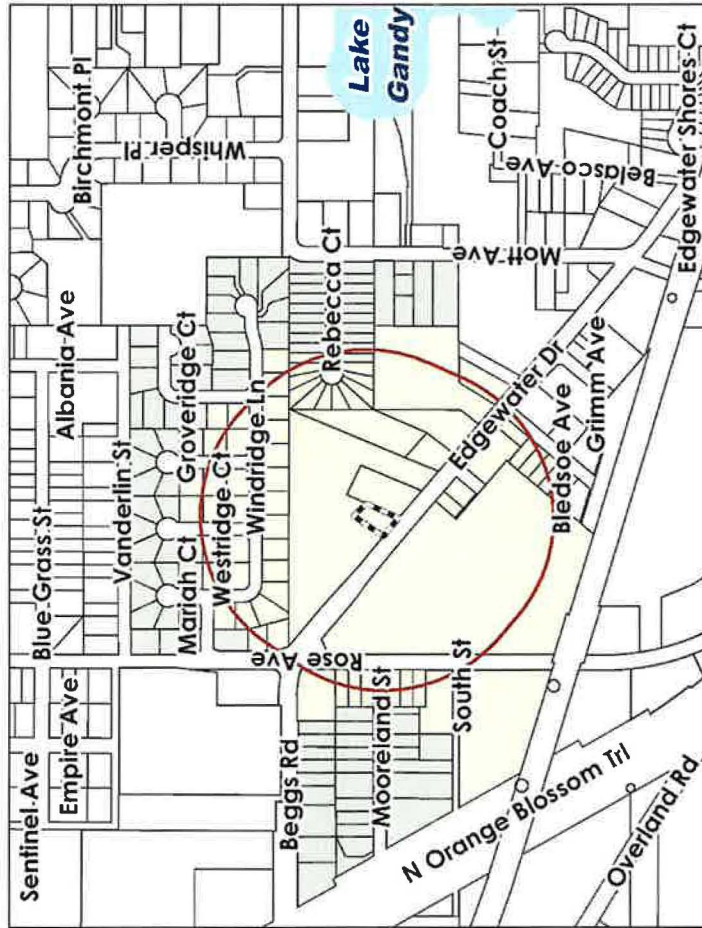
C-1 (Retail Commercial District)



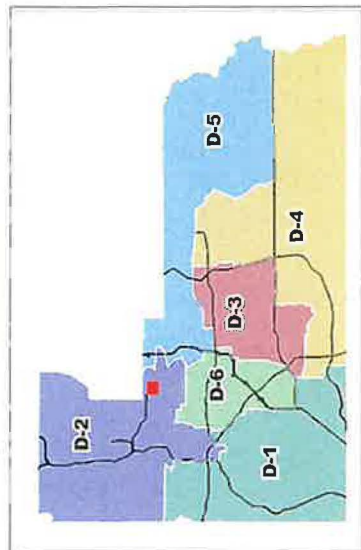
**NOTIFICATION MAP**

**Public Notification Map**

SS-23-07-040 & RZ-23-07-041



BUFFER DISTANCE: 600  
 # OF NOTICES: 240



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