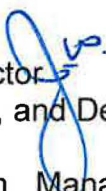




Interoffice Memorandum

DATE: November 29, 2022

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

THROUGH: Jon V. Weiss, P.E., Director 
Planning, Environmental, and Development Services Department

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

SUBJECT: Adoption Public Hearing – November 29, 2022, Small-Scale Future Land Use Map Amendment and Concurrent Rezoning Request
Applicant: Emily Brown, Maury L. Carter & Associates, Inc.
SS-22-06-060 and RZ-22-06-061

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 November 29, 2022.

The subject property is located at 5100 Davisson Avenue, or generally south of Lee Road, on the west side of Davisson Avenue. The request is to change the Future Land Use Map designation from Low Density Residential to Commercial and change the zoning from R-1 (Single-Family Dwelling District) to C-1 Restricted (Retail Commercial District) subject to two restrictions in order to allow for commercial uses. A community meeting was held on October 4, 2022, with two residents in attendance who provided general support for the request.

The adoption public hearing for Small-Scale Development Amendment SS-22-06-060 (and concurrent rezoning RZ-22-06-061) was conducted before the Planning and Zoning Commission / Local Planning Agency on November 29, 2022.

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, Current Planning Section, at 407-836-5602 or 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 two restrictions as listed under PZC Recommendation in the staff report.
District 5**

JVW/AAV/jhs

- c: Christopher R. Testerman, AICP, 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
- Nik Thalmueller, AICP, Planning Administrator, Planning Division

**Rezoning and Small-Scale Amendment Staff Report
Orange County Planning Division
BCC Hearing Date: November 29, 2022**

**CASE # SS-22-06-060
RZ-22-06-061**

Commission District: #5

GENERAL INFORMATION

APPLICANT	Emily Brown; Maury L. Carter & Associates, Inc.
OWNERS	Tamra M. Nicholas; William C. Nicholas; Martha M. Nicholas
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	5100 Davisson Avenue; generally located on the west side of Davisson Avenue, south of Lee Road, and north of Courtland Street.
PARCEL ID NUMBER	03-22-29-2628-13-070
TRACT SIZE	0.35 gross acres
PUBLIC NOTIFICATION	The notification area for this public hearing was 700 feet [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. One hundred forty-six (146) notices were mailed to those property owners in the mailing area.
COMMUNITY MEETING	A community meeting was held on Tuesday, October 4, 2022, and is summarized further in the report.
PROPOSED USE	The applicant is proposing C-1 uses.

STAFF RECOMMENDATION

PLANNING

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.**

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 the following restrictions:

1. Billboards and pole signs shall be prohibited; and
2. The subject parcel shall be combined with parcels 03-22-29-2628-13-210, 03-22-29-2628-13-040, and 03-22-29-2628-13-190 prior to building permit issuance.

SUBJECT PROPERTY ANALYSIS

Overview

Through this request, the applicant is seeking a Small-Scale Land Use Map Amendment to change the Future Land Use of the 0.35 gross acre property from Low Density Residential (LDR) to Commercial (C) and to rezone from R-1 (Single-Family Dwelling District) to C-1 Restricted (Retail Commercial District) in order to allow for the operation of C-1 uses. The applicant intends to combine the subject parcel with the parcels to the north, northwest, and west in order to operate a C-1 business.

The subject property is comprised of one lot, developed with a single-family residence built in 1951. The surrounding properties include vacant parcels to the north and west, and single-family residences to the east and south. Properties located along Lee Road include a mix of office, retail and restaurant uses, with the C-1 Restricted zoning being the predominant zoning classification.

The proposed restriction to aggregate parcels includes those parcels that are to the north, west, and northwest of the subject parcel to the purpose of one unified commercial development.

Existing FLUM Development Program

The existing development program would allow for one (1) single-family residence permitted under the R-1 zoning district, consistent with the Low Density Residential land use designation.

Proposed FLUM Development Program

The proposed C-1 zoning with the Future Land Use Map designation of Commercial will allow the applicant to develop the subject property with C-1 uses that may include office and retail commercial.

Land Use Compatibility

The Commercial Future Land Use and C-1 Restricted zoning would allow for development that is compatible with the character of the surrounding area, and would not adversely impact adjacent properties. Due to the subject property being adjacent to a parcel with residential zoning, a Type C buffer yard will be required along the southern boundary totaling fifteen (15) feet in width and six (6) feet in height.

Site Analysis

	Yes	No	Information
Rural Settlement	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Joint Planning Area (JPA)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Overlay District Ordinance	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Airport Noise Zone	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Code Enforcement	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

Comprehensive Plan (CP) Consistency

As mentioned previously, the underlying CP Future Land Use Map (FLUM) designation of the subject property is Low Density Residential, which is consistent with the R-1 zoning. Additionally, the proposed C-1 Restricted (Retail Commercial District) 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.

FLU8.2.11 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 parcel

Adjacent	FLUM	Zoning
North	Commercial (C) (1991)	C-1 (Retail Commercial District) (1965)
South	Low-Medium Density Residential (LDR) (1991)	R-1 (Single-Family District) (1957)
East	Low-Medium Density Residential (LDR) (1991)	R-1 (Single-Family District) (1957)
West	Commercial (C) (1991)	C-1 (Retail Commercial District) (1985)

Adjacent Land Uses N: Vacant parcel
 E: Single-family residence
 W: Vacant parcel
 S: Single-family residence

C-1 (Retail Commercial District) Development Standards

Min. Lot Area: 6,000 sq. ft.
 Min. Lot Width: 80 ft. on major streets; 60 ft. on others
 Max. Height: 50 ft.; 35 ft. within 100 ft of residential districts
 Min. Floor Area: 500 ft.

Building Setbacks

Front: 25 ft.
 Rear: 50 ft.; 35 ft. when abutting residential district
 Side: 0 ft.; 15 ft. when abutting residential district

Intent, Purpose, and Uses

The C-1 retail commercial district is composed of lands and structures used primarily for the furnishing of selected commodities and services at retail.

SPECIAL INFORMATION

Staff Comments

	Yes	No	Information
Environmental	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See comments below.
Transportation / Access	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See comments below.

Small Scale Amendment # SS-22-06-060
Rezoning Case # RZ-22-06-061
Orange County Planning Division
BCC Hearing Date: November 29, 2022

Schools	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Parks and Recreation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Sheriff's Department	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Fire Rescue	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

Environmental Comments

Solid Waste Disposal: Any miscellaneous garbage, hazardous waste, yard waste (including excess fertilizers, herbicides and pesticides), and construction or demolition debris shall be disposed of off-site according to the solid waste and hazardous waste regulations. Recycling of materials is encouraged if applicable. Call the Orange County Solid Waste Hotline at 407-836-6601 for information.

Dust Control: No person shall cause, let, suffer, allow, or permit the emissions of unconfined particulate matter from any activity, including vehicular movement; transportation of materials; construction, alteration, demolition or wrecking; or industrially related activities, such as loading, unloading, storing, or handling; without taking reasonable precautions to prevent such emissions including but not limited to application of water, dust suppressants, planting of vegetation, point of activity controls (hoods, filters, etc) and other measures. Reference OC Code Chapter 15 Environmental Control, Article III Air Quality Control, Division 2 Rules, Section 89.1 Air Pollution Prohibited, Subsection B

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. Reference OC Code Chapter 15 Environmental Control, Article III Air Quality Control, Division 4 Asbestos requirements, Section 108 Notification procedure and requirements, Subsection A(1)

Erosion Control: Use caution to prevent erosion during construction along the boundary of the property, into 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).

Wells and Septic: Any existing septic tanks or wells shall be properly abandoned prior to earthwork or construction. Permits shall be applied for and issued by the appropriate agencies. Contact the Department of Health (DOH) for any septic systems; and the Water Management District, as well as the DOH, for wells.

Small Scale Amendment # SS-22-06-060
Rezoning Case # RZ-22-06-061
Orange County Planning Division
BCC Hearing Date: November 29, 2022

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.

Transportation Comments:

Land Use Scenario	PM Pk. Hr. Trips	% New Trips	New PM Pk. Hr. Trips
Existing Use: 1 single-family dwelling	1	100%	1
Proposed Use: Up to 22,542 sq. ft. commercial uses (1.5 FAR)	139	56%	78
Totals:	138		77
Net New Trips (Proposed Development less Allowable Development): 77			

Future Roadway Network

Road Agreements: None

Planned and Programmed Roadway Improvements: Kennedy Boulevard Phase I, from All American Boulevard to Kingston Court, will be widened from 2 to 4 lanes. Pedestrian safety will also be improved with the addition of sidewalks and bike lanes. Roadway lighting and median landscaping will also be included. At the time of this report, the project is 40% overall complete.

Kennedy Blvd from Kingston Court to Wymore Road: Kennedy Boulevard Phase II, from Kingston Court to Wymore Road, will be widened from 2 to 4 lanes. Pedestrian safety will also be improved with the addition of sidewalks and bike lanes. Roadway lighting will also be included. At the time of this report, the project is 40% overall complete. Forest City Road from Edgewater Drive to the Seminole County Line will be widened by FDOT from 4 to 6 lanes. The letting date for this project is 7/7/2026. At the time of this report, this project is currently in the design phase.

Right of Way Requirements: None

Summary:

Analysis of the project trips from the currently approved under future land use versus the proposed use indicates that the proposed commercial use will result in an increase in the number of 77 pm peak trips, and therefore will impact the area roadways.

Roadway Capacity Analysis

A traffic Study was submitted with the case for review and comment. The subject property is located adjacent to Lee Road. Based on existing conditions, John Young Parkway currently has one (1) deficient roadway segment within the project's impact area. This information is dated and subject to change. The following roadway segments are currently operating at Level of Service "F":

- John Young Parkway from Princeton Street to Orange Blossom Trail
- Kennedy Blvd from Forest City Road to Keller Road

Based on the Concurrency Management (CMS) database dated 8/31/2022, there are multiple failing roadway segments within the project's impact area. John Young Parkway from Princeton Street to Orange Blossom Trail (1 segment) and Kennedy Blvd. from Forest City Road to Keller Road (1 segment) are failing. This information is dated and subject to change.

Based on the project trip distribution, 50% of the project trips will be travelling eastbound on Lee Road into the development.

The segments in the short-term year (2025) that are projected to operate at Level of Service "F" as a result of the background traffic and committed trips are:

- John Young Parkway from Princeton Street to Orange Blossom Trail
- Kennedy Blvd from Forest City Road to Keller Road

The horizon year (2045) showed that under the proposed FLUM designation, the following segments are projected to operate at Level of Service "F":

- John Young Parkway from Princeton Street to Orange Blossom Trail

Final permitting of any development on this site will be subject to review and approval under capacity constraints of the county's Transportation Concurrency Management System. Such approval will not exclude the possibility of a proportionate share payment in order to mitigate any transportation deficiencies. Finally, to ensure that there are no revisions to the proposed development beyond the analyzed use, the land use will be noted on the County's Future Land Use Map or as a text amendment to the Comprehensive Policy Plan.

Utilities

Water: City of Winter Park

Wastewater: City of Winter Park

Reclaim Water: Orange County Utilities

Detailed Utility Information:

This property is within City of Winter Park's water and wastewater service area.

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

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

Community Meeting Summary

A community meeting was held on Tuesday, October 4, 2022 at Edgewater High School. A total of two property owners attended the meeting and expressed support for this request.

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 – (October 20, 2022)

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

1. Billboards and pole signs shall be prohibited; and
2. The subject parcel shall be combined with parcels 03-22-29-2628-13-210, 03-22-29-2628-13-040, and 03-22-29-2628-13-190 prior to building permit issuance.

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 APPROVAL of both applications for the requested Commercial (C) Future Land Use Designation, and the C-1 Restricted (Retail Commercial District) zoning. The applicant was present and agreed with staff recommendations.

Staff indicated that one hundred and forty-six (146) notices were mailed to those property owners in the mailing area extending beyond 700 feet surrounding the property, and that staff received no comments in favor or opposition. During public comments one member of the public was present to speak in opposition to the request with concerns for compatibility and a perceived intrusion of commercial uses in the existing neighborhood, as well as concerns for traffic increase.

After discussion addressing the aggregation of the adjacent parcels, potential access points into the property, and buffering that would be required, the following motions were made:

**Small Scale Amendment # SS-22-06-060
Rezoning Case # RZ-22-06-061
Orange County Planning Division
BCC Hearing Date: November 29, 2022**

A motion was made on the Future Land Use Map Amendment and Rezoning by Commissioner Spears, and seconded by Commissioner Wiggins to recommend ADOPTION of the requested Commercial (C) Future Land Use designation and APPROVAL of the requested C-1 Restricted (Retail Commercial District) zoning subject to the two restrictions listed in the staff report. The motion carried on a 7-0 vote.

Motion / Second

Gordon Spears / George Wiggins

Voting in Favor

*George Wiggins, Jaja Wade, Mohammed Abdallah,
Nelson Pena, Gordon Spears, Trevor Sorbo, and Evelyn
Cardenas*

Voting in Opposition

None

Absent

Eddie Fernandez and Walter Pavon

SS-22-06-060/RZ-22-06-061



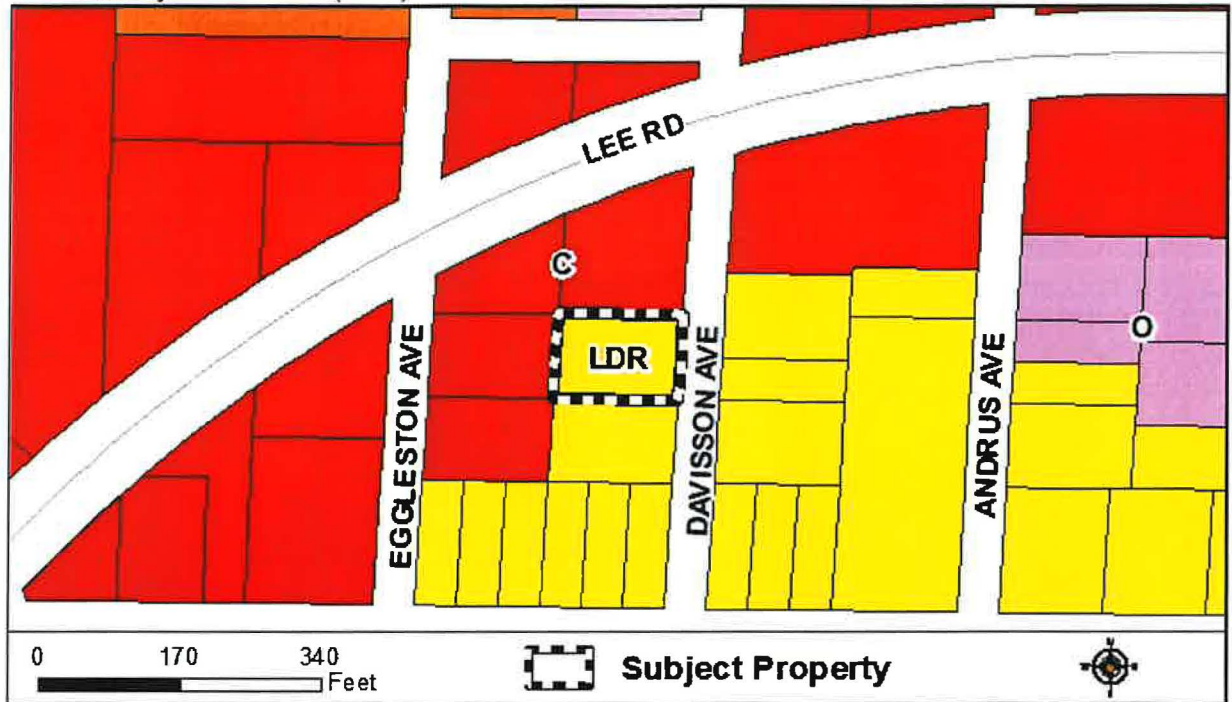
 **Subject Property**



1 inch = 167 feet

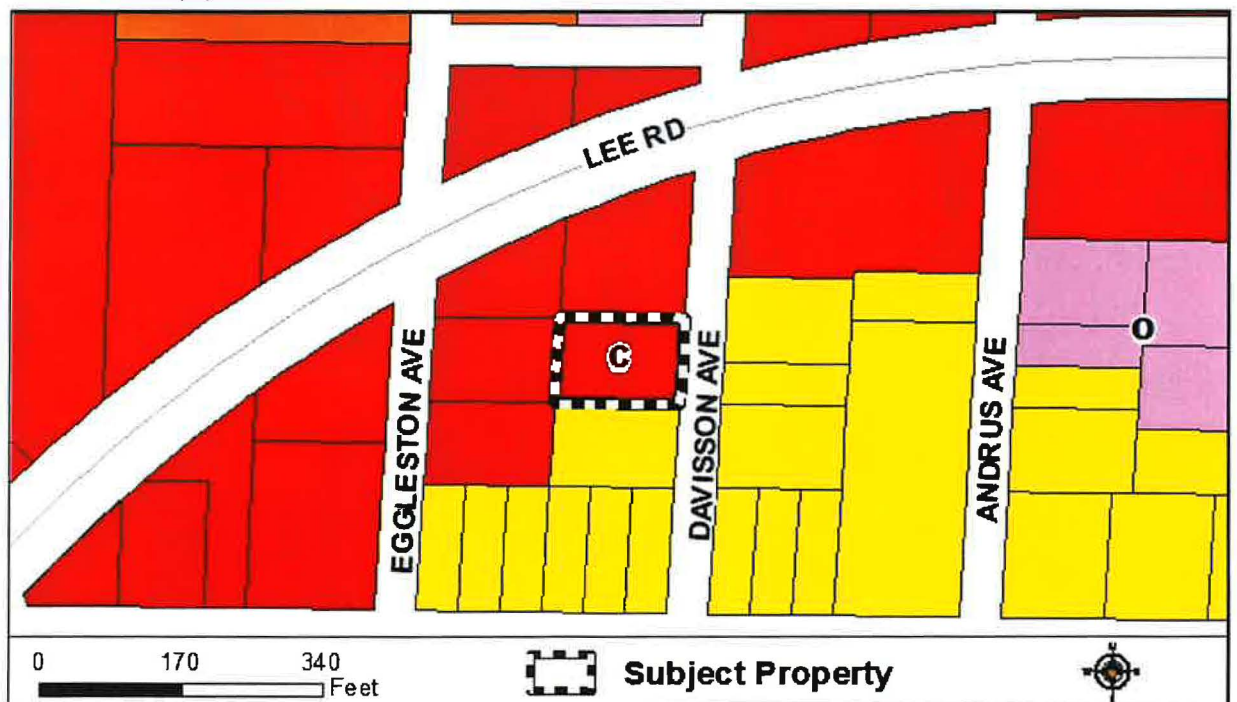
FUTURE LAND USE - CURRENT

Low-Density Residential (LDR)



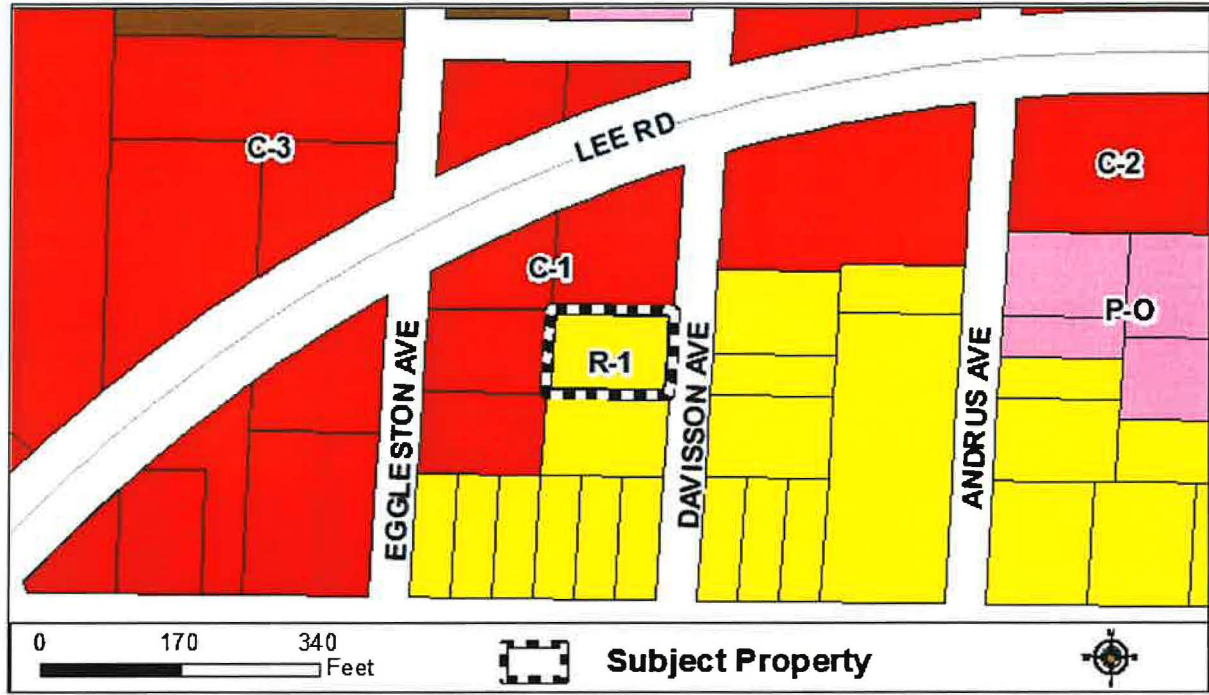
FUTURE LAND USE - PROPOSED

Commercial (C)



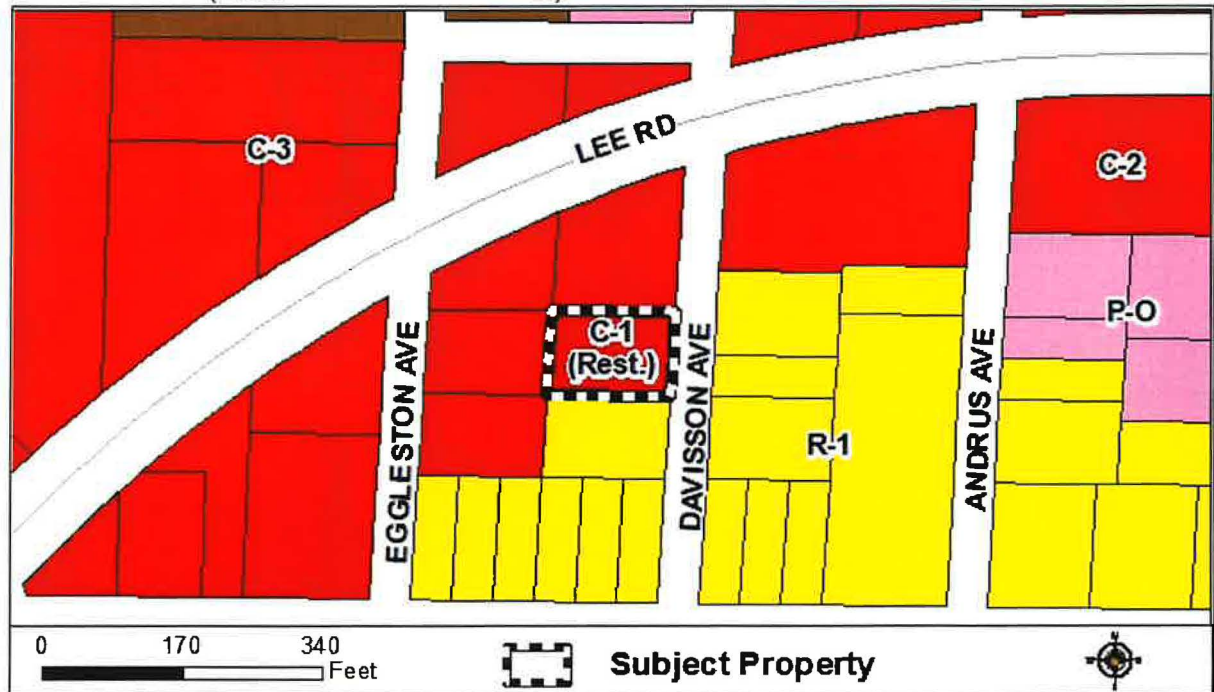
ZONING – CURRENT

R-1 (Single-Family Dwelling District)



ZONING – PROPOSED

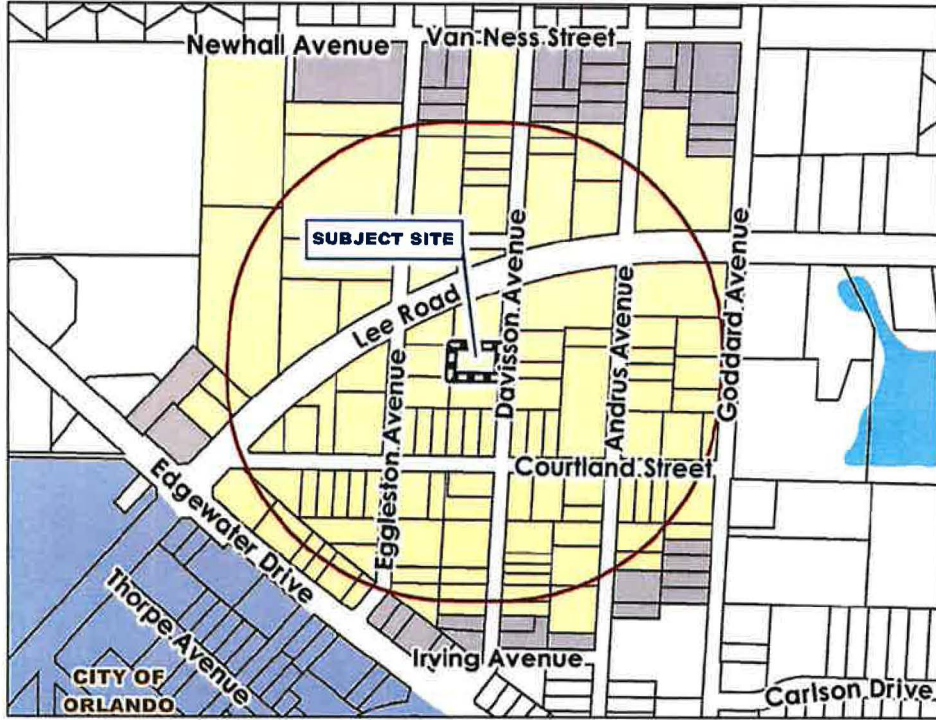
C-1 Restricted (Retail Commercial District)





Public Notification Map

SS-22-06-060 & RZ-22-06-061



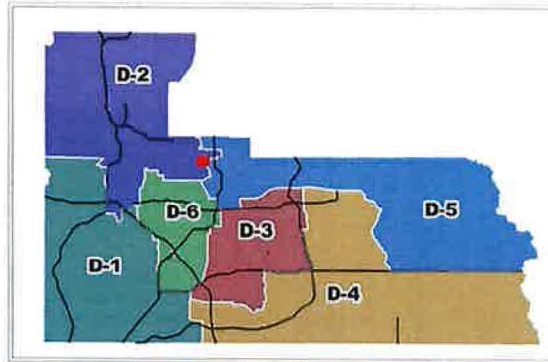
SUBJECT_SITE



MAP LEGEND

	SUBJECT_SITE		NOTIFIED_PARCELS
	700 FT BUFFER		COURTESY_PARCELS
	1 MILE BUFFER		HYDROLOGY
	PARCELS		

BUFFER DISTANCE: 700
OF NOTICES: 146



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Notification Map

Small Scale Amendment # SS-22-06-060
 Rezoning Case # RZ-22-06-061
 Orange County Planning Division
 BCC Hearing Date: November 29, 2022

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3
4 **ORDINANCE NO. 2022-_____**
5

6 **AN ORDINANCE PERTAINING TO COMPREHENSIVE**
7 **PLANNING IN ORANGE COUNTY, FLORIDA; AMENDING**
8 **THE ORANGE COUNTY COMPREHENSIVE PLAN,**
9 **COMMONLY KNOWN AS THE “2010-2030**
10 **COMPREHENSIVE PLAN,” AS AMENDED, BY ADOPTING**
11 **A SMALL SCALE DEVELOPMENT AMENDMENT**
12 **PURSUANT TO SECTION 163.3187, FLORIDA STATUTES;**
13 **AND PROVIDING EFFECTIVE DATES.**
14

15 **BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF**
16 **ORANGE COUNTY:**

17 ***Section 1. Legislative Findings, Purpose, and Intent.***

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

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

24 c. On November 29, 2022, the Board held a public hearing on the adoption of the
25 proposed amendment, as described in this ordinance, and decided to adopt it.

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

28 ***Section 3. Amendments to Future Land Use Map.*** The Comprehensive Plan is
29 hereby amended by amending the Future Land Use Map designation as described at **Appendix**
30 **“A,”** attached hereto and incorporated herein.

Section 4. Effective Dates for Ordinance and Amendments.

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

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

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

ADOPTED THIS 29th DAY OF NOVEMBER, 2022.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: _____
Jerry L. Demings
Orange County Mayor

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

By: _____
Deputy Clerk

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APPENDIX "A"

FUTURE LAND USE MAP AMENDMENT

Appendix A*		
<i>Privately Initiated Future Land Use Map Amendment</i>		
Amendment Number	Future Land Use Map Designation FROM:	Future Land Use Map Designation TO:
SS-22-06-060	Low Density Residential (LDR)	Commercial (C)
*The Future Land Use Map (FLUM) shall not depict the above designation until such time as it becomes effective.		

68