



## Interoffice Memorandum

DATE: September 16, 2022

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

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

CONTACT PERSON: **Jason H. Sorensen, AICP**  
**Chief Planner**  
**Orange County Planning Division**  
**(407) 836-5602**

SUBJECT: September 27, 2022 – Public Hearing  
Planning and Zoning Commission Appeal  
Applicant and Appellant: Linda Terra De La Nuez  
Case # RZ-22-03-017 / District 3

This is an applicant appealed rezoning hearing in which the applicant is seeking to rezone the 0.78 gross acre property located at 83 W. Oak Ridge Road from C-1 Restricted (Retail Commercial District) to C-2 Restricted (General Commercial District), with the intent to construct a car dealership and autobody repair facility. An in-person community meeting was held for this request on April 19, 2022, with six residents in attendance expressing concern for compatibility with existing single-family in the area, noise, and traffic.

On June 16, 2022, the Planning and Zoning Commission (PZC) recommended denial of the requested C-2 Restricted (General Commercial District) zoning. The applicant has appealed the decision of the PZC. This item was continued from the August 30, 2022, Board hearing.

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 inconsistency with the Comprehensive Plan and deny the C-2 Restricted (General Commercial District) zoning.  
District 3**

JWW/JHS/SFV  
Attachments

### **GENERAL INFORMATION**

<b>APPLICANT (&amp; APPELANT)</b>	Linda Terra De La Nuez, P & F Auto Services, LLC
<b>OWNERS</b>	Pedro De La Nuez, P & F Auto Services, LLC
<b>HEARING TYPE</b>	Rezoning Public Hearing – Applicant Appealed
<b>REQUEST</b>	<b>C-1 Restricted</b> (Retail Commercial District) <b>to</b> <b>C-2 Restricted</b> (General Commercial District)
<b>LOCATION</b>	83 W. Oak Ridge Road; generally east of Defiance Avenue, west of S. Orange Avenue and north of W. Oak Ridge Road.
<b>PARCEL ID NUMBER</b>	23-23-29-4674-00-150
<b>TRACT SIZE</b>	0.78-gross acre
<b>PUBLIC NOTIFICATION</b>	The notification area for this public hearing was 1,000 feet [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Two hundred fifty-six (256) notices were mailed to those property owners and residents in the surrounding area. A community meeting was held on April 19 <sup>th</sup> and is further summarized in this report.
<b>PROPOSED USE</b>	C-1 uses plus C-2 uses for allowance of a car dealership and autobody repair uses.

### **STAFF RECOMMENDATION**

#### **PLANNING**

**Make a finding of inconsistency with the Comprehensive Plan and recommend DENIAL of the requested C-2 Restricted (General Commercial District) zoning pursuant to CP policies FLU1.4.2, FLU1.4.4, OBJ FLU8.2 and FLU8.2.1.**

#### **ALTERNATIVE RECOMMENDATION:**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the requested C-2 Restricted (General Commercial District) zoning, subject to the following restrictions:**

- 1) Property shall be restricted to C-1(Retail Commercial District) uses, plus the C-2 uses of auto sales and auto repair only;

- 2) A six-foot masonry wall shall be constructed along the northern property boundary and then extend to the south along the east portion of the site, on the western edge of the Orange County drainage easement;
- 3) A six-foot masonry wall, deemed 'aesthetically pleasing' by the Planning Division, shall be constructed along the western boundary adjacent to any vehicular use or vehicle storage areas. The wall shall be included within the Code required 7.5 foot landscape strip;
- 4) All auto repair work shall be performed in an enclosed structure;
- 5) There shall be no access to Queen Street;
- 6) Hours of operation shall be limited to not earlier than 8:00 a.m. and not later than 6:00 p.m.;
- 7) "No parking" signs shall be installed along Queen Street;
- 8) New billboards and pole signs shall be prohibited; and,
- 9) The applicant / developer shall submit a site plan to demonstrate compliance with all Orange County Code requirements (including landscaping and paved surfaces) prior to the accommodation of any C-2 uses.

## **SUBJECT PROPERTY ANALYSIS**

### **Overview**

The subject property was previously rezoned in 2004 under the property address 5829 Queen Street (*case no. Z-04-071*), from R-1AA (Single-Family Dwelling District) to C-1 Restricted (Retail Commercial District) in lieu of the requested C-2 (General Commercial District) subject to two (2) restrictions:

1. A six-foot masonry wall constructed along the northern and eastern perimeters of the subject property to buffer the commercial use from the neighboring residential development to the north and east; and
2. No access to Queen Street from the subject property to minimize any commercial impact.

In 2006, a subsequent rezoning request (*case no. RZ-06-09-122*) was received to change the zoning classification from C-1 Restricted (Retail Commercial District) to C-2 (General Commercial District) for allowance of a used car lot. The BCC denied the C-2 request on October 19<sup>th</sup>, 2006, due to a finding of inconsistency with the Comprehensive Plan and opposition from residents to the east.

Through this request, the applicant is seeking to rezone the property from C-1 Restricted (Retail Commercial District) to C-2 Restricted (General Commercial District) to allow for

a car dealership and autobody repair as set forth under Section 38-77 of the Use Table. The site is currently under review for sitework for the construction of a 4,000 SF auto service building and associated infrastructure (*Permit B21901003*).

The subject property does have an Orange County drainage easement (approximately measuring 23-feet) over a drainage ditch on the eastern boundary of the site. Per the Orange County Engineer, no construction can take place in the drainage easement. The drainage easement prohibits the applicant from complying with the six-foot masonry wall restriction from the 2004 rezoning. The applicant will need to provide a site plan to the County Engineer demonstrating how the subject property will resolve this issue prior to permit approval. Additionally, this development will be required at permitting to provide a Type B buffer along the north and eastern boundary inward of the six-foot masonry wall.

The immediate area can be categorized as being developed with single-family residential uses to the north and east, an existing auto repair garage to the west, and commercial uses to the south of the subject property. The zoning classification for the commercial sites were established in 1957. The parcel to the west was rezoned in 1987 from R-1AA to C-2, restricted to the following restrictions, no access to Queen Street from Lots 23 thru 25, and further, required a 6 foot high masonry wall along the northern and eastern property lines of Lots 23 thru 25.

#### **Land Use Compatibility**

The C-2 Restricted (General Commercial District) zoning is incompatible with the character of the surrounding area and would adversely impact adjacent residential properties. The proposed auto repair use and car dealership is considered to be a disruption to the residential area per comp plan policies.

#### **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**

The underlying CP Future Land Use Map (FLUM) designation of the subject property is Commercial (C). The proposed C-2 Restricted (General Commercial District) zoning is consistent with the Commercial FLUM designation, therefore a CP amendment is not necessary. The proposed request is inconsistent 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**

<b>Existing Use</b>	Undeveloped
<b>Adjacent Zoning</b>	N: R-1AA (Single-Family Residential District) (1957) E: R-1A (Single-Family Residential District) (1957) W: C-2 Restricted (General Commercial District) (1987) S: C-2 (General Commercial District) (1957)
<b>Adjacent Land Uses</b>	N: Single-Family Residences E: Single-Family Residences W: Commercial Use S: Commercial Use

### **C-2 Development Standards:**

Min. Lot Area:	8,000 sq. ft.
Min. Lot Width:	125 ft. (Corner lots on major streets, see Article XV) 100 ft. (Corner lots on all other streets)

Max. Height: 50 ft. (35 ft. within 100 ft. of residential)  
Min. Floor Area: 500 sq. ft.

**Building Setbacks**

Front: 25 ft. (except on major streets as provided in Article XV)  
Rear: 15 ft.  
20ft. (when abutting residential districts)  
Side: 5 ft.  
25 ft. (when abutting residential district)  
15 ft. (for any side street)

**Intent, Purpose, and Uses**

The intent and purpose of the C-2 General Commercial District is composed of certain lands and structures used to provide for the retailing of commodities and the furnishing of several major services, selected trade shops and automotive repairs. This district will be encouraged at locations along minor arterial and major arterial roads where general commercial uses would be compatible with the surrounding neighborhood. Characteristically, this district occupies an area larger than that of the retail commercial district, serves a considerably greater population, and offers a wider range of services. This district will be promoted within the urban service area or in rural settlements where uses of this intensity are already established. The general commercial district should not be located adjacent to single-family residential zoning districts.

**SPECIAL INFORMATION**

**Staff Comments**

	Yes	No	Information
Environmental	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Habitat- 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).
Transportation / Access	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Based upon the concurrency data base dated 2/14/22, there are three (3) failing roadway segments within the project area. Capacities indicated are a snapshot and are subject to change at any time.  This project is located in the Alternative Mobility Area (AMA) and, therefore, shall be required to provide for alternative mobility strategies related to the development. The applicant must submit a Mobility Analysis to be reviewed and approved by the Transportation Planning Division prior to obtaining a

			building permit; provided, however, if the County removes the Alternative Mobility Area from its Code prior to approval of the first building permit, then this project shall comply with the County's then-current transportation concurrency requirements.
Development Engineering Review	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Wall construction not allowed within the 25' drainage easement located along the east property line. The applicant would have to coordinate with the Roads and Drainage Division about the possibility of piping the ditch (at no cost to the County) and partially vacating the drainage easement.

### Community Meeting Summary

An in-person community meeting was held on April 19<sup>th</sup> 2022. Six (6) residents from the eastern residential community came out in opposition of the request. Residents used the meeting to discuss the intrusion of commercial auto repair uses to the residential area. Many described the growing concerns they are dealing with the current auto repair shops in the area, specifically the shop to the west and the bicycle repair shop located to the south. Residents explained the uses have caused detrimental impacts to the surrounding residential area by using residential streets for commercial use, loud noises during late hours, and waste debris discarded in the residential area from the commercial uses. Residents asked staff to deny access to Queen Street, and to limit traffic clustering. EPD staff provided clarification regarding concerns of possible pollution impact to Little Lake Mary.

### Utilities

Water: Orlando Utilities Commission

Waste Water: Orange County Utilities

Reclaim Water: Orange County Utilities

#### **\*Detailed Utility Information:**

This property is within Orlando Utilities Commission's water Service Area.

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

**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 – (June 16, 2022)**

**Make a finding of inconsistency with the Comprehensive Plan and recommend DENIAL of the requested C-2 Restricted (General Commercial District) zoning pursuant to CP policies FLU1.4.2, FLU1.4.4, OBJ FLU8.2 and FLU8.2.1.**

**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 inconsistency with the Comprehensive Plan and recommend DENIAL of the requested C-2 Restricted (General Commercial District) zoning.

The applicant and Civil Engineer were present for the hearing and objected to staff's recommendation for denial however supported and agreed with the alternative recommendation and proposed restrictions. The applicant team presented the Commission with a conceptual plan which demonstrated the construction of six-foot masonry walls along the northern, western, and eastern boundary of the subject site, along with examples of decorative walls for the western wall along Queen Street. No members of the public appeared in favor or in opposition during public comment of the request.

Staff indicated that two hundred fifty-six (256) notices were sent to property owners and residents extending beyond 1,000 feet surrounding the property, and that staff had received one (1) response in favor, and seven (7) responses in opposition of the request. Staff summarized the community meeting held on April 19<sup>th</sup>.

Discussion ensued regarding compatibility and the construction of the proposed walls. A motion was made by Commissioner Fernandez, and seconded by Commissioner Abdallah to recommend DENIAL of the requested C-2 Restricted (General Commercial District) zoning. The motion carried on a 6 to 1 vote with Commissioner Spears voting in opposition.

**Motion / Second**

*Eddie Fernandez / Mohammed Abdallah*

**Voting in Favor**

*Eddie Fernandez, Mohammed Abdallah, Evelyn Cardenas, Trevor Sorbo and George Wiggins*



**Voting in Opposition**

*Gordon Spears*

**Absent**

*JaJa Wade, Nelson Pena and Walter Pavon*

RZ-22-03-017



Subject Property

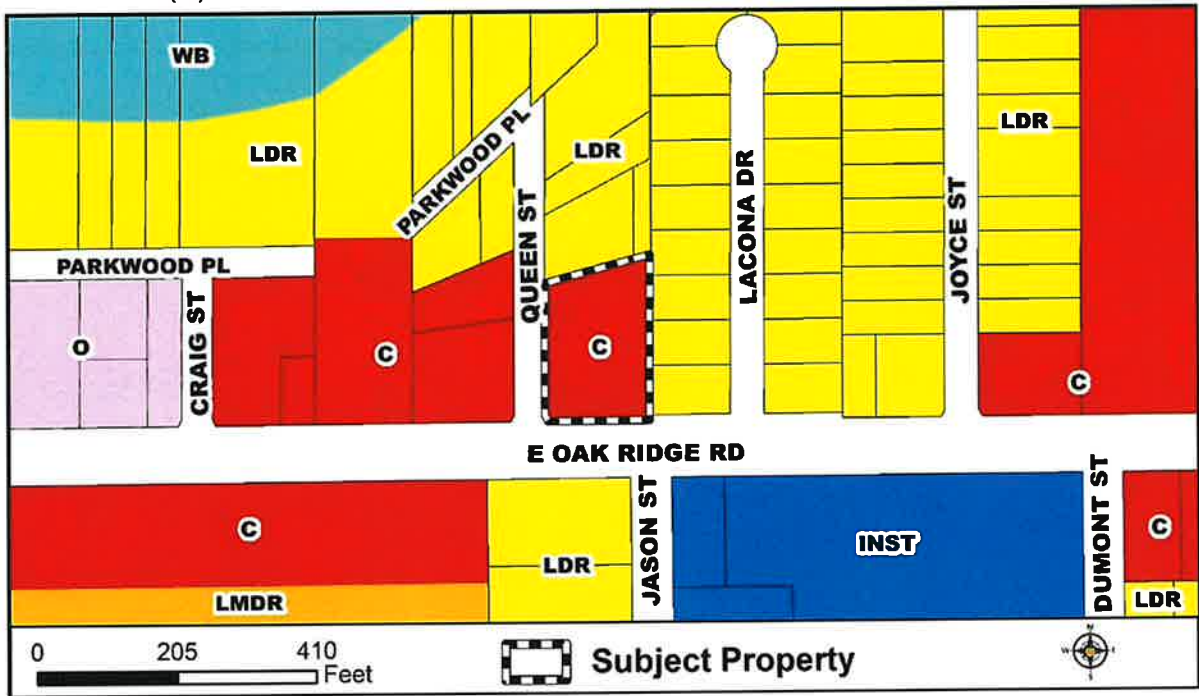


1 inch = 125 feet



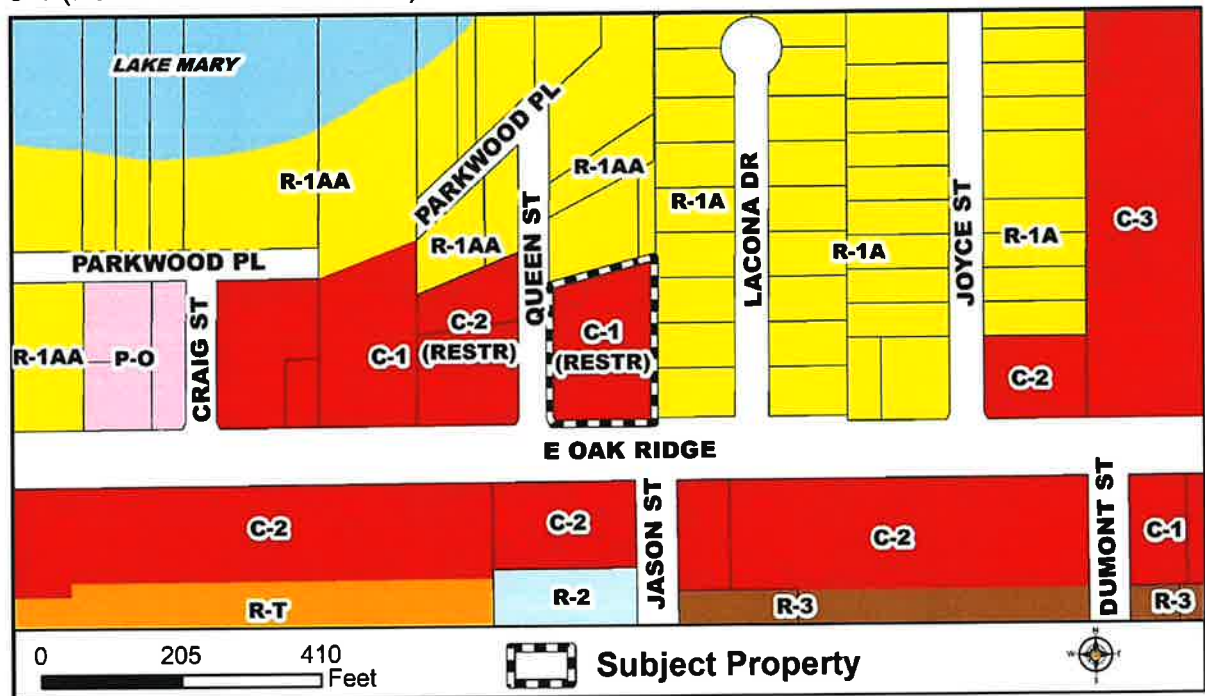
### FUTURE LAND USE - CURRENT

Commercial (C)



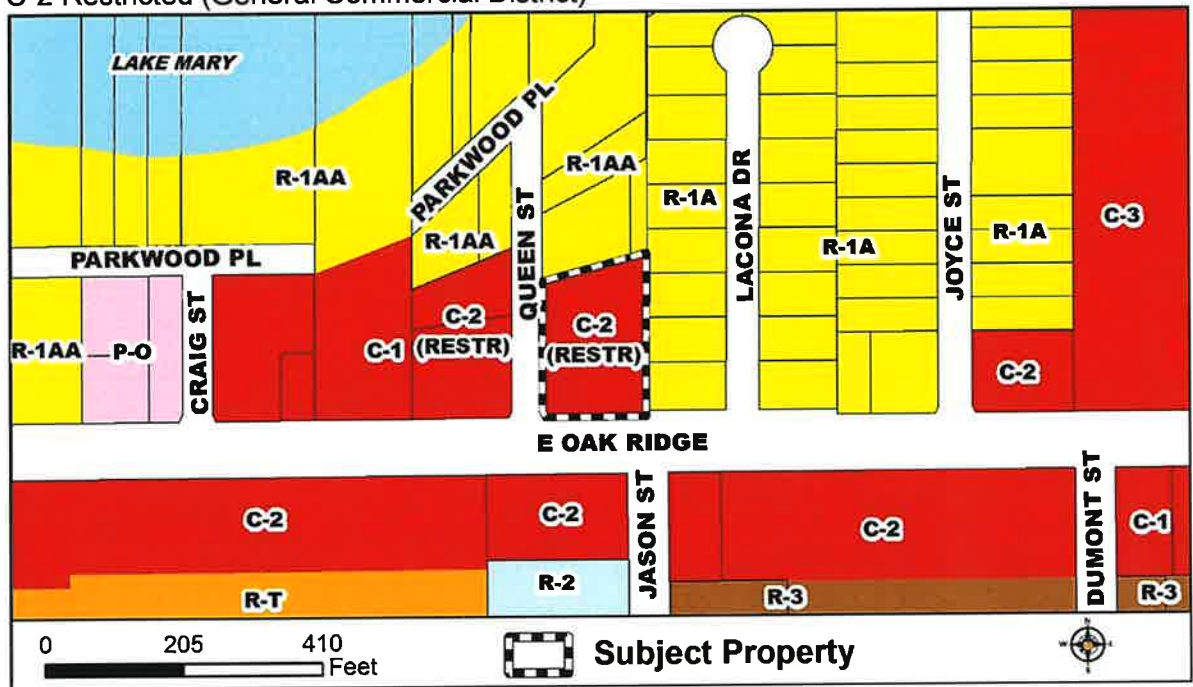
### ZONING – CURRENT

C-1 (Retail Commercial District)



**ZONING – PROPOSED**

C-2 Restricted (General Commercial District)





*Planning and Zoning  
Commission /  
Local Planning Agency  
(PZC/LPA)*

*Chairman:  
Nelson Pena  
At-Large*

*Vice-Chairman:  
Trevor Sorbo  
District 1*

*Commissioners:  
George Wiggins  
District 2*

*Eddie Fernandez  
District 3*

*Walter Pavon  
District 4*

*J. Gordon Spears  
District 5*

*JaJa Wade  
District 6*

*Mohammed Abdallah  
At-Large*

*Evelyn Cardenas  
At-Large*

DATE: September 8, 2022  
TO: Mayor Jerry L. Demings  
-AND-  
County Commissioners  
FROM: Trevor Sorbo, Vice-Chairman  
SUBJECT: Case RZ-22-03-017 PZC/LPA Hearing Summary

At the June 16, 2022 Planning and Zoning Commission / Local Planning Agency (Commission) hearing, the applicant's request to rezone the subject property for Case RZ-22-03-017 from C-1 Restricted to C-2 Restricted was reviewed.

The applicant and civil engineer were present for the hearing and objected to staff's recommendation for denial, however supported and agreed with the alternative recommendation and proposed restrictions. The applicant team presented the Commission with a conceptual plan which demonstrated the construction of six-foot masonry walls along the northern, western, and eastern boundary of the subject site, along with examples of decorative walls for the western wall along Queen Street. No members of the public appeared in favor or in opposition during public comment of the request.

After discussion regarding compatibility and the construction of the proposed walls, a motion was made by Commissioner Fernandez, and seconded by Commissioner Abdallah, to recommend DENIAL of the requested C-2 Restricted (General Commercial District) zoning. The motion carried on a 6 to 1 vote, with Commissioner Spears voting in opposition.

TS/JHS

Notification Map

