



Interoffice Memorandum

DATE: September 6, 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 – September 27, 2022, Small-Scale Future Land Use Map Amendment and Concurrent Rezoning Request
Applicant: Benjamin Ellis, S&ME, Inc.
SS-22-04-036 and RZ-22-04-038

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 September 27, 2022. The subject property is located at 2220 Hempel Avenue, on the west side of Hempel Avenue, north of Morton Jones Road, and is 1.79 gross acres. The request is to change the Future Land Use map designation from Rural Settlement R/S 1/1 (Rural Settlement 1/1) to Commercial / Rural Settlement (C)(RS) and change the zoning from A-1 (Citrus Rural District) to C-1 Restricted (Retail Commercial District), subject to four restrictions. The applicant's request is to continue operation of the existing martial arts school and dance studio.

A community meeting was held on Thursday, May 19, 2022, with approximately 100 residents in attendance. The attendees were largely divided in support and opposition to the proposed applications. Individuals in favor of the requests expressed that the dance school is a long-established commercial use within the community and does not negatively impact surrounding residences or the rural character of the Gotha Rural Settlement. Individuals opposed expressed concern over the possibility of additional commercial uses opening within the Gotha Rural Settlement if the request is approved, along with the possibility of a use change on the subject property if ownership changes or the existing tenants leave.

The adoption public hearing for Small-Scale Development Amendment SS-22-04-036 (and concurrent rezoning RZ-22-04-038) was conducted before the Planning and Zoning Commission / Local Planning Agency on August 18, 2022, where the request was recommended for approval subject to four restrictions.

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 / Rural Settlement (C)(RS) Future Land Use map designation, approve the associated ordinance, and approve the C-1 Restricted (Retail Commercial District) zoning subject to four restrictions listed under the PZC Recommendation in the Staff Report.
District 1**

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: September 27, 2022**

CASE # SS-22-04-036

RZ-22-04-038

Commission District: # 1

GENERAL INFORMATION

APPLICANT	Benjamin Ellis; S & ME, Inc.
OWNERS	2220 Hempel Road, LLC
HEARING TYPE	Small-Scale Future Land Use Map (FLUM) Amendment / Rezoning
FLUM REQUEST	Rural Settlement 1/1 (RS 1/1) to Commercial (C) Rural Settlement (RS)
ZONING REQUEST	A-1 (Citrus Rural District) to C-1 Restricted (Retail Commercial District)
LOCATION	2220 Hempel Avenue; generally located on the west side of Hempel Avenue; and north of Morton Jones Road.
PARCEL ID NUMBER	33-22-28-3100-13-200
TRACT SIZE	1.79 gross acres
PUBLIC NOTIFICATION	The notification area for this public hearing was 1,000 feet [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. One hundred thirteen (113) notices were mailed to those property owners in the mailing area.
COMMUNITY MEETING	A community meeting was held on Thursday, May 19, 2022, and is summarized further in the report.
PROPOSED USE	The applicant is proposing to continue the operation of an existing dance school.

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) (Rural Settlement) (RS) 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. The subject property shall be limited to the following C-1 Restricted uses: Dance Studio; Martial Arts School; and Professional Office;
2. A "Type D" landscape buffer shall be provided along the northern property boundary;
3. The applicant / developer shall submit a site plan to demonstrate compliance with all Orange County Code requirements (including landscaping, buffering, and paved surfaces) to the greatest extent practicable prior to issuance of any Business Tax Receipt or Use Permit;
4. Hours of operation shall be limited to no sooner than 6:30 a.m. and no later than 9:00 p.m., seven days a week; and
5. New billboards and pole signs shall be prohibited.

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 1.79 acre subject property from Rural Settlement 1/1 (RS 1/1) to Commercial (C) Rural Settlement (RS) and to rezone from A-1 (Citrus Rural District) to C-1 Restricted (Retail Commercial District) in order to allow for the continued operation of a dance school.

The subject property is comprised of one parcel, improved with two buildings totaling 12,773 gross square feet. The subject property is located on the west side of Hempel Avenue, surrounded by a mix of vacant parcels and single-family residences. The Ready, Set, Dance school has operated on the subject property for approximately 19 years.

A County fire inspection conducted in the summer of 2021 resulted in the discovery that the existing uses were not permitted in conjunction with the site's A-1 zoning and Rural Settlement 1/1 Future Land Use designation.

The subject property is located in the Gotha Rural Settlement. Future Land Use Element policy **FLU6.2.2** states every effort shall be made to preserve the existing character of the Christmas, Clarcona, Gotha, Tangerine, and Zellwood Rural Settlements as part of Orange County's heritage and historic preservation. The Ready Set Dance school is an established commercial use within the Gotha Rural Settlement and would not result in a new non-residential use within the community.

Future Land Use Element policy **FLU6.2.11** states neighborhood commercial and office uses shall be allowed in Rural Settlements in areas designated for such on the Future

Land Use Map. Only those commercial and office uses that will support existing residential uses shall be permitted in Rural Settlements.

The Ready Set Dance school appears to meet the criteria of a neighborhood commercial use as defined by Future Land Use Element policy **FLU6.2.12**, according to the following criteria:

- A. These uses shall be located to serve the residents of the rural area and not primarily to attract "pass-by" trips; and,
- B. These uses shall contain retail and personal services intended to serve the immediate population.

Existing FLUM Development Program

The existing Future Land Use Map designation permits the subject property to be constructed with a single-family residence under Rural Settlement 1/1 (RS 1/1). This is not consistent with the commercial use currently operating on the subject property.

Proposed FLUM Development Program

The proposed FLUM designation of Commercial (C) Rural Settlement (RS) and the proposed zoning of C-1 Restricted will allow the applicant to continue using the subject property for commercial uses.

Land Use Compatibility

The Commercial (C) (Rural Settlement) (RS) Future Land Use and C-1 Restricted zoning would allow for continued use of the property for the aforementioned commercial use. The commercial use would serve the residents of the Gotha Rural Settlement. The existing use appears compatible with the character of the surrounding area, and would not adversely impact adjacent properties.

Site Analysis

	Yes	No	Information
Rural Settlement	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Gotha Rural Settlement
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 Comprehensive Plan Future Land Use Map (FLUM) designation of the subject property is Rural Settlement 1/1 (RS 1/1), which is consistent with the A-1 (Citrus Rural District) zoning. However, the proposed C-1 Restricted (Retail Commercial District) zoning is consistent with the proposed Commercial (C) Rural Settlement (RS) 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.

FLU6.2.11 states neighborhood commercial and office uses shall be allowed in Rural Settlements in areas designated for such on the Future Land Use Map. Only those commercial and office uses that will support existing residential uses shall be permitted in Rural Settlements. The scale and intensity of commercial and office uses must be compatible with the development pattern of the existing Rural Settlement. Corner stores or professional services that utilize existing structures and small scale personal services permitted within agricultural zoning are the type of non-residential uses consistent with Rural Settlements. Limited C-1 zoning uses and FARs up to 0.15 shall be considered suitable for Rural Settlements that have maintained their historic character.

FLU6.2.12 states neighborhood commercial uses in Rural Settlements shall be developed according to the following criteria:

- A. These uses shall be located to serve the residents of the rural area and not primarily to attract "pass-by" trips; and,
- B. These uses shall contain retail and personal services intended to serve the immediate population.

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 Dance Studio

Adjacent	FLUM	Zoning
North	Rural Settlement 1/1 (RS 1/1) (1991)	A-1 (Citrus Rural District) (1957)
South	Rural Settlement 1/1 (RS 1/1) (1991)	A-1 (Citrus Rural District) (1957)
East	Rural Settlement 1/1 (RS 1/1) (1991)	A-1 (Citrus Rural District) (1957)
West	Rural Settlement 1/1 (RS 1/1) (1991)	A-1 (Citrus Rural District) (1957)

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

C-1 (General 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. except on major streets
Rear: 15 ft.; 20 ft. when abutting residential district
Side: 5 ft.; 25 ft. when abutting residential district

Intent, Purpose, and 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.

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

	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.
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:

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.

Solid Waste: 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. Call the Orange County Solid Waste Hotline at 407-836-6601 for information

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 as indicated in Chapter 34 Subdivision Regulations, Article VII Stormwater Management, Division 2 General Design Criteria, Section-250 Open Drainage Facilities, Subsection (g). This may require periodic street sweeping.

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

Transportation Comments:

Based on the concurrency management system dated 3/22/2022, there are multiple failing roadway segments within the project's impact area. 6th Avenue from Lake Street to Main Street (1 segment), Good Homes Road from White Road to Colonial Drive (1 Segment), Maguire Road from Story Road to Plant Street (1 segment), and Main Street from 6th Avenue to Boat Canal (1 segment).

Utilities Comments:

Water: Orange County Utilities

Wastewater: Orange County Utilities

Reclaim Water: Orange County Utilities

Community Meeting Summary

A community meeting was held on Thursday, May 19, 2022. Approximately 100 residents attended the meeting. The attendees were largely divided in support and opposition to the proposed applications. Individuals in favor of the requests expressed that the dance school is a long-established commercial use within the community and does not negatively impact surrounding residences or the rural character of the Gotha Rural Settlement. Individuals opposed expressed concern over the possibility of additional commercial uses opening within the Gotha Rural Settlement if the request is approved, along with the possibility of a use change on the subject property if ownership changes or the existing tenants leave.

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 18, 2022)

Future Land Use Map Amendment

Make a finding of consistency with the Comprehensive Plan and recommend ADOPTION of the requested Commercial (C) (Rural Settlement) (RS) 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. The subject property shall be limited to the following C-1 Restricted uses: Dance Studio; Martial Arts School;
2. A "Type D" landscape buffer shall be provided along the northern property boundary;
3. Hours of operation shall be limited to no sooner than 6:30 a.m. and no later than 9:00 p.m., seven days a week; and
4. New billboards and pole signs shall be prohibited.

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 / Rural Settlement (C)(RS) Future Land Use map designation, and the C-1 Restricted (Retail Commercial District) zoning subject to five restrictions with the third restriction shown in the staff report stricken through resulting in four restrictions. The applicant was present and agreed with the staff recommendation.

Staff indicated that one hundred thirteen (113) notices were mailed to those property owners in the mailing area extending beyond 1,000 feet surrounding the property, and that staff received twelve (12) comments in favor and one (1) in opposition. During public comments seven (7) members of the public were present to speak in support of the request and two (2) in opposition.

After discussion regarding the proposed uses and whether to include Professional Office uses, a motion was made on the Future Land Use Map Amendment and Rezoning by Commissioner Sorbo, and seconded by Commissioner Wiggins to recommend ADOPTION of the requested Commercial / Rural Settlement (C)(RS) Future Land Use Map designation and APPROVAL of the C-1 Restricted (Retail Commercial District) zoning subject to four restrictions with a modification to restriction number 1 by removing "Professional Office." The motion carried on a 6-1 vote.

Motion / Second

Trevor Sorbo / George Wiggins

Small Scale Amendment # SS-22-04-036
Rezoning Case # RZ-22-04-038
Orange County Planning Division
BCC Hearing Date: September 27, 2022

Voting in Favor

Walter Pavon, Nelson Pena, George Wiggins, Jaja Wade, Evelyn Cardenas, and Trevor Sorbo

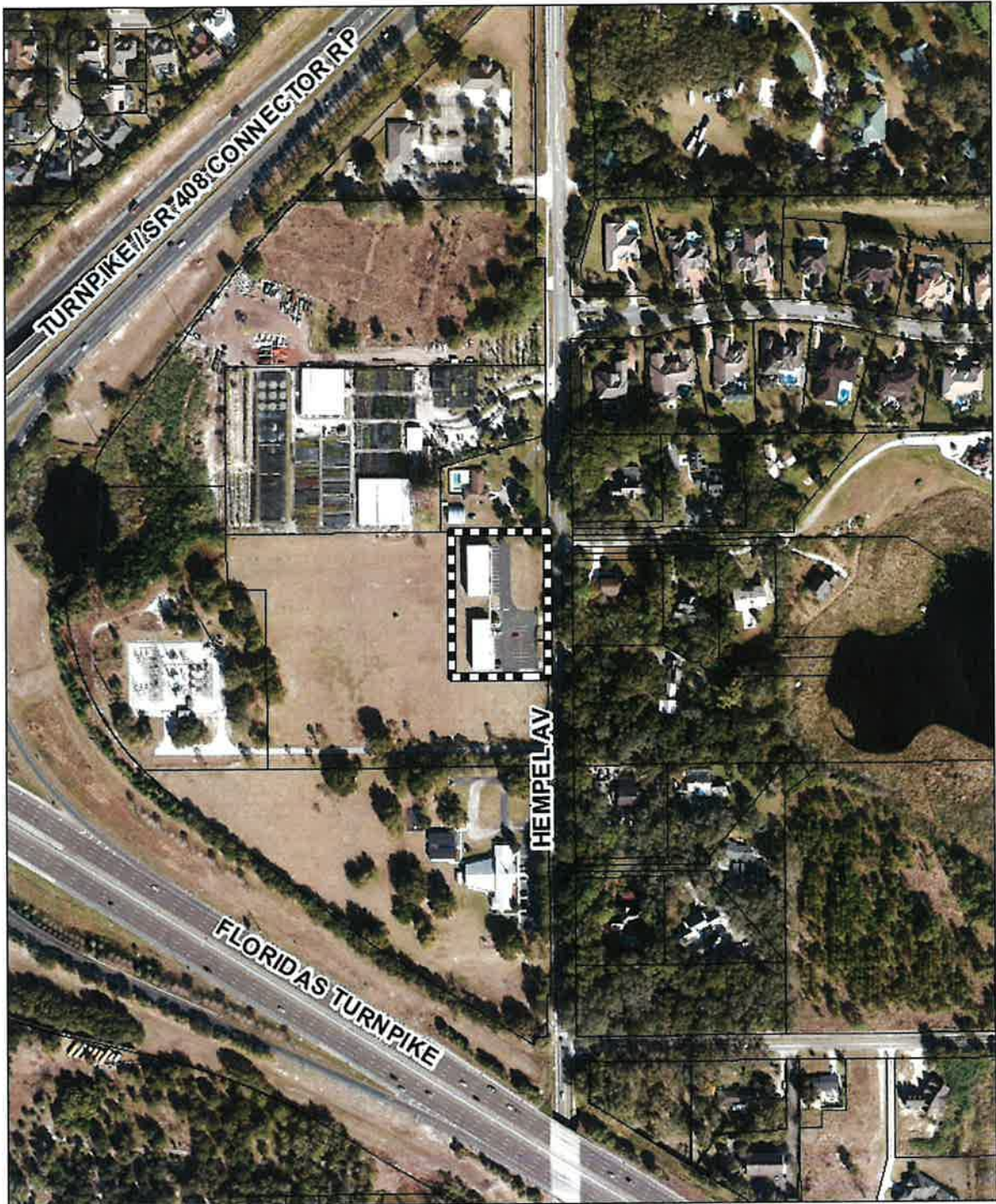
Voting in Opposition

Mohammed Abdallah

Absent

Eddie Fernandez and Gordon Spears

SS-22-04-036/RZ-22-04-038



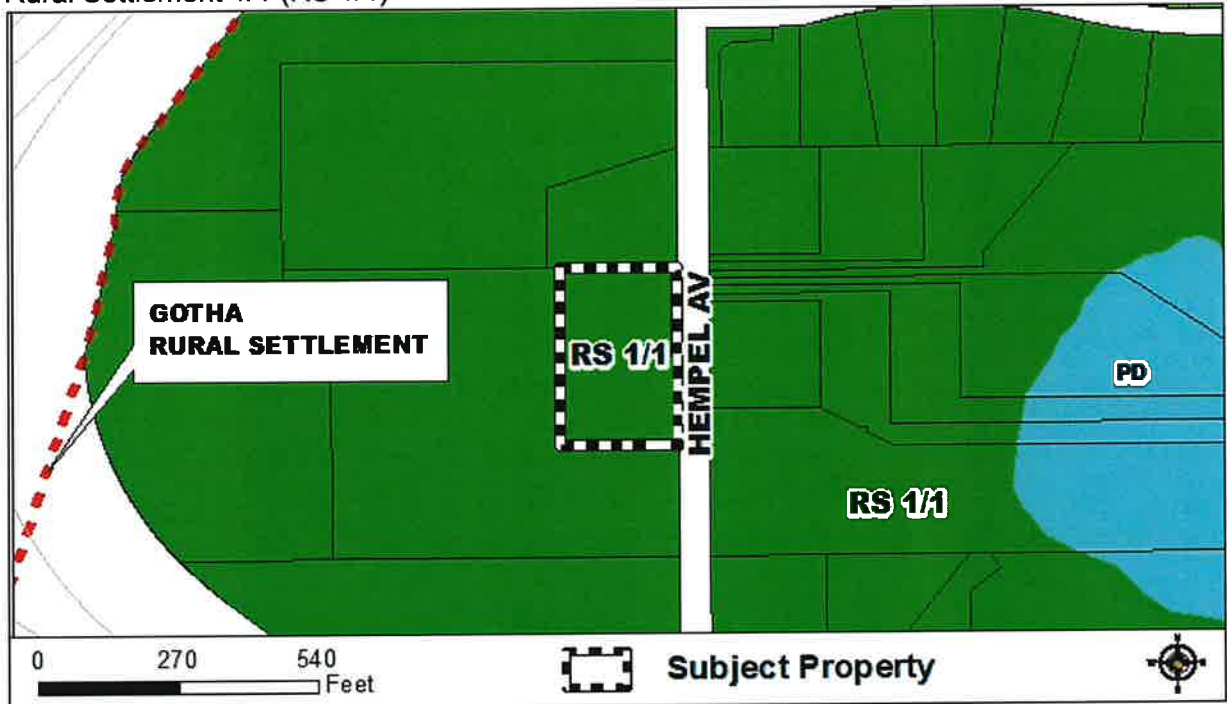
 Subject Property



1 inch = 300 feet

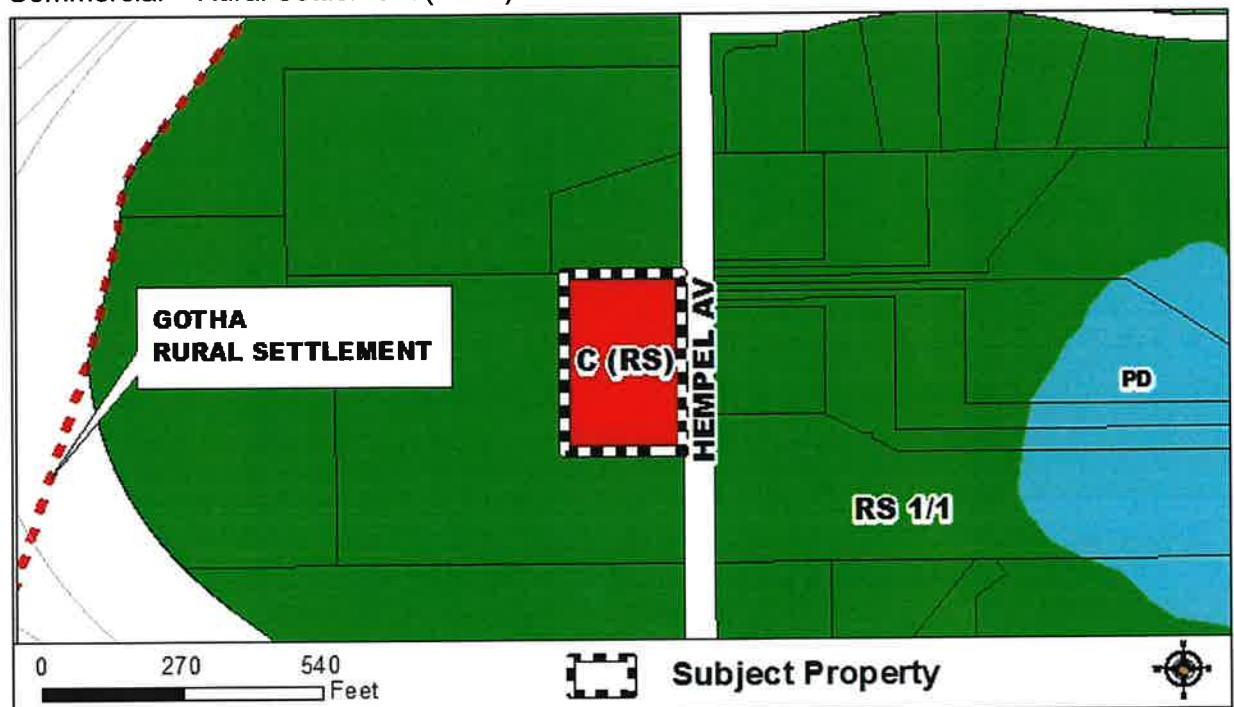
FUTURE LAND USE - CURRENT

Rural Settlement 1/1 (RS 1/1)



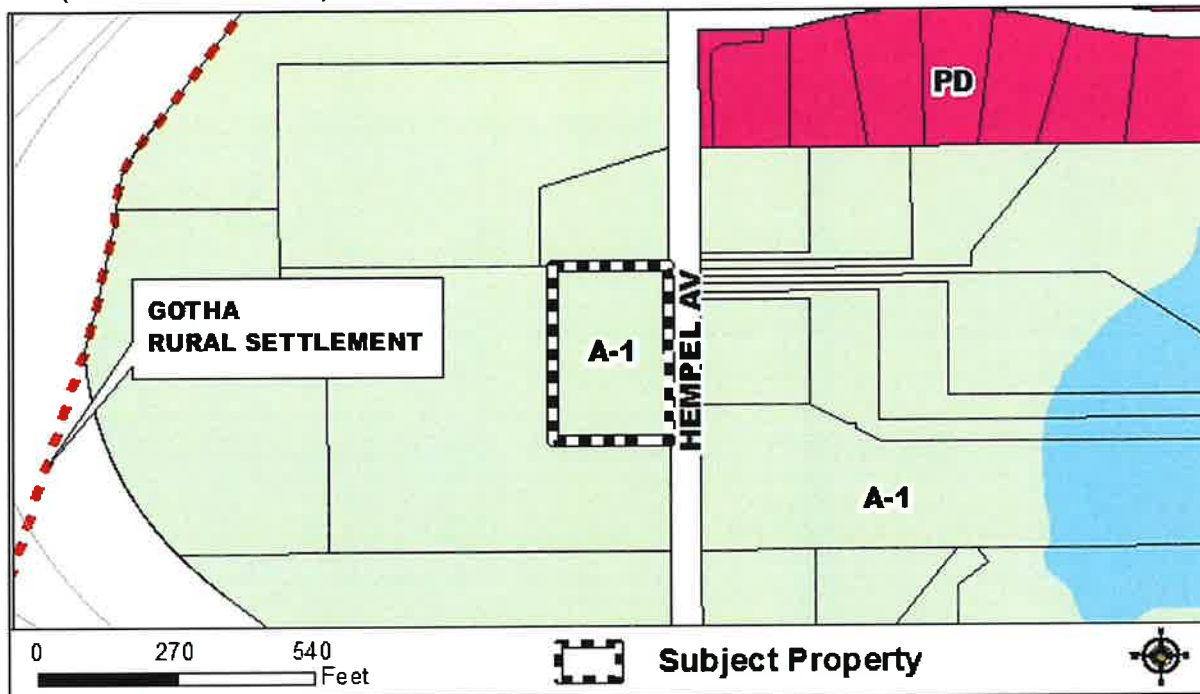
FUTURE LAND USE - PROPOSED

Commercial – Rural Settlement (C-RS)



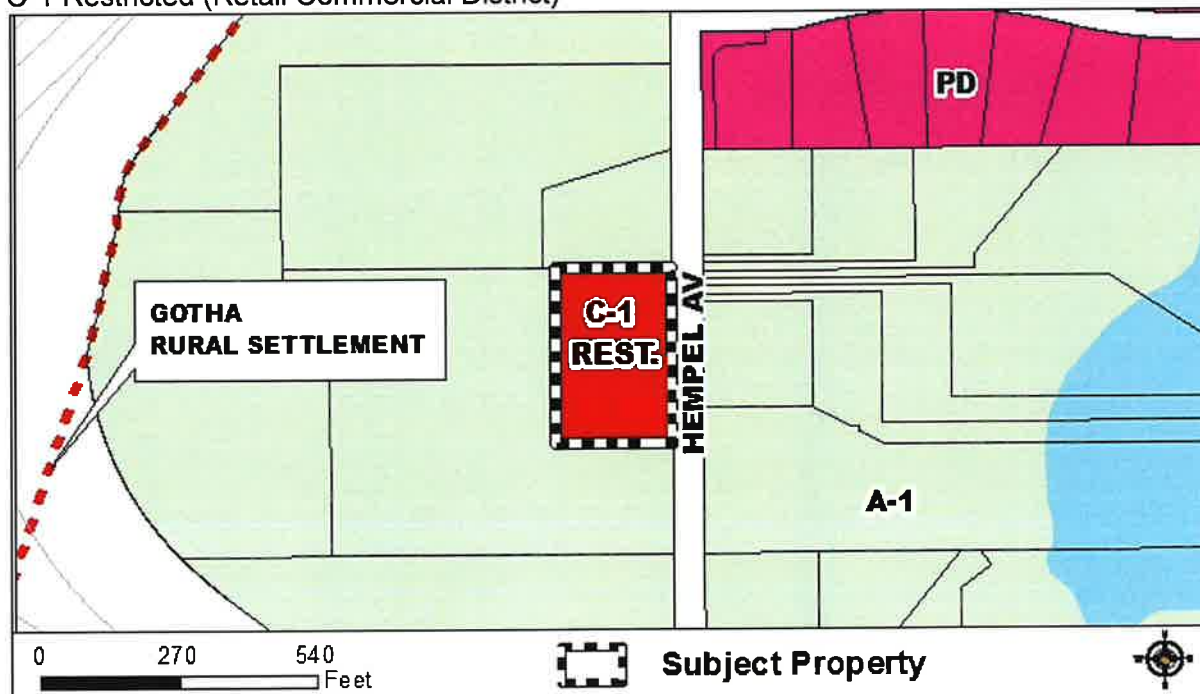
ZONING – CURRENT

A-1 (Citrus Rural District)



ZONING – PROPOSED

C-1 Restricted (Retail Commercial District)



Small Scale Amendment # SS-22-04-036
Rezoning Case # RZ-22-04-038
Orange County Planning Division
BCC Hearing Date: September 27, 2022



*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: Nelson Pena, Chairman

SUBJECT: Case SS-22-04-036 / RZ-22-04-038 PZC/LPA Hearing Summary

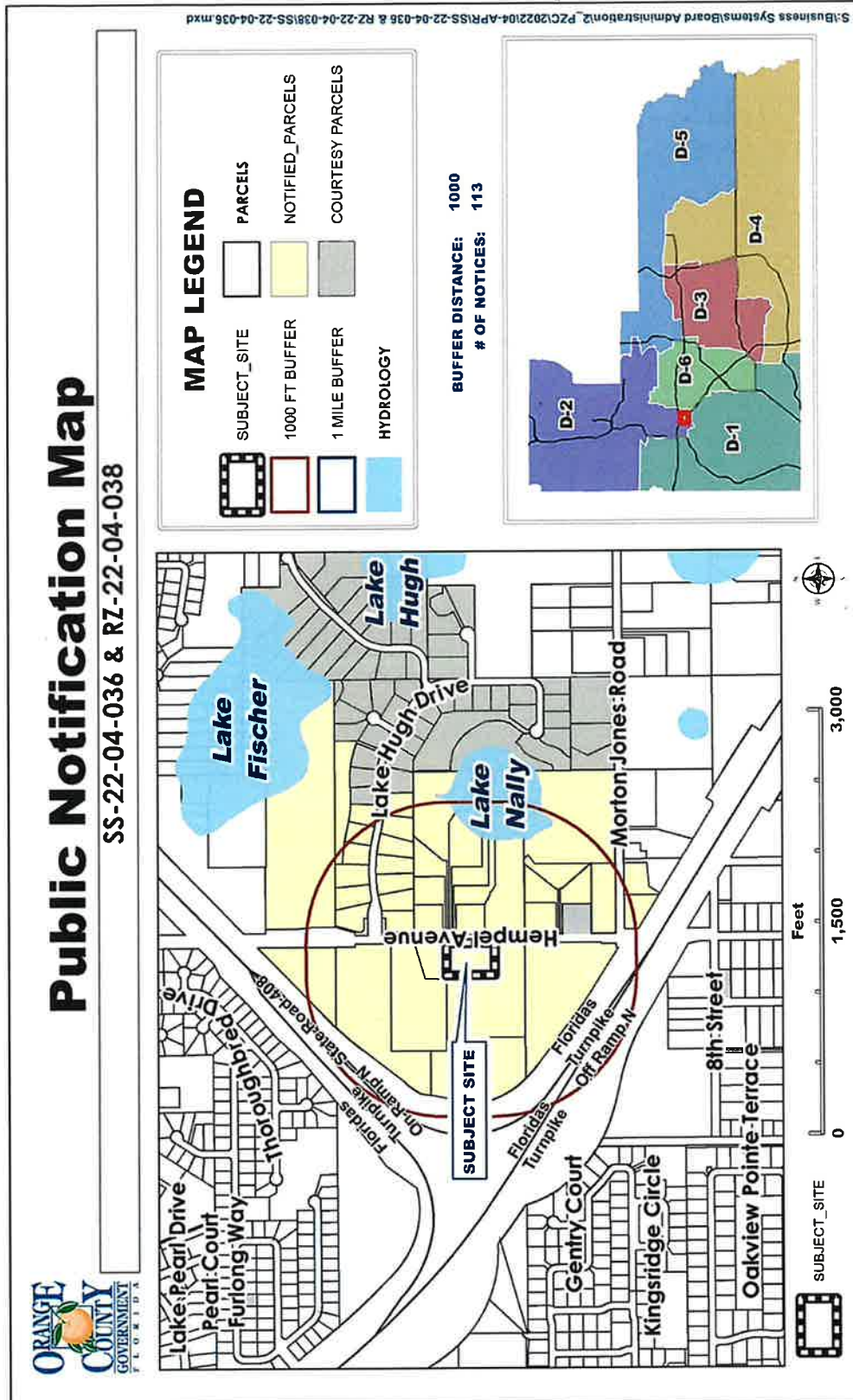
At the August 18, 2022 Planning and Zoning Commission / Local Planning Agency (Commission) hearing, the applicant's request to change the Future Land Use Map designation for Case SS-22-04-036 from Rural Settlement 1/1 to Commercial – Rural Settlement and rezone the subject property for Case RZ-22-04-038 from A-1 to C-1 Restricted was reviewed.

The applicant was present for the hearing and agreed with staff's recommendation for approval. Seven members of the public appeared in favor and two in opposition during public comment of the request.

After discussion regarding the proposed uses and whether to include Professional Office uses and whether to strike "Professional Office" from restriction number one, to which Commissioner Abdallah expressed a desire to see a wider range of uses permitted, a motion was made by Commissioner Sorbo, and seconded by Commissioner Wiggins, to remove "Professional Office" from restriction number one and to recommend APPROVAL of the requested Commercial – Rural Settlement Future Land Use and C-1 Restricted (Retail Commercial District) zoning, subject to four restrictions. The motion carried on a 6 to 1 vote, with Commissioner Abdallah voting in opposition.

NP/JHS

Notification Map



ORDINANCE NO. 2022-_____

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 EFFECTIVE DATES.

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; and

c. On September 27, 2022, the Board held a public hearing on the adoption of the
proposed amendment, 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. Amendments to Future Land Use Map. The Comprehensive Plan is
hereby amended by amending the Future Land Use Map designation as described at **Appendix**
“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 27th DAY OF SEPTEMBER, 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

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-22-04-036	Rural Settlement 1/1 (RS 1/1)	Commercial – Rural Settlement (C-RS)
*The Future Land Use Map (FLUM) shall not depict the above designation until such time as it becomes effective.		