



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: Logan Opsahl, Lowndes, Drosdick, Doster, Kantor and Reed Law Firm
SS-22-03-021 and RZ-22-04-022

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 2300 S. Semoran Blvd, on the west side of Semoran Blvd, north of Baldwin Park Street, and is 6.96 gross acres. The request is to change the Future Land Use designation from Office (O) to Commercial (C) and change the zoning from P-O Restricted (Professional Office District) to C-1 Restricted (Retail Commercial District) subject to five restrictions.

Two community meetings were held on Tuesday, May 3, 2022, with 28 residents in attendance and the second community meeting was held on July 19, 2022, with 21 residents in attendance expressing concerns for negative impacts on property values, noise, light pollution, traffic, congestion, and incompatibility. The residents expressed the desire to see the property remain as is for office uses.

The adoption public hearing for Small-Scale Development Amendment SS-22-03-021 (and concurrent rezoning RZ-22-04-022) was conducted before the Planning and Zoning Commission / Local Planning Agency on August 18, 2022, where the request was recommended for denial.

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 inconsistency with the Comprehensive Plan and DO NOT ADOPT the Commercial (C) Future Land Use map designation, and DENY the associated C-1 Restricted (Retail Commercial District) zoning. District 5

JVW/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-22-03-021
RZ-22-04-022

Commission District: #5

GENERAL INFORMATION

APPLICANT	Logan Opsahl, Lowndes, Drodick, Doster, Kantor and Reed Law Firm
OWNER	Filippo Guani Revocable Trust
HEARING TYPE	Small-Scale Future Land Use Map (FLUM) Amendment / Rezoning
FLUM REQUEST	Office (O) to Commercial (C)
ZONING REQUEST	P-O Restricted (Professional Office District) to C-1 Restricted (Retail Commercial District)
LOCATION	2300 S. Semoran Boulevard; or generally located on the west side of S. Semoran Blvd, north of Baldwin Park Street.
PARCEL ID NUMBER	15-22-30-0000-00-011
TRACT SIZE	6.96 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]. Five hundred four (504) notices were mailed to those property owners in the mailing area.
COMMUNITY MEETING	Two community meetings were held on Tuesday, May 3, 2022, with 28 residents in attendance and the second community meeting was held on July 19, 2022, with 21 residents in attendance expressing concerns for negative impacts on property values, noise, light pollution, traffic, congestion, and incompatibility. The residents expressed the desire to see the property remain as is for office uses.
PROPOSED USE	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) New billboards and pole signs shall be prohibited;
- 2) Hours of operation shall be limited to no earlier than 6:00 a.m. and no later than 11:00 p.m., seven days a week;
- 3) Building height shall be limited to one (1) story or a maximum of twenty-five feet (25');
- 4) For purposes of screening, a fifty foot (50') landscape buffer consisting of existing vegetation and supplemented by County approved landscaping shall be provided along the western property line, and a twenty foot (20') landscape buffer consisting of existing vegetation and supplemented by County approved landscaping shall be provided along the northern property line except where access is needed to the site from Semoran Boulevard at the intersection with Hanging Moss Road; and
- 5) Gas stations 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 6.96 gross acre subject property from O (Office) to Commercial (C) and to rezone from P-O Restricted (Professional Office District) to C-1 Restricted (Retail Commercial District) in order to allow for the operation of C-1 uses.

The subject property is a vacant parcel located on the west side of S. Semoran Blvd at the terminus of Hanging Moss Road. The subject site is bordered to the north and west by the Winter Pines Golf Course and Golfside single-family subdivision within the City of Winter Park. Across Semoran Boulevard to the east of the subject property is the Baldwin Park emergency room, a self-storage facility, and a Wal-Mart Neighborhood Market. An apartment complex is located across Baldwin Park Street to the south of the subject property.

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The existing zoning of P-O Restricted was approved in April, 1990, and currently has a restriction limiting building height to two stories and requires that no building be constructed closer than 100 feet to the north and west property boundaries.

In 2018, a similar request was denied to go from Office to Commercial and P-O zoning to C-1 zoning. At the time, the applicant was proposing a Race Trac gas station. The proposed restrictions listed above are provided to achieve compatibility and address resident concerns.

A Conservation Area Determination (CAD) was completed for a portion of the subject property through the previous FLU and rezoning request in 2018. At the time, it was indicated that the subject property contains Class I Wetlands. A new CAD was submitted and preliminary results show that there are 1.6 acres of Class III wetlands, and 5.38 acres of upland area. Any approval of this small-scale amendment and rezoning does not constitute approval of impacts to any wetlands. Wetland impacts would be processed separately through the EPD Division and may require approval of the Board of County Commissioners depending on the classification of the requested wetland impact.

Existing FLUM Development Program

The existing development program would allow for professional office uses permitted under the P-O zoning district, consistent with the existing Office Future Land Use Map (FLUM) designation.

Proposed FLUM Development Program

The proposed C-1 Restricted zoning with the FLUM designation of Commercial will allow the applicant to develop the site for commercial uses.

Land Use Compatibility

The Commercial Future Land Use and C-1 zoning would allow for development that is compatible with the character of the surrounding area, and would not adversely impact adjacent properties. The development of the subject property for commercial uses would be buffered along the north and west boundary lines from the Golfside single-family subdivision by the Winter Pines Golf Course. Additionally, the subject property's unique shape and location to the north of Baldwin Park Street provides sufficient buffering from the existing multi-family development located to the south.

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 O (Office), which is consistent with the P-O Restricted (Professional Office District) zoning. However, 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	City of Winter Park	City of Winter Park
South	C (Commercial) (2013)/ MDR (Medium Density Residential) (2013)	C-1 Restricted (Retail Commercial District) (2013)/ R-3 (Mult-family Dwelling District) (1967)

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East	IND (Industrial) (1991)/ PD-C (Planned Development District - Commercial) (2005)	I-2/I-3 (Industrial District – General) (1976)/ PD (Planned Development District) (2005)
West	City of Winter Park	City of Winter Park

Adjacent Land Uses

N: Winter Pines Golf Course

E: Emergency Room/ Self Storage / Neighborhood Wal-Mart

W: Winter Pines Golf Course

S: Multi-Family Development

C-1 (Retail Commercial District) Development Standards

Min. Lot Area: 6,000 sq. ft.

Min. Lot Width: 60 ft.

Max. Height: 50 ft. (35 ft. within 100 of residential districts)

Min. Floor Area: 500 sq. ft.

Building Setbacks

Front: 25 ft.

Rear: 20 ft.

Side: 0 ft. (15 ft when abutting residential district or side street)

Intent, Purpose, and Uses

A use shall be permitted in the C-1 District if the use is identified by the letter "P" in the use table set forth in Section 38-77.

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"/>	

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Environmental:

CAD: An Orange County Conservation Area Determination (CAD-17-11-142) was completed for a portion of this parcel and expires on January 16th, 2023. A new CAD was submitted and the wetland survey shows 1.6 acres of Class III wetlands and 5.38 acres of upland acres.

No Clearing: No construction, clearing, filling, alteration or grading is allowed within or immediately adjacent to a conservation area or conservation easement/tract (includes the conservation area and the protective setback/buffer) without first obtaining a Conservation Area Impact permit approved by the county and obtaining other applicable jurisdictional agency permits. Reference Orange County Code Chapter 15, Article X, Section 15-376.

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).

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. The applicant should 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 34-250(g). This may require periodic street sweeping.

Transportation:

Trip Generation (ITE 11th Edition)

Land Use Scenario	PM Pk. Hr. Trips	% New Trips	New PM Pk. Hr. Trips
Existing Use: 378,972 SF Office	546	92%	502
Proposed Use: 454,765 SF Commercial	1,546	75%	1,160
Net New Trips (Proposed Development less Allowable Development): 558			

Future Roadway Network

Road Agreements: No

Planned and Programmed Roadway Improvements: Richard Crotty Parkway Segment 1A: Richard Crotty Parkway will be a new four-lane roadway with sidewalks, bicycle lanes, roadway lighting, and median landscaping. At the time of this report, the project is 90% complete with design and 38% complete overall.

Right of Way Requirements: No

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Analysis of the project trips from the currently approved under future land use versus the proposed use indicates that the proposed commercial will result in an increase in the number of pm peak trips by 558, and therefore impact the area roadways.

Based on the concurrency management system dated 1/31/2022, there is a failing roadway segment within the project's impact area along Colonial Drive from Semoran Blvd to Forsyth Road. This is dated and subject to change. 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.

Community Meeting Summary

There were two community meetings held for this request. The first community meeting was held on Tuesday, May 3, 2022, with 28 residents in attendance and the 2nd community meeting was held on July 19, 2022 with 21 residents in attendance expressing concerns for negative impacts on property values, noise, light pollution, traffic, congestion, and incompatibility. The residents expressed the desire to see the property remain as is for office uses.

Utilities

Water: City of Winter Park

Wastewater: City of Winter Park

Reclaim Water: Not available

***Detailed Utility Information:**

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

This property is within Orange County Utilities Reclaimed Water Service Area. 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.

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.

**Small Scale Amendment # SS-22-03-021
Rezoning Case # RZ-22-04-022
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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 inconsistency with the Comprehensive Plan and recommend to DO NOT ADOPT the requested Commercial (C) Future Land Use.

Rezoning

Make a finding of inconsistency with the Comprehensive Plan and recommend DENIAL of the requested C-1 Restricted (Retail Commercial District) zoning.

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 map designation, and the C-1 Restricted (Retail Commercial District) zoning subject to five restrictions. The applicant was present and agreed with the staff recommendation.

Staff indicated that five hundred four (504) notices were mailed to those property owners in the mailing area extending beyond 1,000 feet surrounding the property, and that staff received 114 comments in opposition and 37 in-support of the request. During public comments eight (8) members of the public were present to speak in opposition to the request and one (1) member of the public was present to speak in-favor of the request. Additionally, staff stated that the City of Winter Park passed a resolution opposing the request.

After public comment, discussion ensued regarding whether a restaurant would be permitted under the current zoning and staff stated that a restaurant without a drive thru would require a Special Exception under the current zoning.

After brief additional discussion, a motion was made on the Future Land Use Map Amendment and Rezoning by Commissioner Wiggins, and seconded by Commissioner Pavon to recommend DO NOT ADOPT the requested Commercial (C) Future Land Use Map designation and DENIAL of the C-1 Restricted (Retail Commercial District) zoning subject to five (5) restrictions. The motion carried on a 7-1 vote.

Motion / Second

George Wiggins / Walter Pavon

Voting in Favor

Eddie Fernandez, Mohammed Abdallah, Walter Pavon, Nelson Pena, Jaja Wade, George Wiggins, and Trevor Sorbo

Voting in Opposition

Evelyn Cardenas

Absent

Gordon Spears

SS-22-03-021/RZ-22-04-022



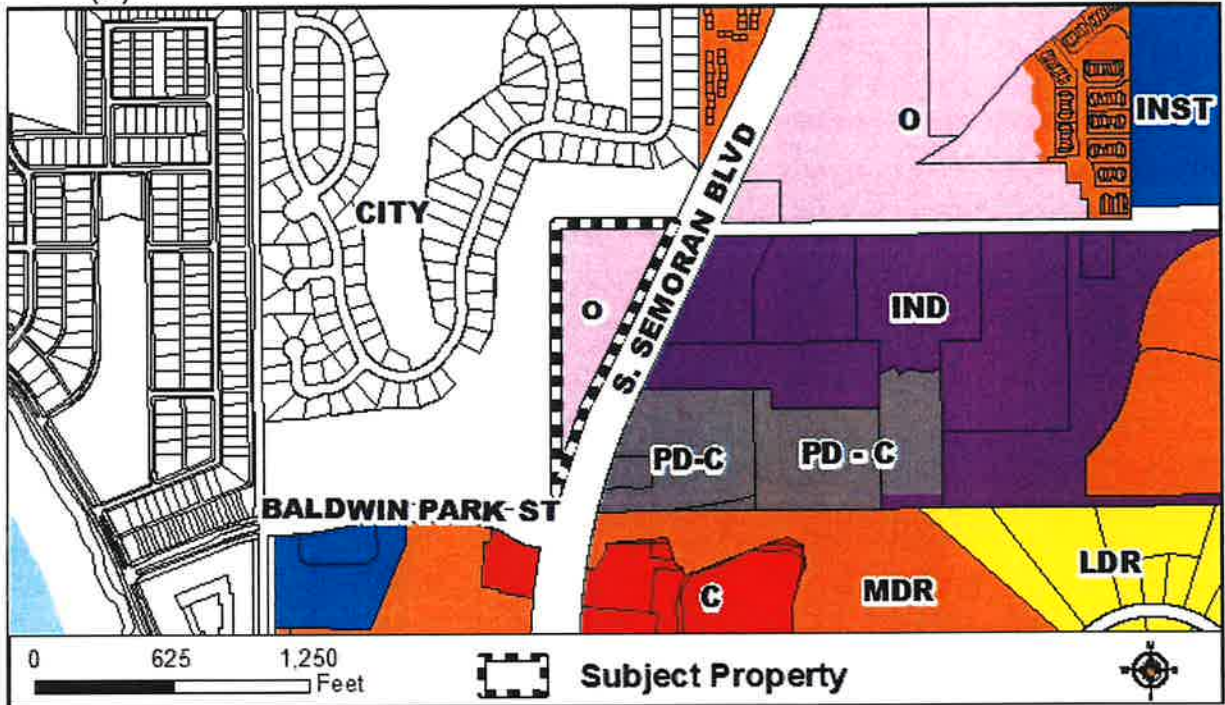
 Subject Property



1 inch = 400 feet

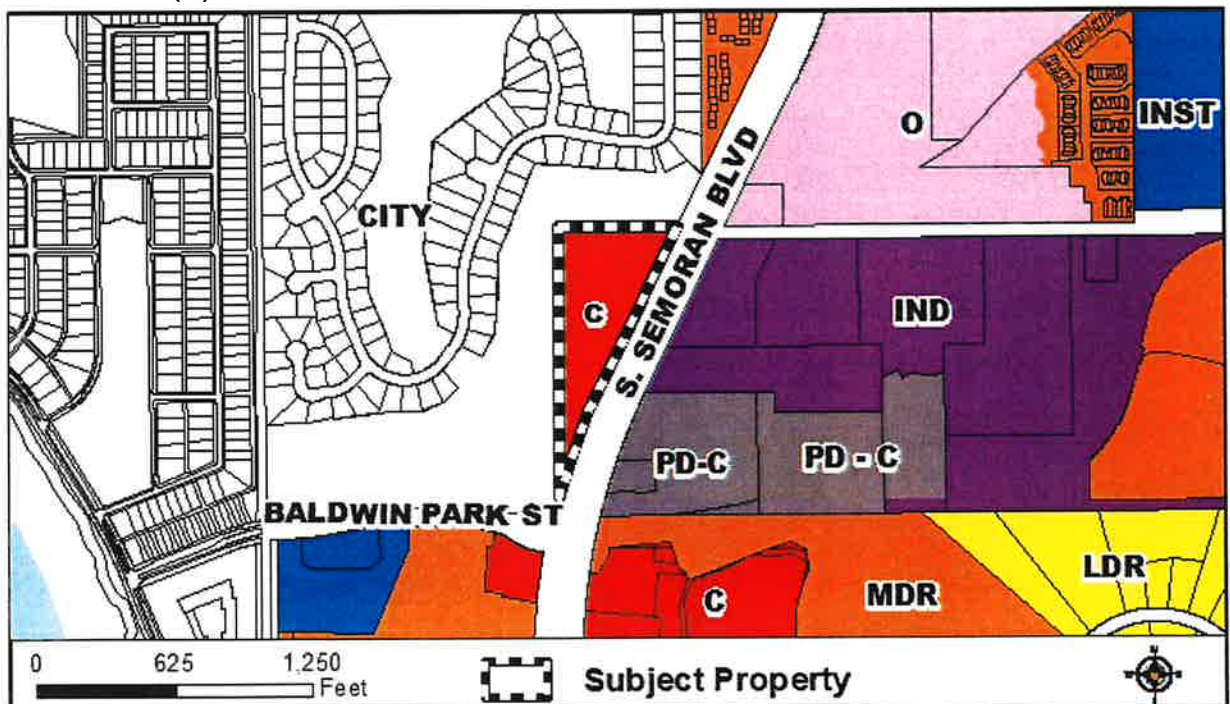
FUTURE LAND USE - CURRENT

Office (O)



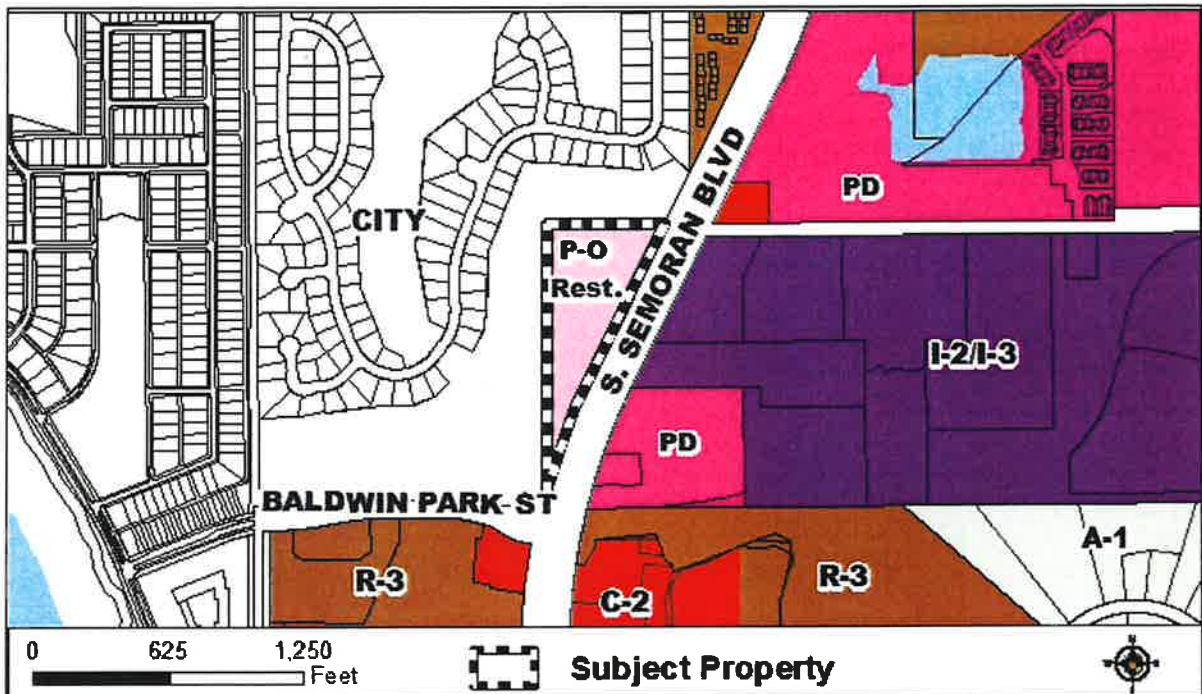
FUTURE LAND USE - PROPOSED

Commercial (C)



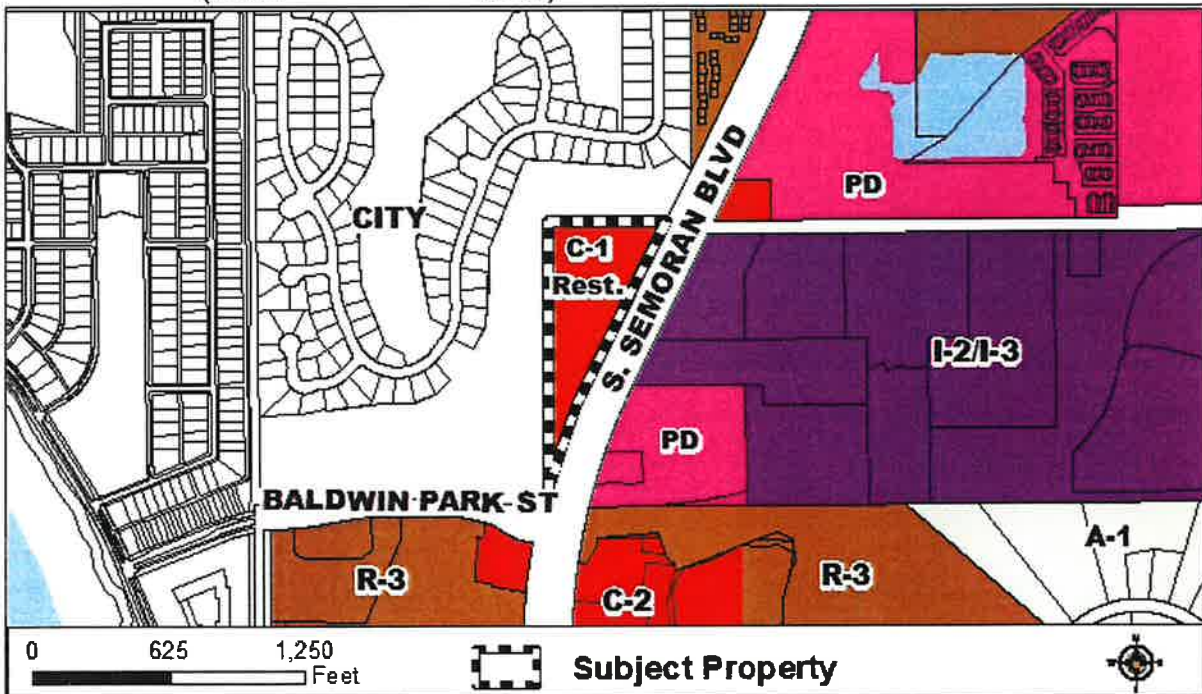
ZONING – CURRENT

P-O Restricted (Professional Office District)



ZONING – PROPOSED

C-1 Restricted (Retail Commercial District)



Small Scale Amendment # SS-22-03-021
Rezoning Case # RZ-22-04-022
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-22-03-021 / RZ-22-04-022 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-22-03-021 from Office to Commercial and rezone the subject property for Case RZ-22-04-022 from P-O Restricted to C-1 Restricted was reviewed.

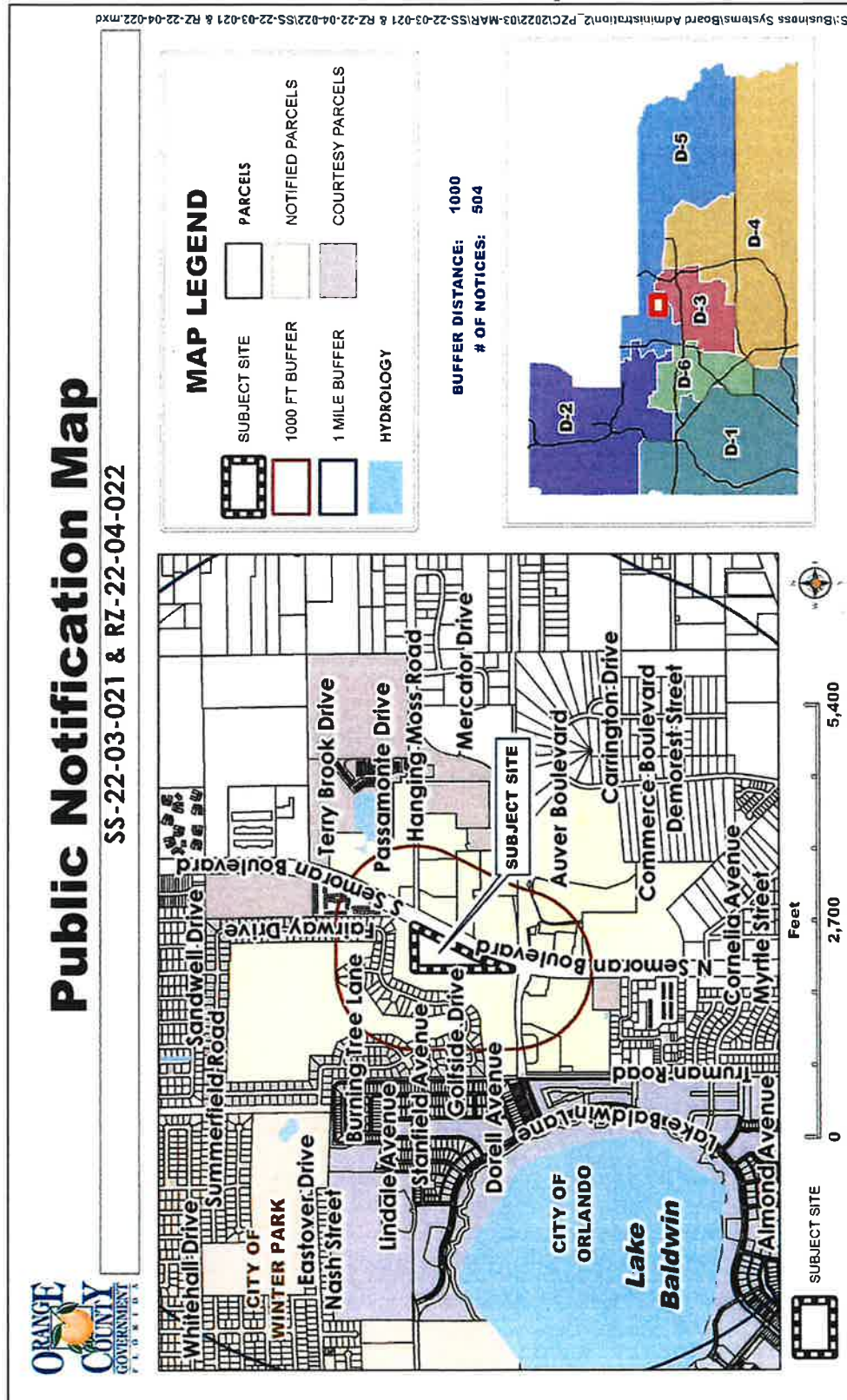
The applicant was present for the hearing and agreed with staff's recommendation for approval. The applicant team made a presentation which included a conceptual site plan. Seven members of the public appeared in favor and one in opposition during public comment of the request.

After public comment, discussion ensued regarding whether a restaurant would be permitted under the current zoning and staff stated that a restaurant without a drive thru would require a Special Exception under the current zoning.

A motion was made by Commissioner Wiggins, and seconded by Commissioner Pavon, to recommend DENIAL of the requested Commercial Future Land Use and C-1 Restricted (Retail Commercial District) zoning. The motion carried on a 7 to 1 vote, with Commissioner Cardenas 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

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-22-03-021	Office (O)	Commercial (C)
*The Future Land Use Map (FLUM) shall not depict the above designation until such time as it becomes effective.		