



Interoffice Memorandum

DATE: September 2, 2021

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

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

CONTACT PERSON: Eric Raasch, DRC Chairman
Development Review Committee
Planning Division
(407) 836-5523

SUBJECT: September 14, 2021 – Public Hearing
Conventional Rezoning Case RZ-21-07-042
Applicant: Geoff Summitt, G.L. Summitt Engineering, Inc.
Case # RZ-21-07-042 (f.k.a. RZ-20-03-019) / District 2
(Related to Settlement Agreement between Thompson Heights,
LLC, Plaintiff/Petitioner and Orange County, Florida,
Defendant/Respondent, in Circuit Court Case Nos. 2020-CA-
008595-O and 2020-CA-008593-O)

This is a conventional rezoning hearing, in which the applicant is seeking to rezone 11.7 gross acres located at 615 and 627 N. Thompson Road; or generally east of N. Thompson Road and north of Votaw Road, from A-1 (Citrus Rural District) to R-1A Restricted (Single-Family Dwelling District - Restricted). The applicant's intent is to subdivide the subject property to allow for the construction of 26 detached single-family dwelling units and associated infrastructure. On July 28, 2020, the Board denied the previously-requested rezoning from A-1 (Citrus Rural District) to R-1 Restricted (Single-Family Dwelling District - Restricted) to allow for 40 detached single-family dwelling units.

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 consistency with the Comprehensive Plan and approve the requested R-1A Restricted (Single-Family Dwelling District - Restricted) zoning, subject to the restriction listed in the staff report. District 2

JVW/EPR/JHS
Attachment

CASE # RZ-21-07-042

Commission District: #2

GENERAL INFORMATION

APPLICANT	Geoff Summitt, G.L. Summit Engineering, Inc.
OWNERS	Thompson Heights, LLC
HEARING TYPE	Planning and Zoning Commission
REQUEST	A-1 (Citrus Rural District) to R-1A Restricted (Single-Family Dwelling District)
LOCATION	615 & 627 N. Thompson Road; or generally east of N. Thompson Road and north of Votaw Road
PARCEL ID NUMBERS	02-21-28-0000-00-006, 02-21-28-0000-00-034
TRACT SIZE	11.7 gross acres
PUBLIC NOTIFICATION	The notification area for this public hearing was 600 feet [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Three hundred and three (303) notices were mailed to those property owners in the surrounding area. A community meeting was not required for this application.
PROPOSED USE	Twenty-six (26) single-family detached dwelling units

STAFF RECOMMENDATION

PLANNING

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the requested R-1A Restricted (Single Family Dwelling District - Restricted) zoning, with the following restriction:

- 1) Development shall be limited to no more than twenty-six (26) single-family detached dwelling units.

SUBJECT PROPERTY ANALYSIS

Overview

Through this request, the applicant is seeking to rezone the 11.7 gross acres property from A-1 (Citrus Rural District) to R-1A Restricted (Single-Family Dwelling District -

Restricted) in order to construct twenty-six (26) single-family detached dwelling units. The subject property consists of two lots that have not been platted. The southern part of the subject property was developed with a manufactured home in 1978. This structure has since been demolished. The northern part of the subject property is currently undeveloped.

The immediate area is developed with single-family dwelling units on lots varying from eighty-five (85) feet in width to one hundred fifty eight (158) feet in width. The N. Thomson Road corridor is primarily developed with single-family homes that are situated on larger lots, up to three hundred (300) feet in width. The subject property is located within the boundary of Wekiva Study Area, and per policy OS1.3.6, the applicant is required to provide 35% of open space. The subject property is within the City of Apopka's wastewater territory and the applicant has indicated his commitment to extend wastewater lines to service the subject property.

This request was originally submitted under case # RZ-20-03-019 for forty (40) residential homes. During that process, the case was recommended for approval by the Planning and Zoning Commission on May 21, 2020 and subsequently received a denial vote from the Board of County Commissioners on July 28, 2020. The applicant challenged the County's denial in Circuit Court and a settlement agreement related to that action will be heard concurrent with this revised rezoning request. The updated rezoning request is for a more restrictive zoning district (R-1A instead of R-1) and less homes (twenty-six homes instead of forty homes). If approved, the minimum lot size would be 75' in width in lieu of the previously-requested 50' minimum lot width.

Land Use Compatibility

The R-1A Restricted (Single-Family Dwelling District - Restricted) zoning would allow for development that is compatible with the character of the surrounding area and would not adversely impact adjacent properties.

Site Analysis

	Yes	No	Information
Rural Settlement	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Joint Planning Area (JPA)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The subject property is located within the Apopka Joint Planning Area.
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 Low Density Residential (LDR) which allows for consideration of up to four dwelling units per acre. The proposed R-1A Restricted (Single-Family Dwelling District - Restricted) zoning is consistent with the Low Density Residential FLUM designation and 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.

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	Undeveloped Land
Adjacent Zoning	N: R-1AA (Single-Family Dwelling District) (1978) E: R-1AA (Single-Family Dwelling District) (1978) W: R-CE (Country Estate District) S: A-1 (Citrus Rural District) (1957)
Adjacent Land Uses	N: Single-Family Dwelling E: Single-Family Dwelling W: Single-Family Dwelling S: Single-Family Dwelling

R-1A [Single-Family Dwelling District] Development Standards

Min. Lot Area: 7,500 sq. ft.

Min. Lot Width: 75 ft.
Max. Height: 35 ft.
Min. Living Area: 1,200 sq. ft.

Building Setbacks

Front: 20 ft.
Rear: 25 ft.
Side: 7.5 ft.

Intent, Purpose, and Uses

Per Section 38-276 of the Orange County Code, the intent and purpose of the R-1A zoning district is to be a single-family residential area with large lots and low population densities. Certain structures and uses required to serve educational, religious, utilities and noncommercial recreational needs of such areas are permitted within the districts as special exceptions.

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 checked="" type="checkbox"/>	Based on the concurrency database dated January 27 th 2020, there are two failing roadway segments within the project area. Starting from Welch Road and Rock Springs Road to Wekiwa Springs Road. This information is dated and is subject to change. A traffic study will be required for this project.
Schools	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Parks and Recreation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

*Environmental Division Comments: This site is located within the Wekiva Study Area, as established by the Wekiva Parkway and Protection Act, Section 369.316 F.S. Special area regulations apply. These requirements may reduce the total net developable acreage. Regulations include, but are not limited to: septic tank criteria, open space requirements, stormwater treatment, upland preservation, setbacks related to karst features and the watershed, and aquifer vulnerability. In addition to the state regulations, local policies are included in Orange County Comprehensive Plan 2010-2030, Future Land Use Element (but not limited to) Objective FLU6.6 Wekiva and the related policies.

Development of the subject property shall comply with all state and federal regulations regarding wildlife and plants listed as imperiled (endangered, threatened, or species of special concern.) The applicant is responsible to determine the presence of listed

species and obtain any required habitat permits from the U.S. Fish and Wildlife Service (USFWS) and/or the Florida Fish & Wildlife Conservation Commission (FWC).

This site has a prior land use as a plant nursery that may have resulted in soil and/or groundwater contamination due to spillage of petroleum products, fertilizer, pesticide or herbicide. Prior to the earlier of platting, demolition, site clearing, grading, grubbing, review of mass grading or construction plans, the applicant shall provide documentation to assure compliance with the Florida Department of Environmental Protection (FDEP) regulation 62-777 Contaminant Cleanup Target Levels, and any other contaminant cleanup target levels found to apply during further investigations, to the Orange County Environmental Protection and Development Engineering Divisions. A Phase I Environmental Site Assessment (ESA) report dated November 2003 was submitted for this site. If additional assessments have been completed, please submit a copy.

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.

If a septic system is required or in use, the applicant shall notify the Florida Department of Health (FDOH), Environmental Health Division (407-858-1497), about the septic system permit application, modification or abandonment. Also refer to Orange County Code Chapter 37, Article XVII for details on Individual On-Site Sewage Disposal as well as the FDOH.

All development is required to treat stormwater runoff for pollution abatement purposes. Discharge that flows directly into wetlands or surface waters without pretreatment is prohibited. Reference Orange County Code Sections 30-277 and 30-278.

Community Meeting Summary

A community meeting was not required for this request.

Utilities

Water:	City of Apopka
Wastewater:	City of Apopka
Reclaim Water:	City of Apopka

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.

PREVIOUS PZC ACTION (RZ-20-03-019 for 40 homes)

Planning and Zoning Commission (PZC) Recommendation – (May 21, 2020)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the requested R-1 (Single Family Dwelling District) zoning, subject to the following restriction:

- 1) No lots shall be less than sixty (60) feet in width.

PREVIOUS PZC PUBLIC HEARING SYNOPSIS (May 21, 2020)

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 the requested R-1 (Single Family Dwelling District) zoning.

A project information presentation was held in a lieu of a community meeting and ten (10) residents provided a feedback form in opposition to the request. Staff indicated that three hundred and three (303) notices were sent to property owners extending beyond 600 feet surrounding the property, and that staff had received eight (8) commentaries in opposition to the request and zero (0) in favor. One (1) member of the public was present to speak on this request.

After discussion addressing the proposed use of the property and compatibility with the surrounding area, Commissioner Velazquez added a restriction to limit lots to no less than sixty (60) feet in width. Commissioner Velazquez then made a motion to recommend approval of the request, subject to the lot width restriction. The motion was seconded by Commissioner Dunn and passed on a 9-0 vote.

Motion / Second

Diane Velazquez / Jimmy Dunn

Voting in Favor

Diane Velazquez, Jimmy Dunn, Gordon Spears, Mohammed Abdallah, Eddie Fernandez, Carlos Nazario, Evelyn Cardenas, JaJa Wade, and Nelson Pena

Voting in Opposition

None

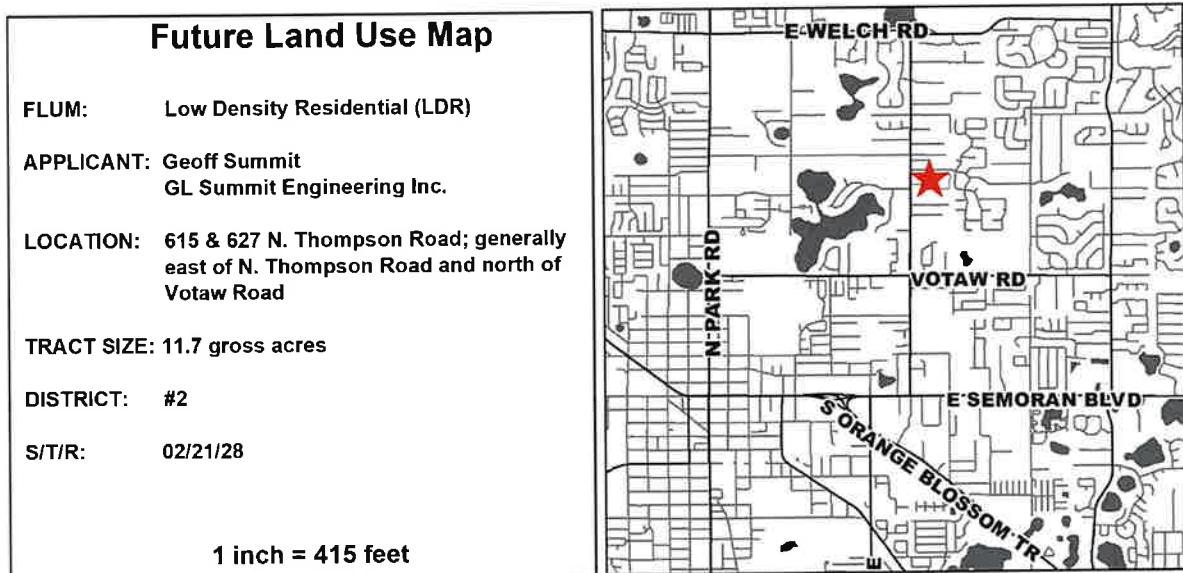
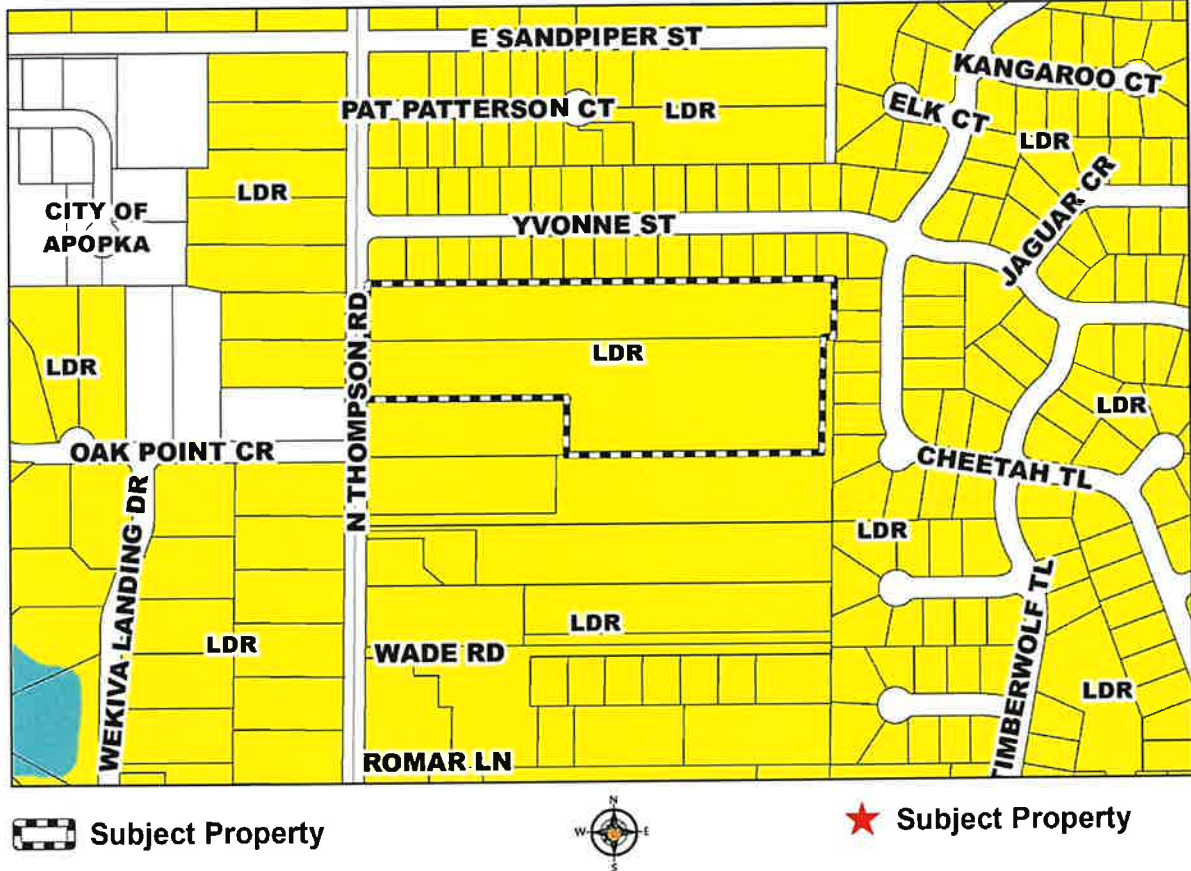
Absent

None

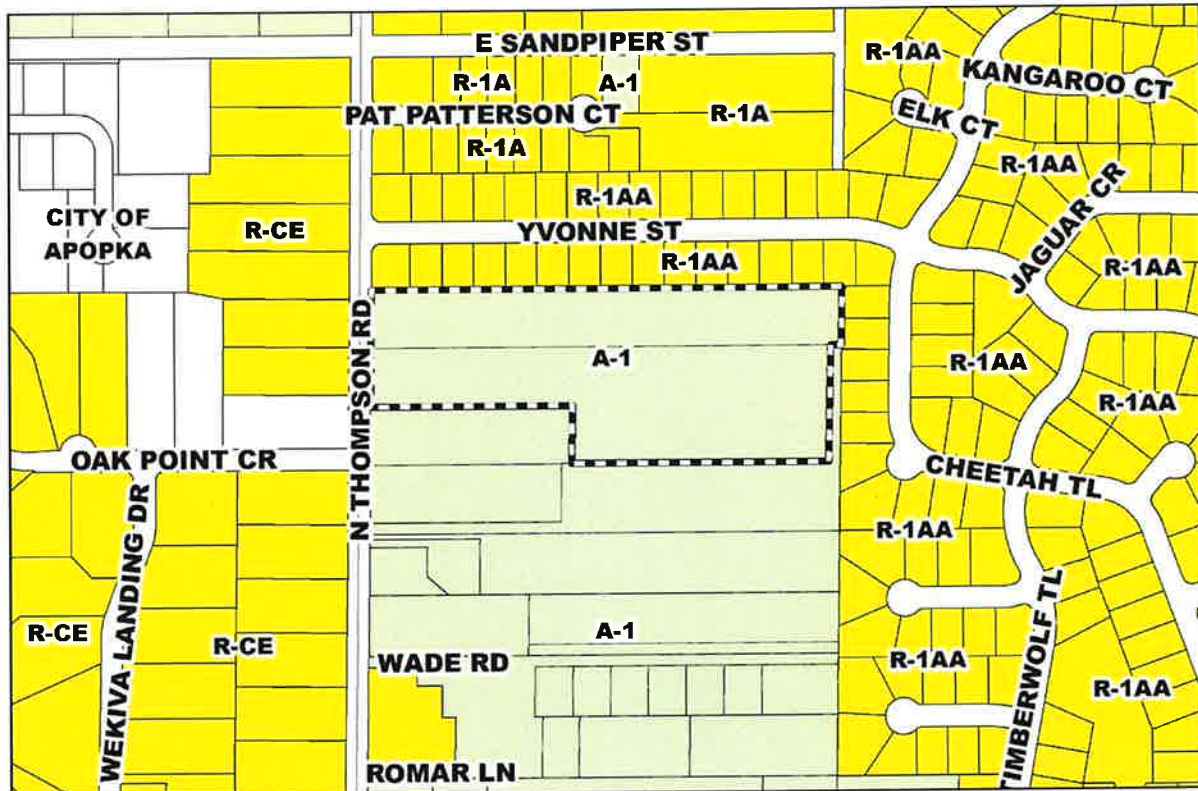
PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (July 28, 2020)

Upon a motion by Commissioner Moore, seconded by Commissioner Siplin, and carried by all present members voting AYE by vote, the Board made a finding of inconsistency with the Comprehensive Plan; and denied the request to rezone from A-1 (Citrus Rural District) to R-1 Restricted (Single-Family Dwelling District - Restricted).

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Subject Property



Subject Property

Zoning Map

ZONING: A-1 (Citrus Rural District) to R-1A Restricted (Single-Family Dwelling District)

APPLICANT: Geoff Summit
 GL Summit Engineering Inc.

LOCATION: 615 & 627 N. Thompson Road; generally east of N. Thompson Road and north of Votaw Road

TRACT SIZE: 11.7 gross acres

DISTRICT: #2

S/T/R: 02/21/28

1 inch = 415 feet



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Subject Property



1 inch = 335 feet

Notification Map

