

Town Council Meeting

Asma Parcel – Ord. 23-009

Agenda Item 6

December 11, 2023

S. Brent Spain, Esquire

Board Certified Specialist by The Florida Bar in
City, County & Local Government Law

Nicole C. Gargasz, Principal

Gemini Land Development, Inc.



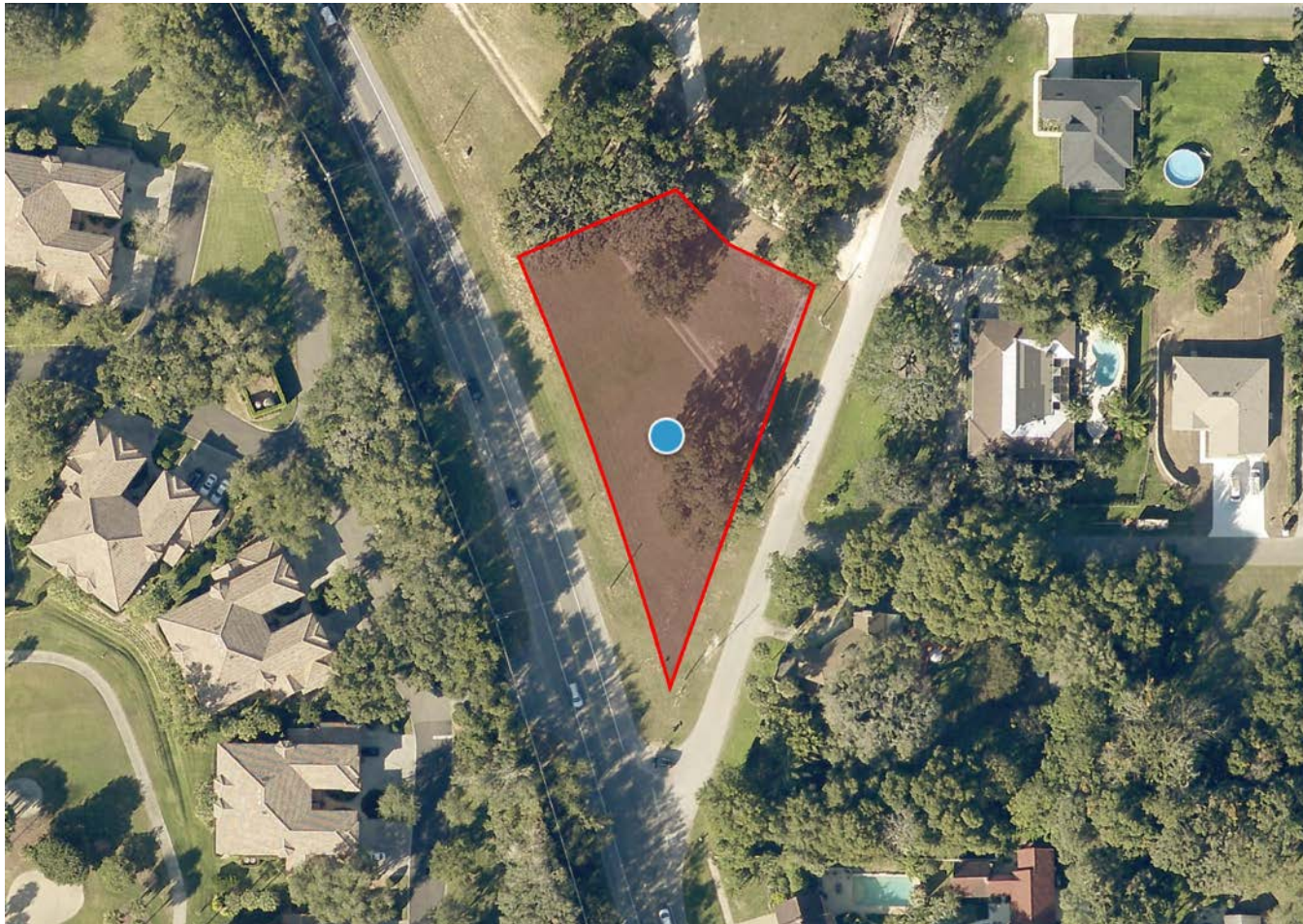
Standard of Review

- Two (2) main types of local land use and zoning decisions – legislative and quasi-judicial.
- Comprehensive Plan Amendments are “legislative” decisions, and subject to a “fairly debatable” standard. Site-specific rezonings are “quasi-judicial” in nature and are subject to the “competent substantial evidence” standard.
- Under Florida law, an applicant has the initial burden of demonstrating through competent substantial evidence that its request complies with the local government’s adopted code criteria.
- Once an applicant satisfies its initial burden of demonstrating compliance with the applicable code requirements, “the application must be granted unless the opposition carries its burden, which is to demonstrate [by competent substantial evidence] that the applicant’s requests do not meet the standards.” (*Jesus Fellowship*).
- The Staff Report of a local government’s professional planning staff constitutes competent substantial evidence. (*Fuller*).

Standard of Review, Cont.

- Generalized statements in opposition to a project do **not** constitute competent substantial evidence upon which a local government can base a quasi-judicial zoning decision. (*City of Deland*).
- Where technical expertise is required (e.g., traffic impacts), Florida courts have generally held that lay opinion testimony does **not** constitute valid evidence upon which a local government's decision may be based in whole or in part. (*Jesus Fellowship*).
- “Lay witnesses’ speculation about potential ‘traffic problems, light and noise pollution,’ and general unfavorable impacts of a proposed land use are **not** . . . considered competent, substantial evidence. Similarly, lay witnesses’ opinions that a proposed land use will devalue homes in the area are insufficient to support a finding that such devaluation will occur.” (*Katherine’s Bay*).
- Generalized fears of increased traffic in a neighborhood are insufficient to justify denial of a rezoning application. (*Debes* – “Because it is virtually self-evident that, by its very nature, all commercial uses create ‘more traffic’ than non-commercial ones, it is equally obvious that local government cannot justify a denial of a particular commercial use on this ground.”).
- Lastly, a local government must evaluate a development application based solely upon the adopted criteria in the local government’s enacted regulations – *i.e.*, the comprehensive plan and the land development regulations. A local government is not permitted to add to such published criteria during the hearing process or base its decision on anything but the adopted and applicable criteria. (*Omni-Point Holdings*).

Site Location



- 0.69+/- acres
- Corner of SR 19 and Citrus Avenue
- Requesting a small-scale plan amendment and rezoning to allow the site to be developed with a single-story, 4,000+/- square foot professional office building.

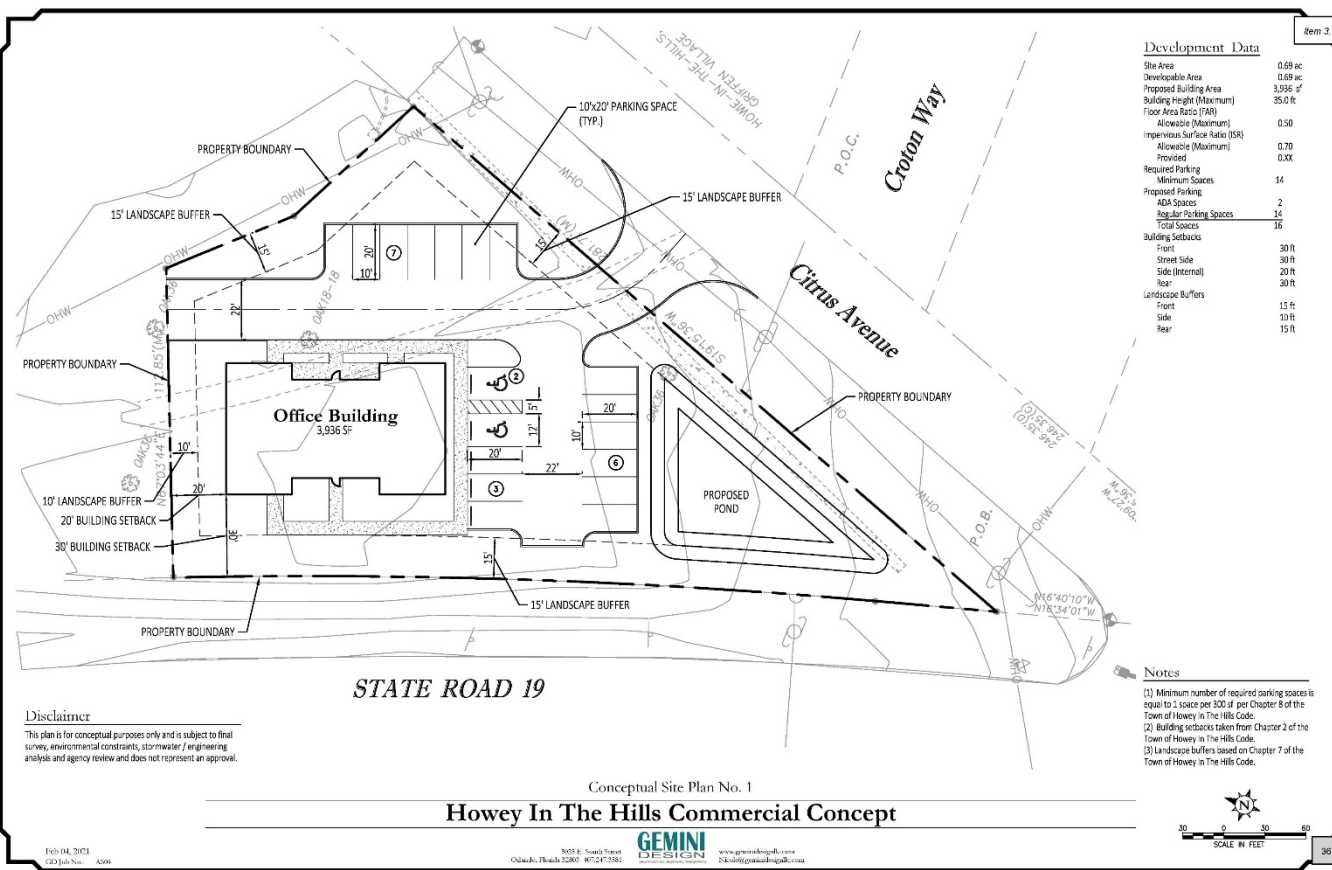
Street View



Image capture: Jul 2023 © 2023 Google

- Existing large canopy trees obscure view of the Howey Mansion from southern approach on SR 19.

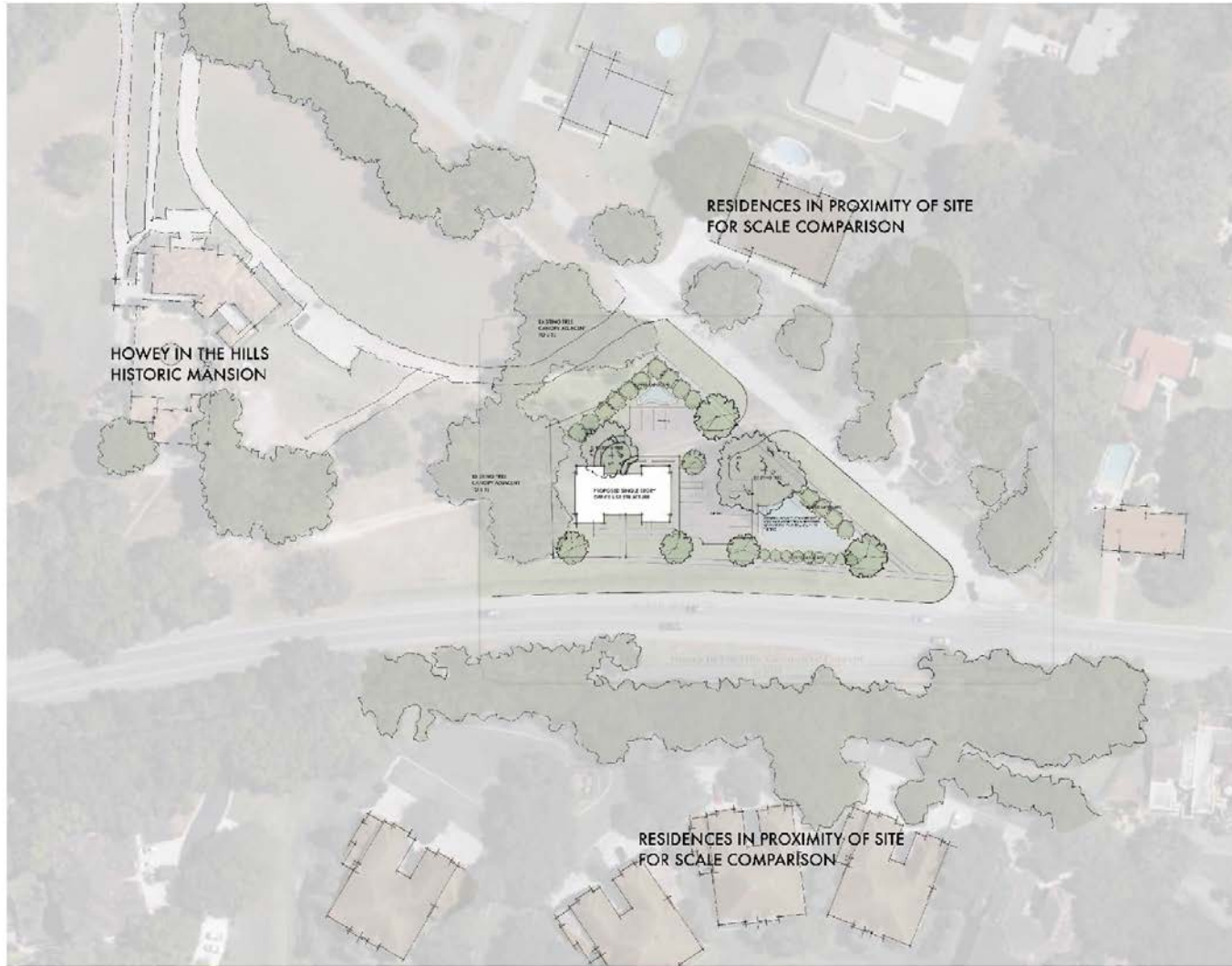
Conceptual Site Plan



- ❑ Staff – “The parcel size, shape and location make it a poor choice for single-family residential use.”
- ❑ The proposed single-story office building is located toward the northwestern portion of the site, furthest from Citrus Avenue.
- ❑ Staff – confirms the project complies with required setbacks, floor area ratio, building size, building height, and buffering.
- ❑ Open space is approximately 60% -- far exceeding 30% requirement.

Disclaimer
 This plan is for conceptual purposes only and is subject to final survey, environmental constraints, stormwater / engineering analysis and agency review and does not represent an approval.

Conceptual Site Plan No. 1
Howey In The Hills Commercial Concept



SITE CONTEXT PLAN

- The proposed single-story office building is smaller than or similar in size and scale to surrounding structures, including nearby residential uses.
- Staff – “the use of the subject property as a low intensity office use is compatible with the existing activity at the Mansion.”



CONCEPTUAL SITE PLAN

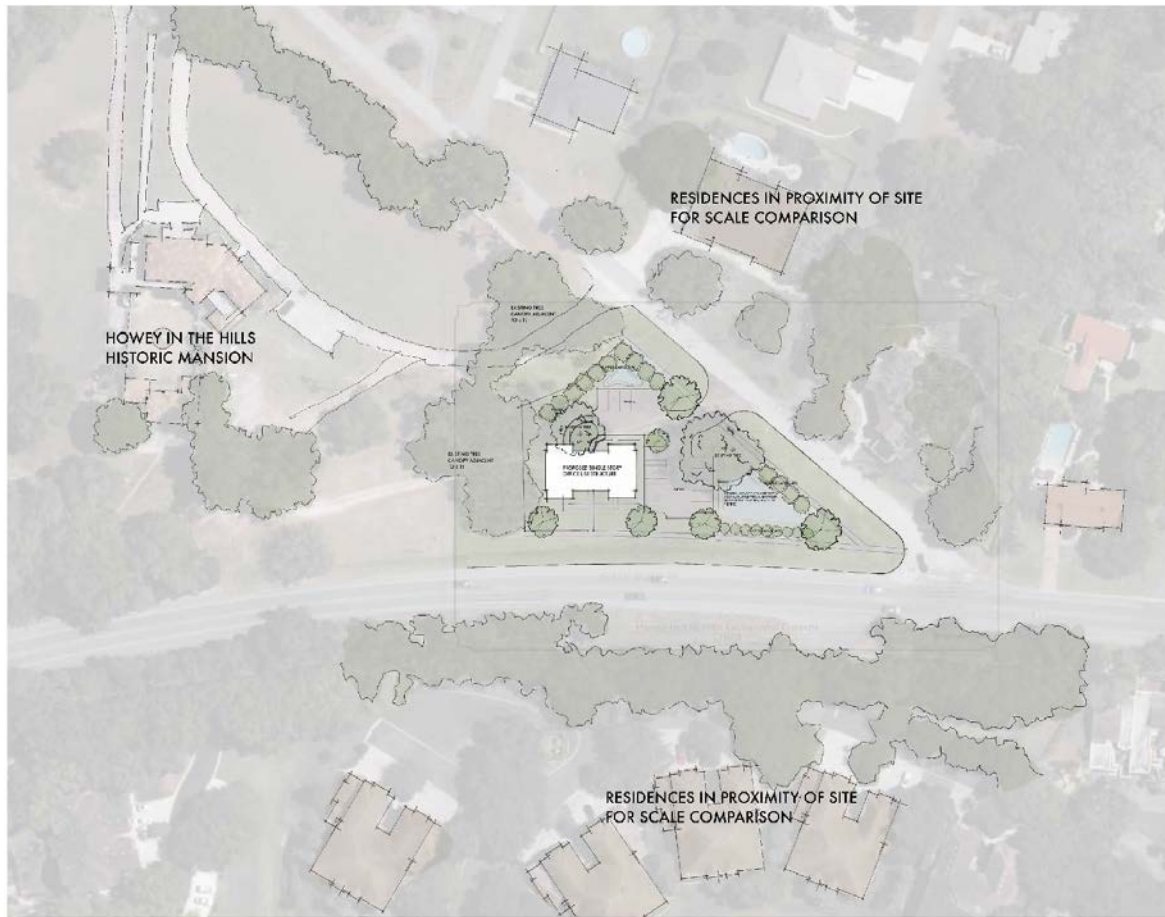
- The proposed single-story office building will include perimeter landscape buffers along Citrus Avenue, portions of SR 19, and the northeastern boundary.
- Staff – “A single-family home in the same location is required substantially less landscaping.”



CONCEPTUAL ELEVATION

- ❑ The proposed single-story office building will feature a “mission” style architecture that is consistent with the Mission Inn, and harmonious with the Howey Mansion and nearby residential uses.
- ❑ The applicant has committed that the other building facades (i.e., sides and rear) will incorporate design detail equivalent to the front facade pictured above.

Trip Generation



SITE CONTEXT PLAN

- Staff – “[T]he site is small and the proposed office use is a relatively small traffic generator. . . [T]he total traffic volume is expected to be under 50 trips per day.”
- Staff – “Access from Citrus Avenue is preferred over SR-19 access, which FDOT is unlikely to approve with a reasonable alternative available.”
- Staff – “Site access from Citrus Avenue will be safer for traffic on SR 19 and, therefore, the site has been designed with access from Citrus Avenue.”
- Staff – “The proposed use is low intensity for a non-residential activity with limited traffic generation that is unlikely to impact the neighborhood to the east with much added traffic.”

Traffic Circulation

The Howey Mansion



Signature Weddings

This nearly 100 year old Mansion has been painstakingly restored to its magnificent grandeur and is the perfect backdrop for your wedding day. From intimate affairs of a dozen guests to **grand gatherings for 200 or more**, the unique historic grounds of the Howey Mansion Estate will be a magical setting, as you become one!



Historic Tours

After almost 10 years of complete abandonment, The Howey Mansion is starting a new chapter in its history. We invite you to explore the home and grounds in a 1+ hour guided historic tour. The tour includes all 24 rooms of the Mansion.



Galas & Fundraisers

The Howey Mansion Estate sits on more than three lush acres, **perfect for events of 100 or even 1,000!** Host a cocktail party in the Ballroom, a spectacular dinner under the stars in the Fountain Courtyard or on our Front Lawn.

- The peak direction traffic from the site (8 trips) is approximately 1.1% of the capacity for the segment of SR 19 from CR 48 to Central Avenue.
- Traffic analysis – “The local roadway network has adequate capacity to accommodate the new trips without reducing [LOS].”
- Citrus Avenue adequately accommodates non-residential/commercial-type traffic from the Howey Mansion.
- The proposed single-story office building has 16 parking spaces, with 2 ADA spaces. Thus, safe to say, it will not be hosting events for hundreds or even 1,000 people like the Howey Mansion.

Request Approval on First Reading

- We support Staff's detailed findings in the Staff Report in support of the proposed plan amendment and rezoning to allow a small, single-story professional office building on the property, and respectfully request that the Town Council move the matter forward on first reading.
- The proposed plan amendment/rezoning is consistent with the Town's Comprehensive Plan.
- The proposed plan amendment/rezoning is consistent with the Town's LDC.
- Thank you for your time and support.

