



**Interoffice Memorandum**

**DATE:** March 6, 2019

**TO:** Mayor Jerry L. Demings  
-AND-  
Board of County Commissioners

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

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

**SUBJECT:** March 26, 2019 – Public Hearing  
Planning and Zoning Commission Appeal  
Appellant: Ivan Matos  
Applicant: Ivan Matos  
Case # RZ-18-11-051 / District 4

This request is an appeal of the November 15, 2018, Planning and Zoning Commission (PZC) decision to recommend denial of the aforementioned rezoning application.

The applicant is seeking to rezone 1.63 acres of property located on Wetherbee Road, from I-1/I-5 (Industrial District) to I-4 (Industrial District) for a salvage yard use. A community meeting was not required for this request. This appeal was received from the appellant on November 29, 2018. This request was continued from the January 29, 2019 Board hearing to allow for the applicant to provide additional information related to site access.

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 requested I-4 (Industrial District) zoning. District 4**

JVW/EPR/nsw  
Attachments

**CASE # RZ-18-11-051**  
Commission District: #4

**GENERAL INFORMATION**

<b>APPELLANT</b>	Ivan Matos
<b>APPLICANT</b>	Ivan Matos
<b>OWNERS</b>	Dilenis Cruz, Felix Cruz
<b>HEARING TYPE</b>	Planning and Zoning Commission
<b>REQUEST</b>	I-1/I-5 (Industrial District) to I-4 (Industrial District)
<b>LOCATION</b>	Generally located on the east side of Wetherbee Road, north of Jetstream Drive, and south of Palmbay Drive.
<b>PARCEL ID NUMBER</b>	13-24-29-7268-00-630
<b>TRACT SIZE</b>	1.63 acres
<b>PUBLIC NOTIFICATION</b>	The notification area for this public hearing was 1500 feet [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Two hundred two (202) notices were mailed to those property owners in the mailing area. A community meeting was not required for this application.
<b>PROPOSED USE</b>	Salvage Yard

**STAFF RECOMMENDATION**

**PLANNING**

**Make a finding of inconsistency with the Comprehensive Plan and recommend DENIAL of the requested I-4 (Industrial District) zoning.**

**ALTERNATIVE RECOMMENDATION**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the requested I-4 (Industrial District) zoning, subject to the following restrictions:**

- 1) Billboards and pole signs shall be prohibited; and

- 2) 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 I-4 uses; and
- 3) The site shall be restricted to the salvage yard use and those uses permitted in the I-1/I-5 zoning district as identified by the letter "P" in the use table set forth in section 38-77 of the Orange County Code; and
- 4) The salvage yard use shall be totally enclosed within a minimum 6' high wall or structure.

## **IMPACT ANALYSIS**

### **Land Use Compatibility**

The I-4 (Industrial District) zoning would allow for development that is incompatible with the character of the surrounding area and may impact adjacent properties.

### **Comprehensive Plan (CP) Consistency**

The underlying CP Future Land Use Map (FLUM) designation of the subject property is Industrial (IND). While the requested I-4 (Industrial District) zoning is technically consistent with the underlying Industrial FLUM designation, it 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.

**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 Industrial
<b>Adjacent Zoning</b>	N: A-2 (Farmland Rural District) (1957) E: PD (Planned Development) (1991) W: A-2 (Farmland Rural District) (1957) S: I-1/I-5 (Industrial District) (2002)
<b>Adjacent Land Uses</b>	N: Railroad Right-Of-Way E: Outdoor Storage of Portable Storage Containers W: Railroad Right-Of-Way S: Undeveloped Land

### **I-4 (Industrial District) Development Standards**

Max. Height: 50 feet (35 feet within 100 feet of any residential use or district)

#### **Building Setbacks**

Front: 35 feet  
Rear: 10 feet  
Side: 25 feet

### **Intent, Purpose, and Uses**

The intent and purpose of the I-4 industrial district is to provide for industrial operations of all types, which may produce such by-products as odor, smoke, dust, and noise, to provide space for industries which employ the processing of bulk materials and which require space for open storage of materials, to establish and maintain standards which will permit a wide variety of processing activities, and to establish and maintain standards which will protect adjacent residential and commercial developments.

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**

### **Subject Property Analysis**

The subject property is located on Wetherbee Road, or generally located on the east side of Wetherbee Road, north of Jetstream Drive, and south of Palmbay Drive. The property is currently undeveloped and has no direct access to Wetherbee Road.

Today, the surrounding area is developed with varying intensities of industrial uses including warehousing, outdoor storage, automobile storage, and manufacturing. The more intense uses are generally located to the west of S. Orange Avenue with less intense uses, including the subject property, generally located to the east. Additionally,

the subject parcel is located adjacent to the Jetport Center PD, which prohibits junk, salvage, and wrecking yard uses unless they are totally enclosed within a wall or structure.

**Comprehensive Plan (CP) Amendment**

A CP amendment is not required for this application, as the requested zoning is consistent with the underlying Industrial (IND) Future Land Use Map (FLUM) designation.

**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.

**Community Meeting Summary**

A community meeting was not required for this request.

**Rural Settlement**

The subject property is not located within a Rural Settlement.

**Joint Planning Area (JPA)**

The subject property is not located within a Joint Planning Area.

**Overlay District Ordinance**

The subject property is not located within an Overlay District.

**Airport Noise Zone**

The subject property is not located within an Airport Noise Zone.

**Environmental**

To prevent erosion along the boundary of the property, into adjacent wetlands and buffers, and into all drainage facilities and ditches, construction and operation will require Best Management Practices (BMPs) for erosion control.

Prior to commencement of any earth work or construction, if one acre or more of land will be disturbed, the developer shall provide a copy of the completed National Pollutant Discharge Elimination System (NPDES) Notice of Intent (NOI) form for stormwater discharge from construction activities to the Orange County Environmental Protection Division, NPDES Administrator. The original NOI form shall be sent to the Florida Department of Environmental Protection (FDEP) by the developer.

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.

Any existing septic tanks or wells shall be properly abandoned prior to earthwork or construction. Permits shall be applied for and issued by the appropriate agencies. Contact the Department of Health (DOH) for any septic systems, and the Water Management District, as well as the DOH, for wells.

The property is located adjacent but outside the Orlando Jetport Center PD. It has been cleared since approximately 2002.

**Transportation / Access**

Based on the Concurrency Management System database dated 09/28/18, there are no failing roadway segments within the project impact area and capacity is available to be encumbered. This information is dated and subject to change. The applicant will be required to obtain an approved capacity encumbrance letter prior to obtaining a building permit. The applicant may be required to submit a traffic study prior to obtaining an approved capacity encumbrance letter and building permit.

The applicant has proposed access to the site through a 24' easement across the adjacent parcels to the west. The access easement documentation provided by the applicant has been reviewed by Development Engineering. It has been determined the twenty-four (24) foot easement provides sufficient access for the proposed salvage yard use.

**Code Enforcement**

There are no active Code Enforcement violations on the subject property.

**Utilities**

Water:	Orlando Utilities Commission	
Wastewater:	Orange County Utilities	10-inch gravity main and 12-inch forcemain within Jetstream Drive right-of-way
Reclaim Water:	Orange County Utilities	Not currently available

**Schools**

Orange County Public Schools (OCPS) did not comment on this case, as it does not involve an increase in residential units or density.

**Parks and Recreation**

Orange County Parks and Recreation did not comment on this case, as it does not involve an increase in residential units or density.

**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 – (November 15, 2018)**

**Make a finding of inconsistency with the Comprehensive Plan and recommend DENIAL of the requested I-4 (Industrial District) zoning.**

**PLANNING AND ZONING COMMISSION (PZC) PUBLIC HEARING SYNOPSIS**

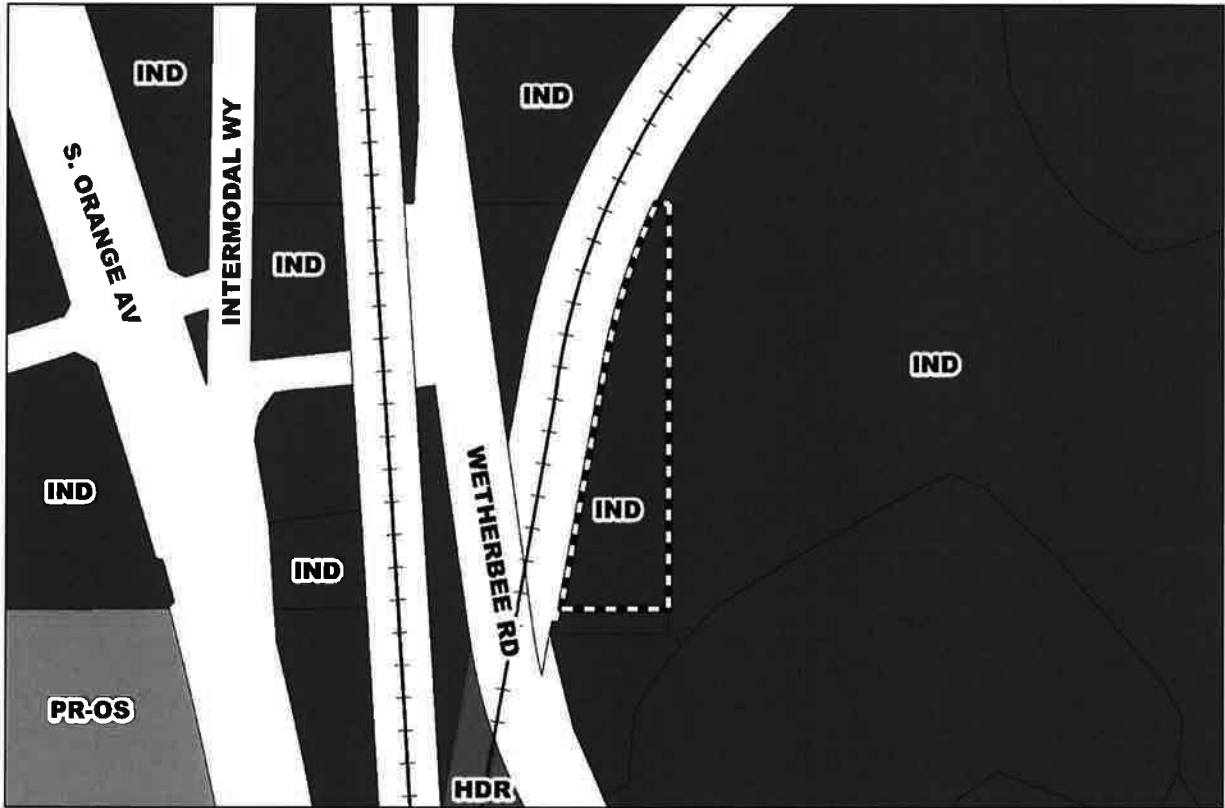
The staff report was presented to the PZC with the recommendation that they make a finding of inconsistency with the Comprehensive Plan and recommend denial of the requested I-4 (Industrial District) zoning.

Staff indicated that two hundred two (202) notices were mailed to surrounding property owners within a buffer extending beyond 1,500 feet from the subject property, with one (1) commentary received in favor of this request, and one (1) commentary received in opposition. The applicant was present and there were no members of the public present to speak about this request.

The applicant was asked to clarify how the site would be accessed. In response, the applicant noted there is an easement from the adjacent property allowing for access through the adjacent property to the west. The applicant has since provided documentation of the recorded easement to County staff, which has been included in this staff report as Exhibits A, B, and C. Following a discussion pertaining to the compatibility of the requested I-4 (Industrial District) zoning with the surrounding area and access to the subject parcel, a motion was made by Commissioner DiVecchio and seconded by Commissioner Gusler to recommend denial of the requested I-4 (Industrial District) zoning. The motion carried on an 8-0 vote.

<b>Motion / Second</b>	<i>Pat DiVecchio / William Gusler</i>
<b>Voting in Favor</b>	<i>Pat DiVecchio, William Gusler, Tina Demostene, Paul Wean, Jose Cantero, Gordon Spears, James Dunn, and Yog Melwani</i>
<b>Voting in Opposition</b>	<i>None</i>
<b>Absent</b>	<i>JaJa Wade</i>

RZ-18-11-051



 Subject Property



★ Subject Property

### Future Land Use Map

FLUM: Industrial (IND)

APPLICANT: Ivan Matos

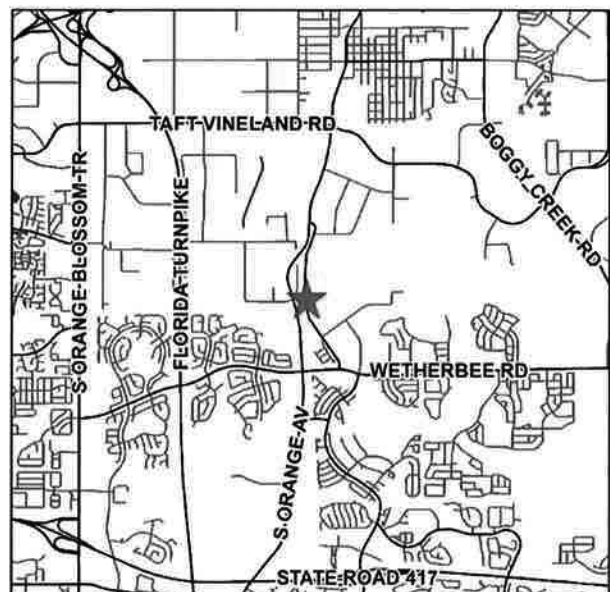
LOCATION: Generally located on the east side of Wetherbee Road, north of Jetstream Drive, and south of Palmbay Drive

TRACT SIZE: 1.631-gross acre

DISTRICT: # 4

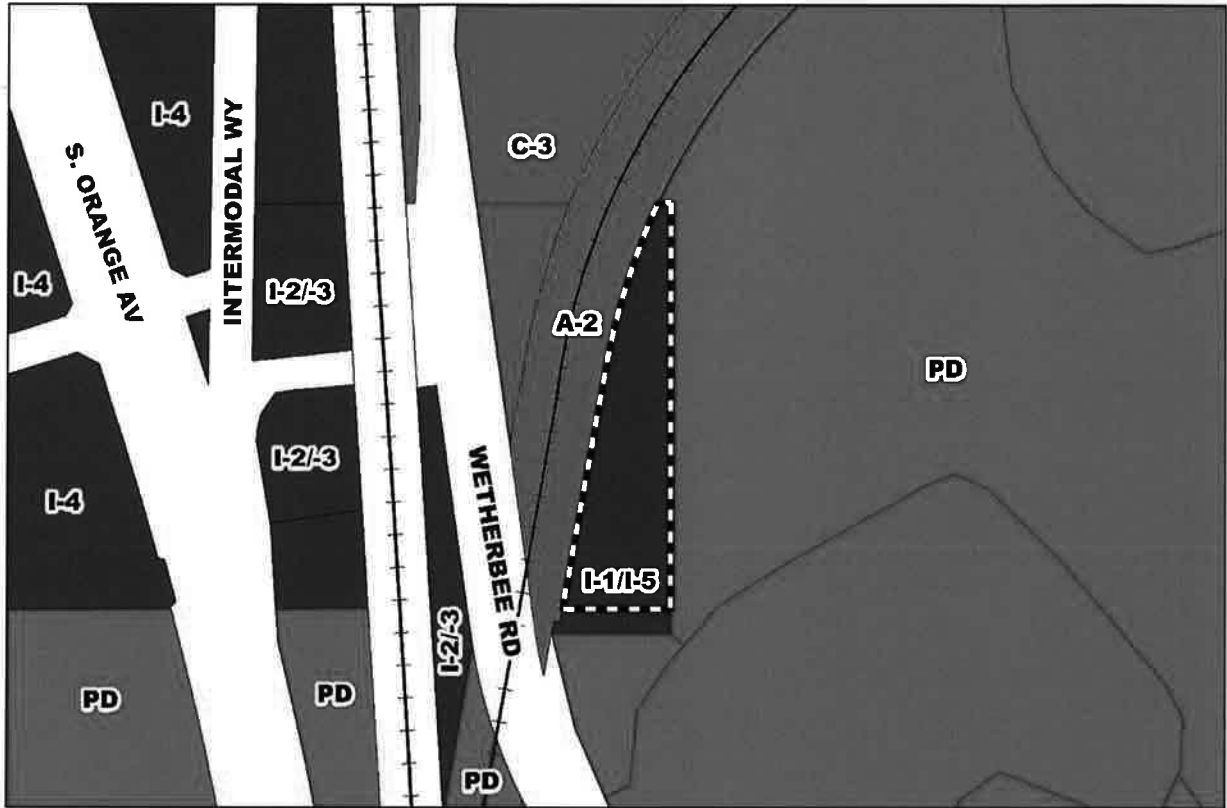
S/T/R: 13/24/29

1 inch = 250 feet





RZ-18-11-051



 Subject Property



 Subject Property

### Zoning Map

**ZONING:** I-1/5 (Industrial District) to I-4 (Industrial District)

**APPLICANT:** Ivan Matos

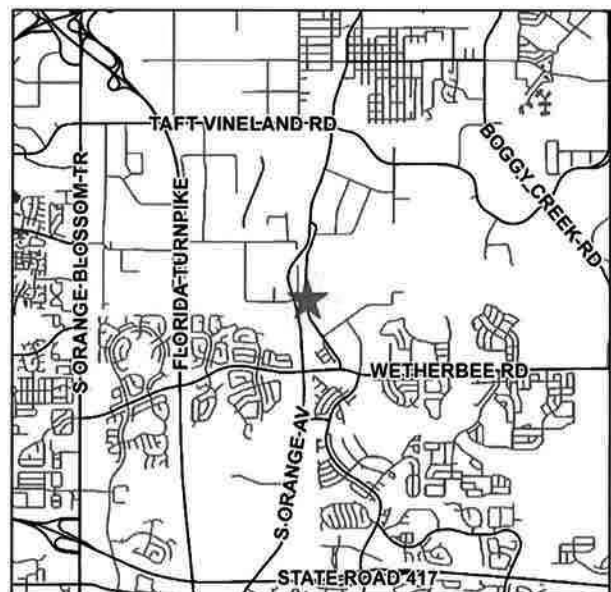
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**DISTRICT:** # 4

**S/T/R:** 13/24/29

1 inch = 250 feet



RZ-18-11-051



 Subject Property



1 inch = 250 feet



### PLANNING & ZONING COMMISSION REZONING APPEAL APPLICATION

Orange County Planning Division  
201 South Rosalind Avenue, 2<sup>nd</sup> Floor  
Post Office Box 1393  
Orlando, Florida 32802-1393

**RECEIVED**

NOV 29 2018  
Planning Manager

Main Line: (407) 836-5600  
P&ZC Secretary: (407) 836-5632

Date: Nov 29, 2018

Appellant: Ivan Mates  
(Print or type name)

Representing: \_\_\_\_\_  
(Print or type company, group, or organization name)

Address: 4929 Bellcore Ave Kissimmee FL 34829

Telephone: 407-222-1835 Fax: \_\_\_\_\_ E-mail: ~~Ivan.Mates@rocketmail.com~~  
Ivan.Mates@Rocketmail.com

Respectfully request an appeal of the decision regarding rezoning number RZ - 18-11-051,

the Applicant being Ivan Mates, rendered by the Orange  
(Print or type Applicant name)

County Planning & Zoning Commission on Nov 15 18

Reason for appeal (provide a brief summary or attach additional documentation if necessary):

The Reason for appeal is To find properly  
assess government and to show the other property  
around the area that or zone IND4

Signature [Handwritten Signature]

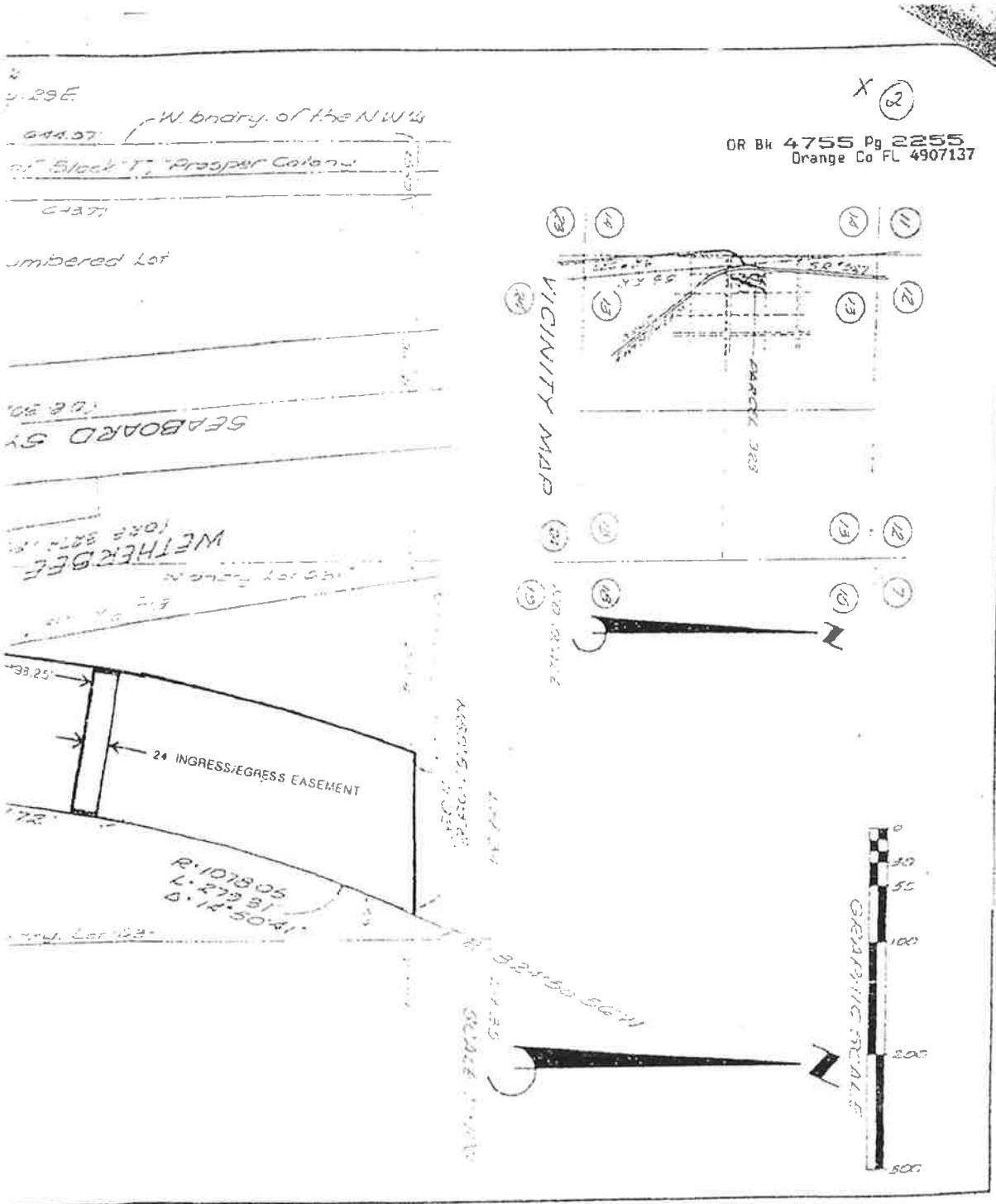
Date 11/29/2018

**FEE: \$483.00** Planning & Zoning Commission appeals. Make check payable to the  
Orange County Board of County Commissioners

**NOTE:** The Clerk of the Board will notify you of the date of your appeal.

05/2017

**-Exhibit A-  
 Easment Dedicated (May 1994)**





**-Exhibit C-  
 Survey**

**PLAT OF BOUNDARY AND TOPOGRAPHIC SURVEY**

DESCRIPTION (As Furnished)

"THAT PART OF: LOT 63, PLAN OF BLOCK "I", PROSPER COLONY, AS RECORDED IN PLAT BOOK D, PAGE 113, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; LYING EAST OF ORLANDO UTILITIES COMMISSION RIGHT OF WAY AS DESCRIBED IN OFFICIAL RECORDS BOOK 3466, PAGE 1237 AND IN OFFICIAL RECORDS BOOK 3599, PAGE 14, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA. TOGETHER WITH: THAT CERTAIN INGRESS/EGRESS EASEMENT AS DESCRIBED AND RECORDED IN OFFICIAL RECORDS BOOK 4755, PAGE 2249, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA. TO INCLUDE A 24' WIDE EXTENDED INGRESS/EGRESS EASEMENT ON THAT PART OF LOT 63 LYING WEST PARALLEL OF OUC 24' WIDE EASEMENT TO THE EASTERLY RIGHT OF WAY LINE OF WETHERBEE ROAD."

ELEVATIONS SHOWN HEREON ARE BASED ON ORANGE COUNTY BENCHMARK (DAWG 1984) 76-1422-007 - IR 3046 - 15 City File 76-1433-017 - Orange County Dist. in duplicate for Meter Use

NOTES:  
 SURVEYS SHOWN HEREON ARE AS READILY VISIBLY EXISTENT AND AS FIELD MARKS AND FLAGGED BY OTHERS. SAID UTILITIES HAVE NOT BEEN EXCAVATED FOR VERIFICATION, MARKING, RECOVERY AND RELOCATION OF UNDERGROUND UTILITIES AND FOUNDATIONS IS NOT INCLUDED IN THE SCOPE OF SERVICES OF THIS PROJECT.

NOTE:  
 WELLS AND SPRINGS OF ANY KIND ARE NOT VISIBLY APPARENT AND NOT MARKING IN FIELD. MARKING AND RECOVERY AND RELOCATION OF SAID ARC NOT INCLUDED IN THE SCOPE OF SERVICES OF THIS FIRM.

NOTE:  
 JURISDICTIONAL WETLAND LINE AND/OR ENVIRONMENTAL CONSERVATION EASEMENTS (IF ANY) ARE NOT LOCATED AND ARE NOT SHOWN HEREON. MARKING AND RECOVERY OF SAID IS NOT INCLUDED IN THE SCOPE OF SERVICES OF THIS PROJECT.

NOTE:  
 ADJOINERS NOT PROVIDED.

NOTE:  
 NO EASEMENTS OF RECORD HAVE BEEN PROVIDED TO THIS FIRM.

NO TITLE OPINION OR ABSTRACT OF MATTERS AFFECTING TITLE OR BOUNDARY TO THE SURVEYED PROPERTY OR THOSE OF ADJOINING LANDS HAS BEEN PROVIDED. THERE MAY BE RECORDS OF RECORDS, UNRECORDED DEEDS OR OTHER INSTRUMENTS WHICH COULD AFFECT THE BOUNDARIES OR USE OF THE SURVEYED PROPERTY.

SEE SHEET 2 FOR GRAPHIC DEPICTION OF FIELD SURVEY

CERTIFIED TO:  
 FELIX CRUZ and DILENIS CRUZ

Based on the FEDERAL EMERGENCY MANAGEMENT AGENCY, NATIONAL FLOOD INSURANCE PROGRAM, FLOOD INSURANCE RATE MAP, Orange County, Florida, Community Plans Number 120179/120950 0440 E, last dated December 12, 2000 it appears from a reading of said map (said land described hereon is shown to be within 7000' X' (Areas determined to be outside 500-year floodplain). Said map is not a survey and no responsibility is taken for the information combined in or the accuracy of the above referenced map.

- This Plat represents a Boundary Survey of the description as furnished Harrison Surveying and Mapping, Inc. per clients instruction and review. We claim no responsibility regarding ownership or rights of possession.
- Boundaries shown hereon are based on the deed line of Lot 3, JETPORT PARK ADDITION NO. 1, Plat Book 44, Page 33 on S. 0201'30" E. (per plat).
- This surveyor has not searched the public records or abstracted the land shown hereon for encumbrances, right of way, easements and restrictions or other pertinent documents which may be found in the public records of this county. This research was not included in the scope of services of this firm.
- The relative distance accuracy for boundary dimensions shown hereon is in excess of 1 Foot in 10,000 Feet.
- Underground improvements have not been located.

This survey performed by Harrison Surveying and Mapping, Inc. is for the singular use of the client named herein for the express stated purpose stated herein. This drawing is not legally binding without my signature and original sealed embossed seal. No third party is authorized to use this drawing in any way, and this surveyor shall not be held liable for damages resulting from the reproduction or third parties' use of this drawing without my written consent. All plans, reports, notes, plans, and field notes, computer files, field notes or data, other documents and instruments prepared by this firm or instruments of service shall remain the property of this firm. This firm shall retain all electronic, law, statutory and other revenues rights, including the copyright therein. The original of this drawing remains the property of Harrison Surveying and Mapping, Inc.

**HARRISON SURVEYING AND MAPPING, INC.**  
 PROFESSIONAL SURVEYORS AND MAPPERS  
 Certificate of Authorization #13 6048  
**HSM**  
 32529 Muldoon Trail  
 Sorrento, Florida 32776-1990  
 Phone: (352) 735-1263  
 JOB NO. 02-2346T Sheet 1 of 2

01/09/07	Boundary Update and Topographic Survey										
REVISIONS AND ADDITIONS											
LEGEND:											
P.C. = Point of Curvature	P.T. = Point of Tangency	Pg (a) = Page(s)	Comp. = Contour	C.L.F. = Chain Link Fence	A/C = Right-Of-Way	(M) = Field Observation	(O) = Note	(C) = Contour	(D) = Description	ESM = Easement	E = Elevation
P.T. = Point of Tangency	P.T. = Point of Tangency	Pg (a) = Page(s)	Comp. = Contour	C.L.F. = Chain Link Fence	A/C = Right-Of-Way	(M) = Field Observation	(O) = Note	(C) = Contour	(D) = Description	ESM = Easement	E = Elevation
O.U.L. = Overhead Utility Line(s)	O.R.D. = Official Records Book	Δ = Delta (Intersection Angle)	R = Reduce	L = Arc Length	C.B. = Chain Bearing	CH = Chain Length	D.U.E. = Drainage & Utility Easement	U.E. = Utility Easement	Eqpt. = Equipment	U. Box = Utility Box	UT = Under Telephone Line (as marked)
									W.L. = Water Line (as field marked)	UT = Utility Pole	
DRAWING: 02-2346T.DWG		SURVEY DATE: 8/14/12									
INTENDED DISPLAY SCALE: 1" = 50'		DRAWN: T.E.S.									
EXPECTED USE OF THIS LAND: COMMERCIAL PURPOSES											
IT IS CERTIFIED THAT THE SURVEY REPRESENTED HEREON MEETS OR EXCEEDS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH IN CHAPTER 61B17-8, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 475.027, FLORIDA STATUTES.											
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL, RAISED SEAL OF A LICENSED SURVEYOR AND MAPPER											
THOMAS S. HARRISON, P. Reg. #5690 (Per the Firm)											



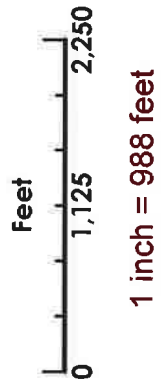
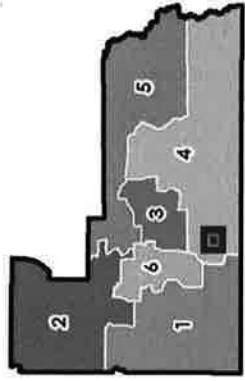
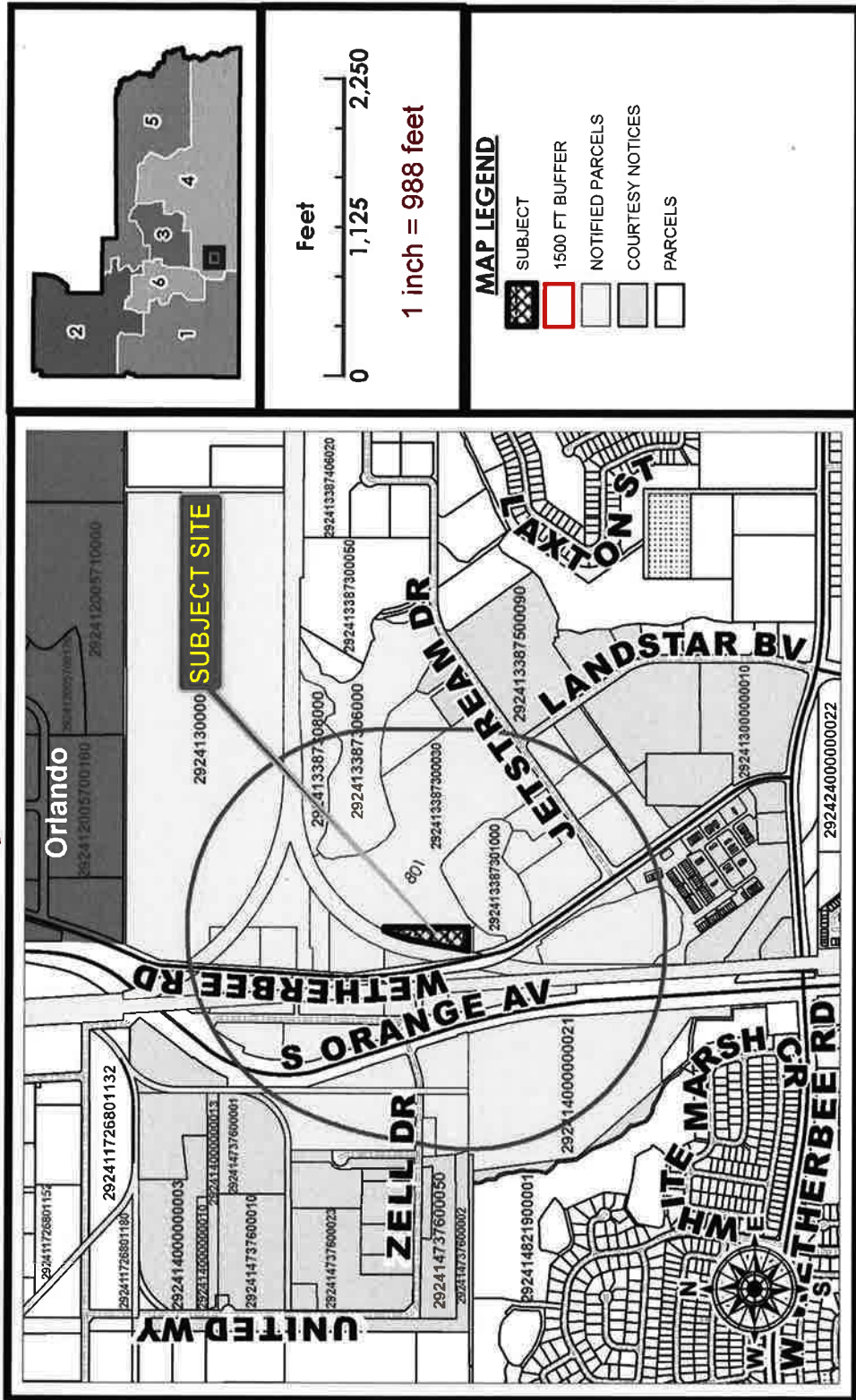


# Public Notification Map

RZ-18-11-051

1500 FT BUFFER, 202 NOTICES

## Notification Map



**MAP LEGEND**

	SUBJECT
	1500 FT BUFFER
	NOTIFIED PARCELS
	COURTESY NOTICES
	PARCELS

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