



Interoffice Memorandum

DATE: September 20, 2023

TO: Jennifer Lara Klimetz, Assistant Manager,
Clerk of the Board of County Commissioners,
County Comptroller's Office

THROUGH: Cheryl Gillespie, Supervisor,
Agenda Development Office

FROM: Alberto A. Vargas, MArch., Manager,
Planning Division

CONTACT PERSON: **Jason H. Sorensen, AICP, Chief Planner Jason Sorensen**
Current Planning Section Planning Division
(407) 836-5602 or Jason.Sorensen@ocfl.net

SUBJECT: Request for Board of County Commissioners (BCC)
Public Hearing

Digitally signed
by Jason
Sorensen
Date: 2023.09.20
10:04:21 -04'00'

Applicant: Jesus Montero

Appellant: Jesus Montero

Case Information: Case # RZ-23-08-062;
Planning and Zoning Commission (PZC)
Meeting Date: August 17, 2023

Type of Hearing: Planning and Zoning Commission Rezoning Appeal

Commission District: 5

General Location: 3827 N. Tanner Rd; generally located east of N.
Tanner Rd, south of Stonebriar Way, and north of
Josair Dr.

BCC Public Hearing
Required by:

Orange County Code, Chapter 30

Clerk's Advertising
Requirements:

(1) At least 15 days before the BCC public hearing date, publish an advertisement in the Legal Notices section of *The Orlando Sentinel* describing the particular request, the general location of the subject property, and the date, time, and place when the BCC public hearing will be held;

and

(2) At least 10 days before the BCC public hearing date, send notices of BCC public hearing by U.S. mail to owners of property within 300 feet of the subject property and beyond.

Spanish Contact Person:

IF YOU HAVE ANY QUESTIONS REGARDING THIS NOTICE, CONTACT THE ORANGE COUNTY PLANNING DIVISION: Front Desk, 407-836-8181

PARA MÁS INFORMACIÓN, REFERENTE A ESTE AVISO PARA UNA AUDENCIA PUBLICA SOBRE UNA PROPIEDAD EN SU AREA/VECINDAD, FAVOR COMUNICARSE CON LA DIVISIÓN DE PLANIFICACION, AL NUMERO, 407-836-8181

Advertising Language:

To rezone from A-2 (Farmland Rural District) to R-1 (Single-Family Dwelling District) to allow for the construction of three dwelling units on 1.58-gross acres pending lot spit approval.

Material Provided:

- (1) Names and last known addresses of property owners within 300 feet and beyond (*via email from Fiscal and Operational Support Division*);
- (2) Location map (*to be mailed to property owners*); and
- (3) Copy of appellant's notice of appeal (*to be mailed to property owners*).

Special Instructions to the Clerk:

- (1) The BCC public hearing must be held within 45 days after August 22, 2023, which was the date the notice of appeal was filed, or as soon thereafter as the BCC's calendar reasonably permits. Staff requests that this public hearing be scheduled on **October 24, 2023**.
- (2) Unless stated otherwise, the public hearing should be advertised to begin at 2:00 p.m., or as soon thereafter as the matter may be heard.

Attachments: (location map, appellant's notice of appeal)

c: Jon V. Weiss, Deputy County Administrator
Andres Salcedo, Acting Director, Planning, Environmental, and Development
Services Department

Legal Description

RZ-23-08-062 3827 N. Tanner Rd

Parcel: 12-22-31-0000-00-071

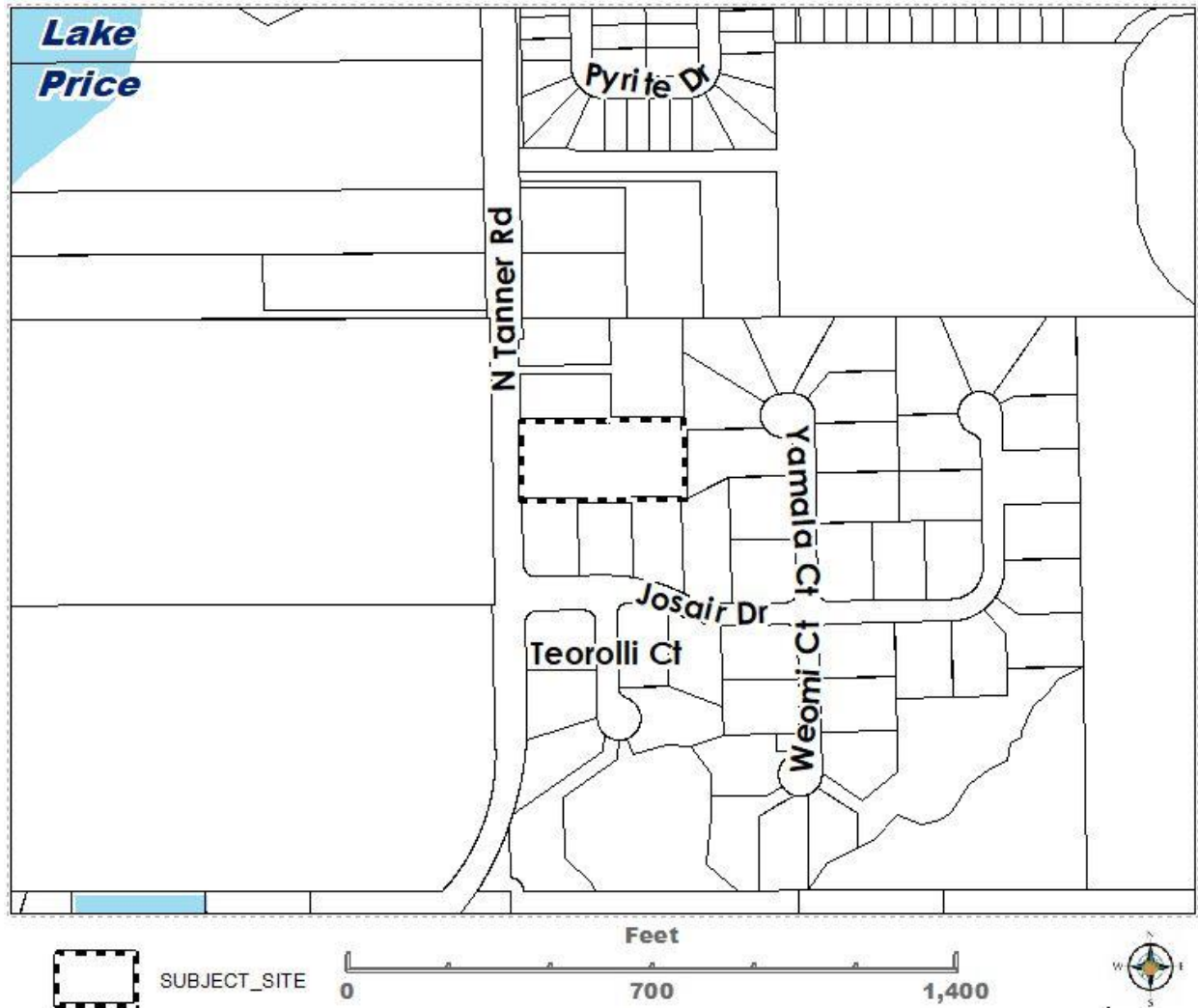
THE S 183.5 FT OF FOLLOWING DESC BEG NW COR OF SW1/4 OF NE1/4 RUN E 420 FT S 420 FT W
420 FT N 420 FT TO POB (LESS PT TAKEN ON W FOR R/W PER OR 6390/3098 CIO-01-6231)

For any questions regarding this map,
please contact the Planning Division at
407-836-5600

Location Map

RZ-23-08-062 3827 N. Tanner Rd

Parcel: 12-22-31-0000-00-071





PLANNING & ZONING COMMISSION

REZONING APPEAL APPLICATION

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

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

Date: 08/18/2023

Appellant: JESUS & ANA MONTERO
(Print or type name)

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

Address: 3827 N TANNER ROAD
ORLANDO, FL 32826

Telephone: (407) 715-8085 Fax: N/A E-mail: jmontero@impelsucs.com

Respectfully request an appeal of the decision regarding rezoning number RZ - 23-08-062,
the Applicant being JESUS & ANA MONTERO, rendered by the Orange
(Print or type Applicant name)
County Planning & Zoning Commission on 08/17/2023.

Reason for appeal (provide a brief summary or attach additional documentation if necessary):
SEE ATTACHED COVER/LETTER FOR APPEAL AND ASSOCIATED
DOCUMENTS

Signature [Signature] Date 8/18/23 8/18/23

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.

August 21, 2023



Orange County Board of County Commissioners (BCC)
Attn: Commissioner Emily Bonilla
407-836-7350
201 S Rosalind Avenue
Orlando, FL 32802

RE: LETTER OF APPEAL FOR REZONING REQUEST RZ-23-08-062

Dear Commissioner Bonilla:

I am writing on behalf of Mr. and Mrs. Jesus Montero to appeal the decision by the planning and zoning commission on August 17th, 2023 to deny the rezoning request associated with case number RZ-23-08-062. The commission's decision to deny the request was in direct contrast with Staff's recommendation for approval and in our opinion does not reflect an appropriate decision based on the facts presented in the case, and the County's currently ratified codes, zoning standards and comprehensive plan.

When I was first approached by the property owners, their goal was to split a 1.58 ac. lot off N. Tanner Road into three parcels in order to be able to build two additional homes for their grown children. The owners had previously been in contact with the planning and zoning department who had informed them that in order to accomplish this, the lot would require a rezoning amendment to one of the County's residential zoning districts. The property is currently zoned farmland rural (A-2) which is not compatible with the current future land use designation of Low Density Residential (LDR). Under the current comprehensive plan, a Future Land Use designation of LDR supports the following Zoning designations; R-CE, R-1, R-1A, R-1AA, R-1AAA, R-1AAAA, R-2, R-T-1, R-T-2, R-L-D, PD, and U-V with a maximum density of (0-4) dwelling units per acre.

Before submitting the rezoning request, the first item I tasked myself with evaluating was the N. Tanner Road corridor, in order to determine what the most appropriate residential zoning designation would be based on the surrounding area. In reviewing the corridor, properties along N. Tanner Road are almost all exclusively zoned either residential or planned development (PD) residential.

After subsequent coordination with Staff, we were advised that the planning and zoning department would support a rezoning request to R-1AAA which is what we were instructed to list on our application. After carefully reviewing the impacts an R-1AAA zoning designation would have on the property, I noticed that the front and rear setbacks would squeeze the proposed building pads on two of the lots so that they would not be congruent with the existing Estates at Rivers Edge subdivision that abuts the property to the South. After realizing this, Staff and I decided the best and most appropriate residential zoning request would be to R-1 with a restriction to R-1AAA lot size requirements equaling 1/3 of an acre or more, as well a restriction applying a 35-foot setback along the entire length of the southern property boundary, to match the rear setbacks within the abutting community to the South.

For your reference, I have included with this letter the final plan for the lot split drafted in conjunction with Staff, which depicts the proposed geometry of the lots as well as the building pads shown with R-1 setbacks, R-1AAA lot size restrictions, and a 35-foot setback on the southern property boundary. You will note on the aerial image overlaid on the plan, that the resulting building pads are harmonious with the existing homes to the south with the smallest lot equaling 0.44 acres in size and the other two lots equaling 0.50 and 0.64 acres respectively. I have also attached an exhibit showing a regional overlay of the surrounding area in relation to the proposed lot split. In Staff and my own opinion, the lot split would act as more of an extension of the Estates at Rivers Edge subdivision and in no way conflicts with the County's comprehensive plan or the fit and character of the surrounding communities.

During our planning commission hearing on August 17th, 2023, several people spoke in opposition to our rezoning request with the majority stating that they oppose because the lot split did not conform with the surrounding area. Based on the research conducted by Staff and myself, and the information and exhibits contained within this letter, I can definitively say that is not an accurate statement. There was also issue brought up from the opposing members of the community that believe the proposed septic system resulting from the two additional lots would cause pollutant issues to the Econlockhatchee River as the property is located over a half a mile to the waterbody. However, this issue was not based on any scientific findings or studies and in my opinion is baseless claim. There is also no code, ordinance, or County/State standard that prohibits the construction of a residential septic system in the area to service single family homes.

At the end of the hearing, unfortunately the Planning Commission decided to disagree with Staff's recommendation for approval and deny the rezoning request primarily due to the concerns brought up by several residents regarding the two additional septic treatment systems needed to service the future homes. I would like to reiterate that the concern from these residents regarding this item was not based on any factual information or studies in the area and there is nothing legally prohibiting the construction of septic treatment systems for single family homes. In my opinion, this vote does not reflect the intent of the code or comprehensive plans and signifies that it is the purview of the commission, that there should be a permanent moratorium on all standard septic construction if you happen to be within the general area of an outstanding Florida water body. Right now, with the property being agricultural, the property owner has the ability to construct a septic system that does not meet any Florida Department of Health or Environmental Protection standards. By approving this request, it allows proper oversight by the County, for the owner to be able to permit septic treatment systems constructed by a licensed septic contractor meeting all County and State standards.

In summary, I have provided a list as to why both Staff and I believe the Board of County Commissioners should approve rezoning of the property to R-1 with the aforementioned restrictions.

- The Current Future Land Use Designation of LDR has accounted that this property should be residential and does not support the current zoning of A-2 based on the County's comprehensive plan.
- Staff supports the proposed rezoning amendment to R-1 with a restriction to R-1AAA Lot sizes (1/3 acre min) and a 35' setback along the southern property boundary.

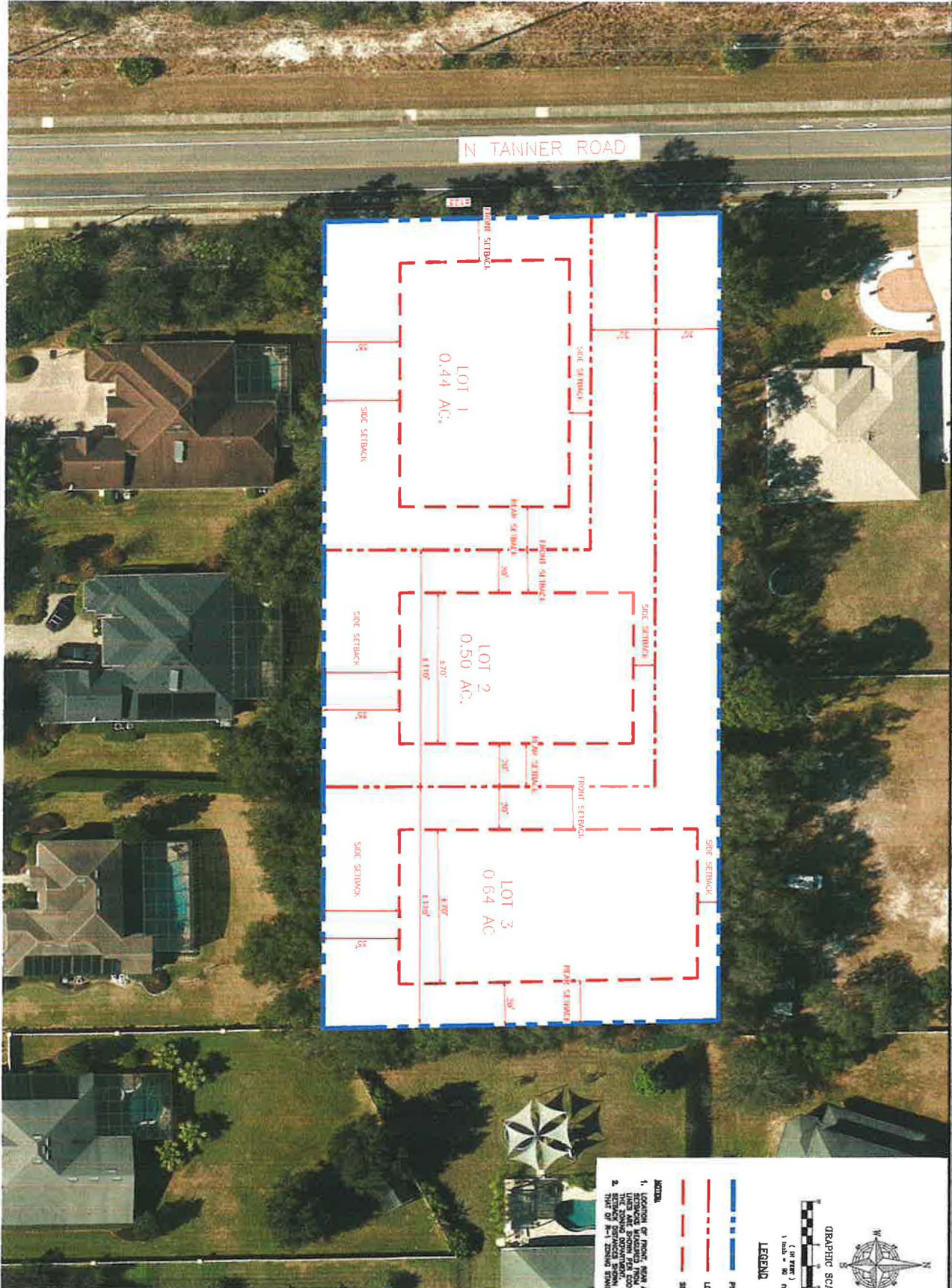
- Rezoning to R-1 with restrictions is an allowable zoning designation under the current comprehensive plan designation of LDR.
- The resulting density from two additional homes is equal to 1.96 dwelling units per acre, which is permitted under LDR.
- Rezoning of the property and construction of the two additional homes will more than triple the annual property tax revenue paid to the County.
- The proposed lot split conforms with the surrounding area and communities and does not negatively impact any adjacent homes or properties.
- Agricultural use is not compatible with the surrounding land and existing subdivisions that abut the property.
- Construction of two additional homes allows County to oversee building construction and ensure septic treatment systems are built and permitted by a licensed contractor and meet all Orange County, Florida Department of Health (FDOH) and Environmental Protection (FDEP) standards.
- If the property is left as A-2 and the owner converts the property to an agricultural use, livestock, application of fertilizer, and the storage of agricultural chemicals and equipment will result in much higher pollutant runoff than changing the property to residential.
- Current property allows building up to 10-feet from the property line. Approval of this request will implement a 35' setback along the southern property boundary from the adjacent subdivision.
- Agricultural use has a much greater impact to the surrounding communities due to agricultural activities as compared to single family residential.
- There is no code, ordinance or overlay that currently prohibits the construction of single-family homes or needed septic treatment systems.

I sincerely thank you for taking the time to read this Commissioner and I implore you and the rest of the commission to reverse planning commissions error in denying the rezoning request based on staff's recommendation for approval, the facts at hand, the prevailing County code / comprehensive plan and most importantly the benefits the two new resulting homes would bring to the County and surrounding area.

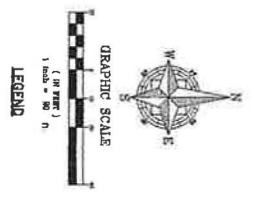
VERY TRULY YOURS,
APPIAN ENGINEERING, LLC




JAMES PALM, P.E.
SENIOR ENGINEER



SITE/GEOMETRY PLAN



- LEGEND**
- PROPERTY BOUNDARY
 - LOT SPLIT LINES
 - SETBACKS
- NOTES**
1. LOCATIONS OF FRONT, REAR AND SIDE SETBACKS INDICATED FROM ADJACENT LOT, THE ZONING ORDINANCE, THE CITY OF ORLANDO, FLORIDA.
 2. ALL SETBACKS SHOWN WITHIN PERMITTED BY THE CITY OF ORLANDO, FLORIDA.

	SCALE	GENERAL	LOT SPLIT SETBACK EXHIBIT 35' SIDE SETBACK	CIVIL ENGINEERING & LAND PLANNING APPIAN ENGINEERING LLC. APPEN@AOL.COM • 407.568.5882 <small>3827 N. TANNER ROAD, SUITE 201, WINDY HILLS, ORLANDO, FL 32826</small>		
	1" = 20'	JOB			DESIGNED	DATE
PROJECT	MONTERO	CHECKED	JESUS A. MONTERO 3827 N TANNER ROAD ORLANDO, FL 32826	DRAWN	DATE	DESCRIPTION
SHEET	1 OF 1	JOB		DATE	DESCRIPTION	DATE