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

APPELLANT

Ivan Matos

APPLICANT

Ivan Matos

OWNERS

Dilenis Cruz. Felix Cruz

HEARING TYPE

Planning and Zoning Commission

REQUEST

I-1/I-5 (Industrial District) to

I-4 (Industrial District)

LOCATION

Generally located on the east side of Wetherbee Road,

north of Jetstream Drive, and south of Palmbay Drive.

PARCEL ID NUMBER

13-24-29-7268-00-630

TRACT SIZE

1.63 acres

PUBLIC NOTIFICATION

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.

PROPOSED USE

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

- 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

Existing Use Undeveloped Industrial

Adjacent Zoning 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)

Adjacent Land Uses 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

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,

BCC Hearing Date: March 26, 2019

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 and 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.

Motion / Second

Pat DiVecchio / William Gusler

Voting in Favor

Pat DiVecchio, William Gusler, Tina Demostene, Paul Wean, Jose Cantero, Gordon Spears, James Dunn, and

Yog Melwani

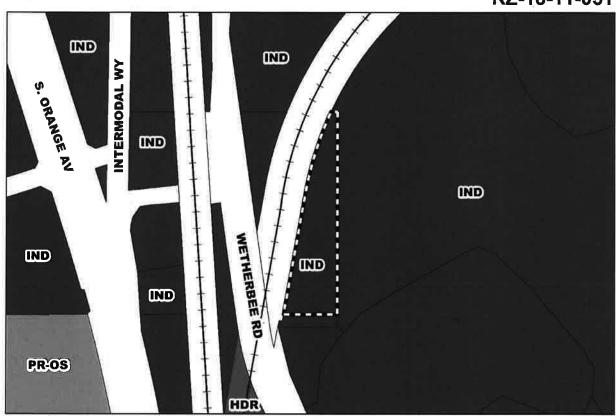
Voting in Opposition

None

Absent

JaJa Wade

RZ-18-11-051









Future Land Use Map

FLUM: Industrial (IND)

APPLICANT: Ivan Matos

LOCATION: Generally located on the east side of

Wetherbee Road, north of Jetstream

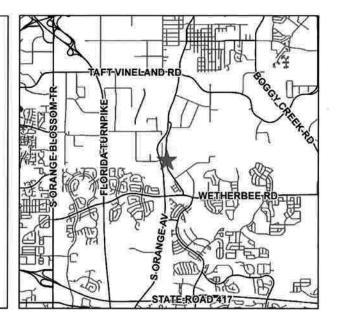
Drive, and south of Palmbay Drive

TRACT SIZE: 1.631-gross acre

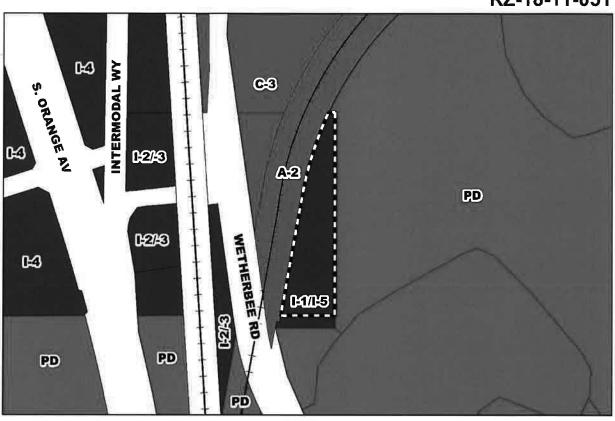
DISTRICT: #4

S/T/R: 13/24/29

1 inch = 250 feet



RZ-18-11-051









Zoning Map

ZONING:

I-1/I-5 (Industrial District) to

I-4 (Industrial District)

APPLICANT: Ivan Matos

LOCATION: Generally located on the east side of Wetherbee Road, north of Jetstream

Drive, and south of Palmbay Drive

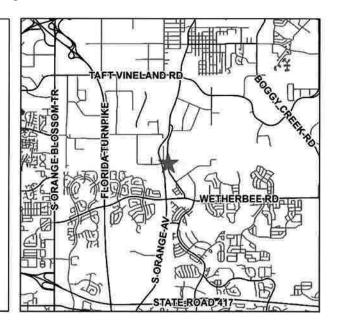
TRACT SIZE: 1.631-gross acre

DISTRICT:

S/T/R:

13/24/29

1 inch = 250 feet



RZ-18-11-051







1 inch = 250 feet



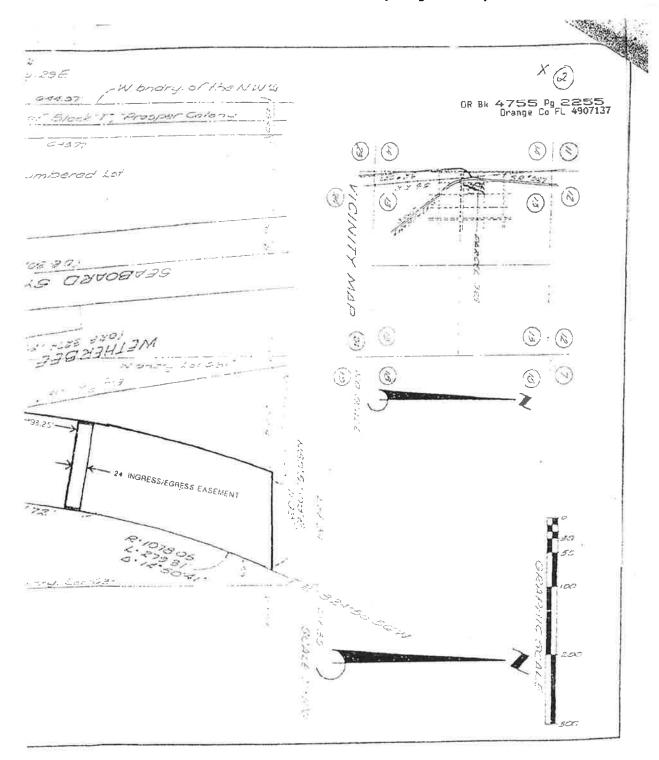
PLANNING & ZONING COMMISSION REZONING APPEAL APPLICATION

Orange County Planning Division Main Line: (407) 836-5600 201 South Rosalind Avenue, 2nd Floor RECEIVED P&ZC Secretary: (407) 836-5632 Post Office Box 1393 NOV 29 2018 Orlando, Florida 32802-1393 Planning Manager Appellant: (Print or type name) Representing: (Print or type company, group, or organization name) Telephone: 407222-1935 Fax: E-mall: Turn Ivan Matos @ Rocke Respectfully request an appeal of the decision regarding rezoning number RZ - 1 2 - 1 the Applicant being rendered by the Orange County Planning & Zoning Commission on 100 Reason for appeal (provide a brief summary or attach additional documentation if necessary): Signature Date FEE: \$483.00 Planning & Zoning Commission appeals. Make check payable to the Orange County Board of County Commissioners

05/2017

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

-Exhibit A-Easment Dedicated (May 1994)



-Exhibit BDeed Dedicating Easment Extension (February 1995)

reparted By: DENISE ROSENGARTEN	
GULFATLANTIC TITLE AGENCY	
101 E. COLONIA: DRIVE CRLANGO, PL 32801	
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tantee(a) 33 #	
WARRANTY !	
(INDIVID	
This WARRANTY DEED, dated February 1, 1	02/03/95 02:03:25p= 1995 OR Bk 4851 Pp 32244 Rec 6.00 DSC 350.00
CLARENCE HOENSTINE and DEBBIE ANN HOENSTINE, HIS WIFE	1 1
whose post office address is	Record Verified - Martha O. Hayni
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DIEGO IVAN PABON	1 1
whose post office address is 5953 DUNGAN WAY, ORLANDO, FL. 32809	
bereinster called the CRANTER:	L L
(Wherever used herein the terms "GEASTON" and "GHASTER" in	clude all the parties to this instrument and the
bairs, legal representatives and assigns of individuals,	and the microsomes and seatons as comments as
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-Exhibit C-Survey

PLAT OF BOUNDARY AND TOPOGRAPHIC SURVEY

DESCRIPTION (As Furnished)

THAT PART OF: LOT 63, PLAN OF BLOCK "T", 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."

NOTE: ADJOINERS NOT PROMOED

NO TITLE SPINION OR ADSTANCT OF WATERS AFFORMS THE OR SOURCEMY TO THE SUBJECT PROPERTY OR THOSE OF MODIFIED CHRISTIAN MET THE PROPERTY OF MODIFIED OF MODIFIED CHRISTIAN OF MODI

SEE SHEET 2 FOR GRAPHIC DEPICTION OF FIELD SURVEY

FELIX CRUZ and DILENIS CRUZ

Bosed on the FEDERAL EMERGENCY MANAGEMENT AGENCY, NATIONAL FLODD INSURANCE PROCRAM, FLODD INSURANCE RATE MAY Using County, Florice, Community Flands Number 120179/720950 0440 \$, lost dated December 12, 2000 it opposes from a scoling of soid may fact the load described hereon is above to be within ZNN, X (Areas determined to be obtained 500-year floods/cin), Said map is not a Survey and no responsibility is taken for the information contained in or the accuracy of the obove referenced map.

- This flot recomments a Boundary Survey of the description as Armished Hardon Surveying and Measure, on, see cleanly instruction can measure and selection of the second of
- This surveyor has not searched the public records or obstracted the land stown the son the constitution of the obstraction and restrictions at other pertinent documents show may be found in the static reasons at the county. This remembers and included in the state of services of this firm.
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PROFESSIONAL SURVEYING AND MAPPERS
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108 No. 02-22445 Sheet 1 of 2

01/05/07 Boundary Update of Eapl in Equipment

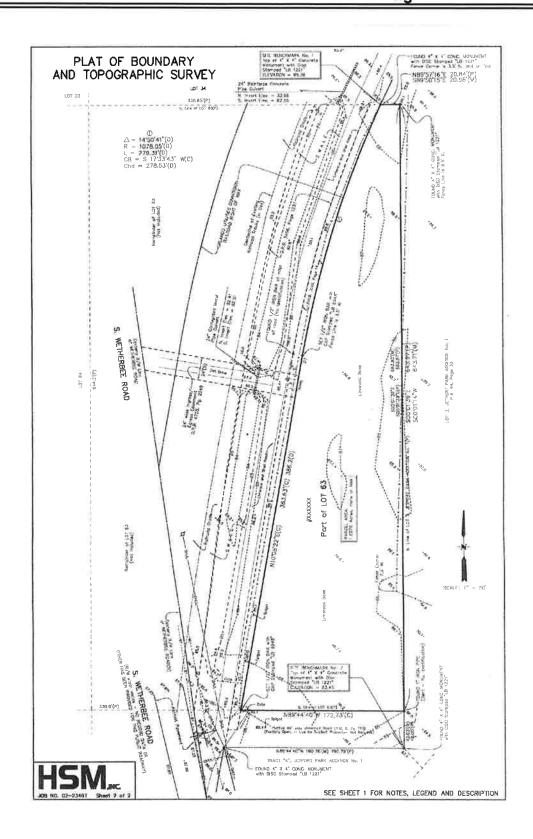
U Box = Ulaity flox

BT = Ruried Telephone time (so me

Wt = Water Line (so field marked)

Ø = Utility Pole DRAWING: 07-23461.DWG SURVEY DATE: 8/14/02 INTENDED DISPLAY SCALE: 1" = 50' DRAWN: T.E.

EXPECTED USE OF THIS LAND COMMERCIAL PURPOS EXPECTED USE OF THIS LAND COMMERCIA. PURPOSES
IT IS CRAFTED THAT THE SECURITY RESERVOIRTH CREEN WELLS WITH THE SECURITY OF THE



Notification Map

