





Interoffice Memorandum

DATE: April 18, 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: May 7, 2019 – Public Hearing
Planning and Zoning Commission: Board-Called Rezoning
Applicant: Justin Solitro
Case # RZ-19-01-057 / District 2

This is a Board-called rezoning hearing, in which the applicant is seeking to rezone 5.46 acres of property located at 1007 Votaw Road, from R-1 (Single-Family Dwelling District) (Restricted) to R-1 (Single-Family Dwelling District) in order to construct twenty (20) single-family dwelling units. On January 17, 2019, the Planning and Zoning Commission (PZC) recommended approval of the request, subject to two restrictions. This item was continued from the March 26, 2019 Board of County Commissioners hearing for further discussion related to the gas pipeline easement, the encroachment agreement, and site access.

As summarized in the staff report, a community meeting was held for this request at Apopka Memorial Middle School on January 14, 2019.

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-1 (Single-Family Dwelling District) zoning, subject to the two (2) restrictions listed under the PZC Recommendation in the Staff Report. District 2

JVW/EPR/nsw
Attachments

CASE # RZ-19-01-057

Commission District: #2

GENERAL INFORMATION

APPLICANT	Justin Solitro
OWNERS	1007 Votaw, LLC
HEARING TYPE	Planning and Zoning Commission
REQUEST	R-1 (Single-Family Dwelling District) (Restricted) to R-1 (Single Family Dwelling District)
LOCATION	1007 Votaw Road; or generally located north of Votaw Road, west of Dominish Estates Drive, south of Wekiva Landing Drive, and east of Via Florence Drive.
PARCEL ID NUMBER	02-21-28-8308-00-011
TRACT SIZE	5.46 gross acres
PUBLIC NOTIFICATION	The notification area for this public hearing was 500 feet [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. One hundred sixty-nine (169) notices were mailed to those property owners in the mailing area. As summarized on page 5 of this staff report, a community meeting was held for this request at Apopka Memorial Middle School on January 14, 2019.
PROPOSED USE	Twenty (20) Single-Family Dwelling Units

STAFF RECOMMENDATION

PLANNING

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) The subject property shall be limited to a maximum of twenty (20) lots with single-family detached residential dwelling units.

IMPACT ANALYSIS

Land Use Compatibility

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

Comprehensive Plan (CP) Consistency

The underlying CP Future Land Use Map (FLUM) designation of the subject property is Low Density Residential (LDR). The proposed R-1 (Single-Family Dwelling District) 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.

GOAL OS1 states that it is a goal of Orange County to protect and preserve valuable open space resources.

OBJ OS1.3 states that Orange County shall protect the Wekiva Springshed and its natural resources by maximizing preserved open space within the Wekiva Study Area.

OS1.3.4 states that Development and redevelopment within the Wekiva Study Area shall provide as much open space as possible. All new residential subdivisions or developments that may be located entirely or partially within the Wekiva Study Area are required to cluster to the maximum extent feasible to preserve open space. Such

clustering is intended to be density neutral, and lot sizes may be adjusted as needed to accommodate preserved open space. Priority for open space protection shall be given to the following resources required to be protected by the Wekiva Parkway and Protection Act: the most effective recharge areas; karst features; and sensitive natural habitats including Longleaf Pine, Sand Hill, Sand Pine, and Xeric Oak Scrub vegetative communities.

The purposes of "open space design" within a development are to minimize site disturbance, reduce land development costs, reduce infrastructure costs, provide more cost-effective and efficient site infrastructure, provide better management of facilities, and permanently protect open space while remaining density and intensity neutral. By January 1, 2007, the Land Development Code shall include requirements and incentives for open space/conservation subdivision design including minimum open space requirements, maximum lot size and design standards.

Open space shall be primarily larger, contiguous parcels rather than in linear strips to encourage maintenance of rural views, lifestyles, and economies and shall be comprised mainly of existing undisturbed natural areas. To the extent possible, preserved open space shall be used to create corridors and larger parcels more suitable for passive recreation, low-intensity agriculture, silviculture, aquifer recharge protection, or wildlife and habitat management, so that remnant open space areas are not created that are unusable or function as private open space to only a small percentage of the development. If a project is located next to off-site open space whose primary function is conservation of natural resources, connection of open space with compatible functions is required. "Compatible" means similar or complementary such as uplands adjacent to wetlands or isolated wetlands within flatwoods or scrub areas.

Open space property shall be preserved through publicly recorded, permanent conservation easements or similar legal instruments to preclude future development or further subdivision of the land while ensuring maintenance of and appropriate access to the open space areas in perpetuity. Preserved areas shall be owned in common by a property owners' association, a public agency, a land trust, or another appropriate entity. This open space shall be used for conservation, aquifer recharge protection, passive recreation, low intensity agriculture, or silviculture. Agriculture and silviculture operations shall adhere to the appropriate BMPs as adopted by the Florida Department of Agriculture and Consumer Services.

Limited structures for common use or under common ownership may be allowed within the open space preserve areas, areas other than wetlands, conservation mitigation areas, conservation easements or wetland protective buffers. Homeowners' personal property and residential accessory structures shall be prohibited. Individual potable water wells shall be allowed in open space areas adjacent to homes if site conditions warrant and allow such.

OS1.3.6 states that within the Urban Service Area in the Wekiva Study Area, development with an overall size less than or equal to 100 acres – open space shall be 35% or greater.

SITE DATA

Existing Use	Single-Family Residential
Adjacent Zoning	N: R-CE (Country Estate District) (1976) E: R-1 (Single-Family Dwelling District) (1971) W: A-1 (Farmland Rural District) (1957) S: A-1 (Farmland Rural District) (1957)
Adjacent Land Uses	N: Single-Family Residential Dwelling Units E: Single-Family Residential Dwelling Units W: Single-Family Residential Dwelling Units S: Single-Family Residential Dwelling Units

R-1 (Single-Family Dwelling District) Development Standards

Min. Lot Area:	5,000 sq. ft.
Min. Lot Width:	50 ft.
Max. Height:	35 ft.
Min. Floor Area:	1,000 sq. ft.

Building Setbacks

Front:	20 ft.
Rear:	20 ft.
Side:	5 ft.

Intent, Purpose, and Uses

The R-1 (Single-family Dwelling District) standards are of the same general character as R-1A and R-1AA, but with smaller minimum lots and yards, and a corresponding increase in population density.

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 at 1007 Votaw Road; or generally located north of Votaw Road, west of Dominish Estates Drive, south of Wekiva Landing Drive, and east of Via Florence Drive. Through this request, the applicant is seeking to remove the ten (10) lot restriction currently associated with the R-1 (Single-Family Dwelling District) zoning in order to construct twenty (20) detached single-family dwelling units. The subject property is located within the Wekiva Study Area and will be subject to the standards set forth in the Comprehensive Plan. This includes OS1.3.6, which requires a minimum thirty-five (35) percent open space for residential land uses in the Urban Service Area (not in a Rural Settlement) less than or equal to one hundred (100) acres.

The applicant has described the subject property as the second phase of Dominish Estates, which is platted as a single-family subdivision to the east. In addition, the applicant intends to seek access to the proposed development from Dominish Estates Drive. In order to facilitate this access, Orange County reserved a portion of an existing and adjacent retention pond tract as right-of-way (*see included exhibit that was recorded in Orange County Records under Document #20160397702*).

The subject property was initially rezoned in 2017 by rezoning case RZ-16-11-041 from A-1 (Citrus Rural District) to R-1 (Single-Family Dwelling District) with a restriction limiting the property to ten (10) lots. Due to limited school capacity when the rezoning occurred in 2017, the ten (10) lot restriction was agreed to by the applicant in order for Orange County Public Schools (OCPS) to consider the request de minimis. The applicant has received approval of a School Capacity Determination (OC-18-024) for twenty (20) single-family dwelling units dated November 16, 2018. This School Capacity Determination is on file with the County.

Comprehensive Plan (CP) Amendment

A CP amendment is not required for this application, as the requested zoning is consistent with the underlying low Density Residential (LDR) 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 held on January 14, 2019 at Apopka Memorial Middle School. Twenty-two (22) residents were in attendance and voiced concerns pertaining to construction access, density, traffic, buffer requirements, and safety.

Rural Settlement

The subject property is not located within a Rural Settlement.

Joint Planning Area (JPA)

The subject property is located within the Apopka JPA. Notice of the rezoning was sent to the City for their review, but no comments have been provided to Orange County.

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

This site is located within the geographical limits of the Wekiva Study Area, as established by the Wekiva Parkway and Protection Act, Section 369.316 F.S. In addition to the state regulations, local policies are included in Orange County Comprehensive Plan 2010-2030 Destination 2030, Future Land Use Element (but not limited to) Objective FLU6.6 Wekiva.

Development of the subject property shall comply with all state and federal regulations regarding wildlife and plants listed as 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).

Prior to demolition or construction activities associated with existing structures, provide the Orange County Environmental Protection Division (EPD) with a Notice of Asbestos Renovation or Demolition form.

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 by the developer.

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 the septic system and both DOH and the Water Management District for wells.

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.

Transportation / Access

Based on the Concurrency Management System database dated November 20, 2018 there is one (1) failing roadway segment within the project's impact area. Orange Blossom Trail from Semoran Boulevard to Park Avenue is currently operating below the adopted level of service and there is no available capacity. This information is dated and subject to change. The Applicant will be required to comply with concurrency 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.

Code Enforcement

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

Utilities

Water: City of Apopka

Wastewater: City of Apopka

Reclaim Water: City of Apopka

Schools

The applicant has received a formal Capacity Determination (Application OC-18-024) from Orange County Public Schools (OCPS) stating there is sufficient capacity to accommodate twenty (20) single-family dwelling units; therefore a Capacity Enhancement Agreement (CEA) is not required.

Parks and Recreation

Orange County Parks and Recreation did not provide any objections to this request.

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 – (January 17, 2019)

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 restrictions:

- 1) The subject property shall be limited to a maximum of twenty (20) lots with single-family detached residential dwelling units; and
- 2) A fifty (50) foot vehicular cross-access easement shall be provided at the time of Preliminary Subdivision Plan (PSP) to the property to the south.

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 consistency with the Comprehensive Plan and recommend approval of the requested R-1 (Single-Family Dwelling District) zoning, subject to one (1) restriction.

Staff indicated that one hundred sixty-nine (169) notices were mailed to surrounding property owners within a buffer extending 500 feet from the subject property, with zero (0) commentaries in favor of the request and thirty-six (36) in opposition. The applicant was present and agreed with the staff recommendation. There were six (6) members of the public who spoke in opposition to this request.

After discussion regarding compatibility with the surrounding area, access to the site, and the addition of a restriction requiring connectivity to the south, a motion was made by

Commissioner Velazquez to find the request to be consistent with the Comprehensive Plan and recommend APPROVAL of the requested R-1 (Single-Family Dwelling District) zoning, subject to two (2) restrictions. Commissioner Spears seconded the motion, which then carried on a 7-0 vote.

Motion / Second

Diane Velazquez / Gordon Spears

Voting in Favor

Diane Velazquez, Gordon Spears, Jose Cantero, Jimmy Dunn, Eddie Fernandez, Mohammed Abdallah, and Yog Melwani

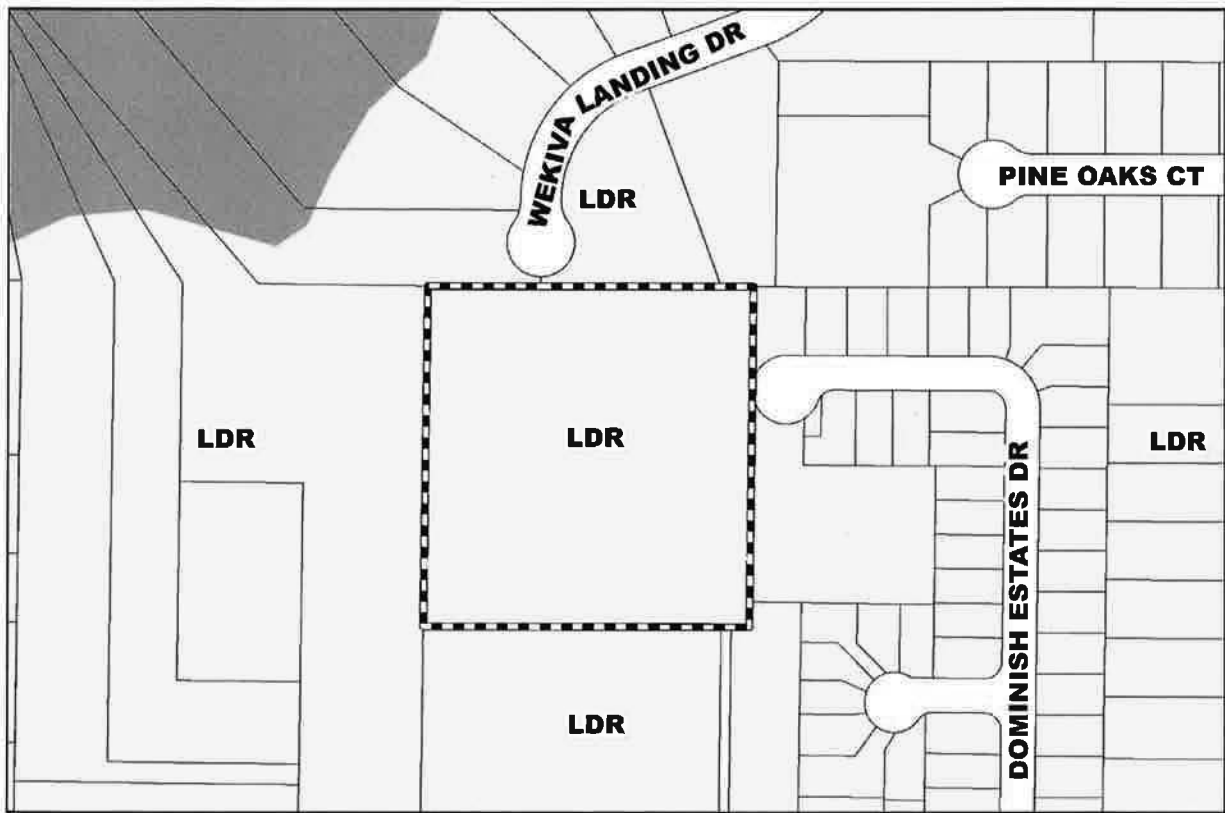
Voting in Opposition

None

Absent

JaJa Wade and Carlos Nazario

RZ-19-01-057



 Subject Property



★ Subject Property

Future Land Use Map

FLUM: Low Density Residential (LDR)

APPLICANT: Justin Solitro

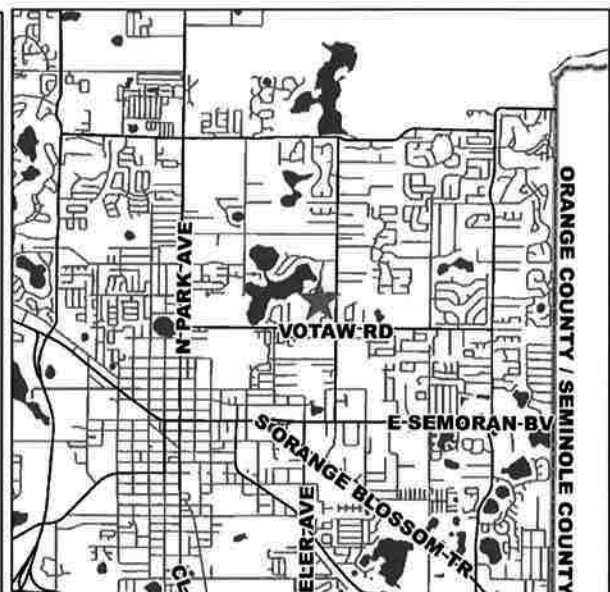
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TRACT SIZE: 5.46-gross acres

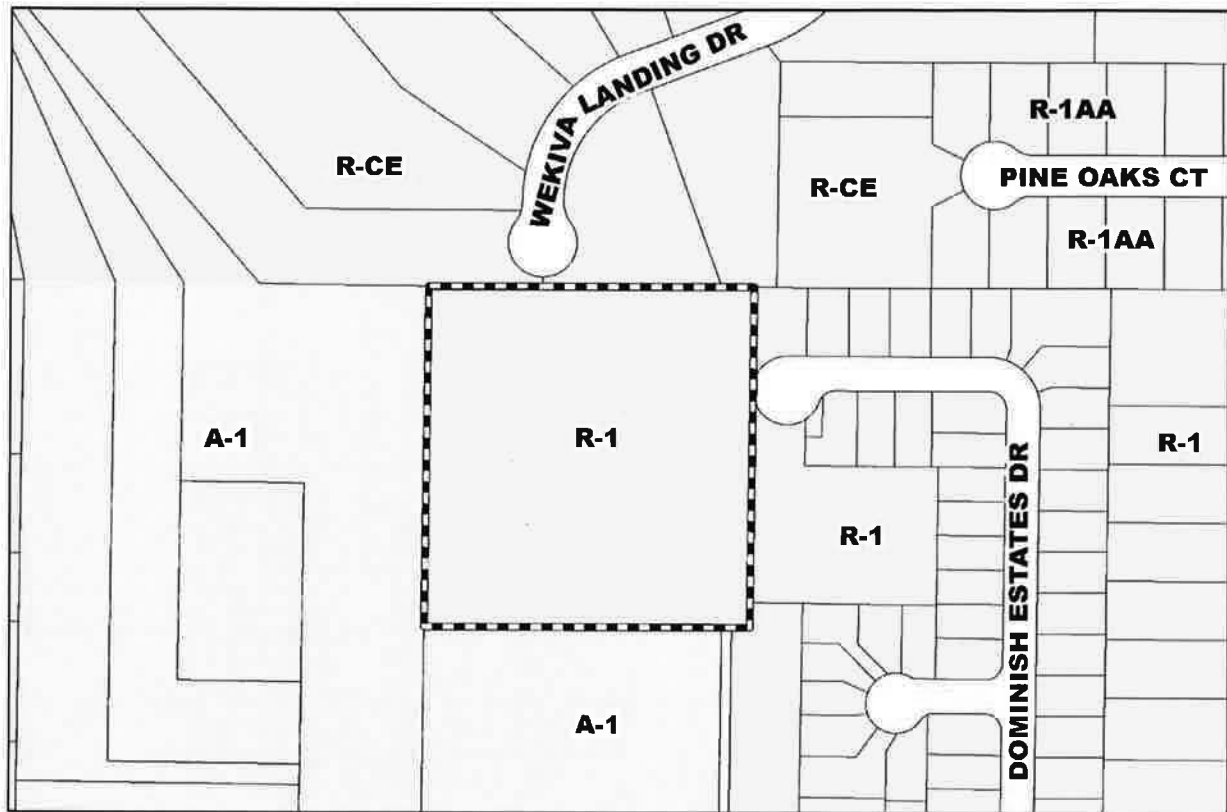
DISTRICT: # 2

S/T/R: 02/21/28

1 inch = 230 feet



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Subject Property



Subject Property

Zoning Map

ZONING: R-1 (Single-Family Residential District) to
 R-1 (Single Family Residential District)

APPLICANT: Justin Solitro

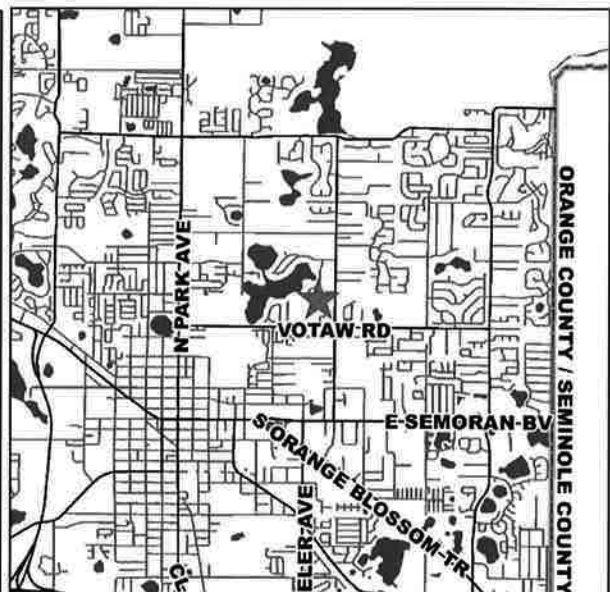
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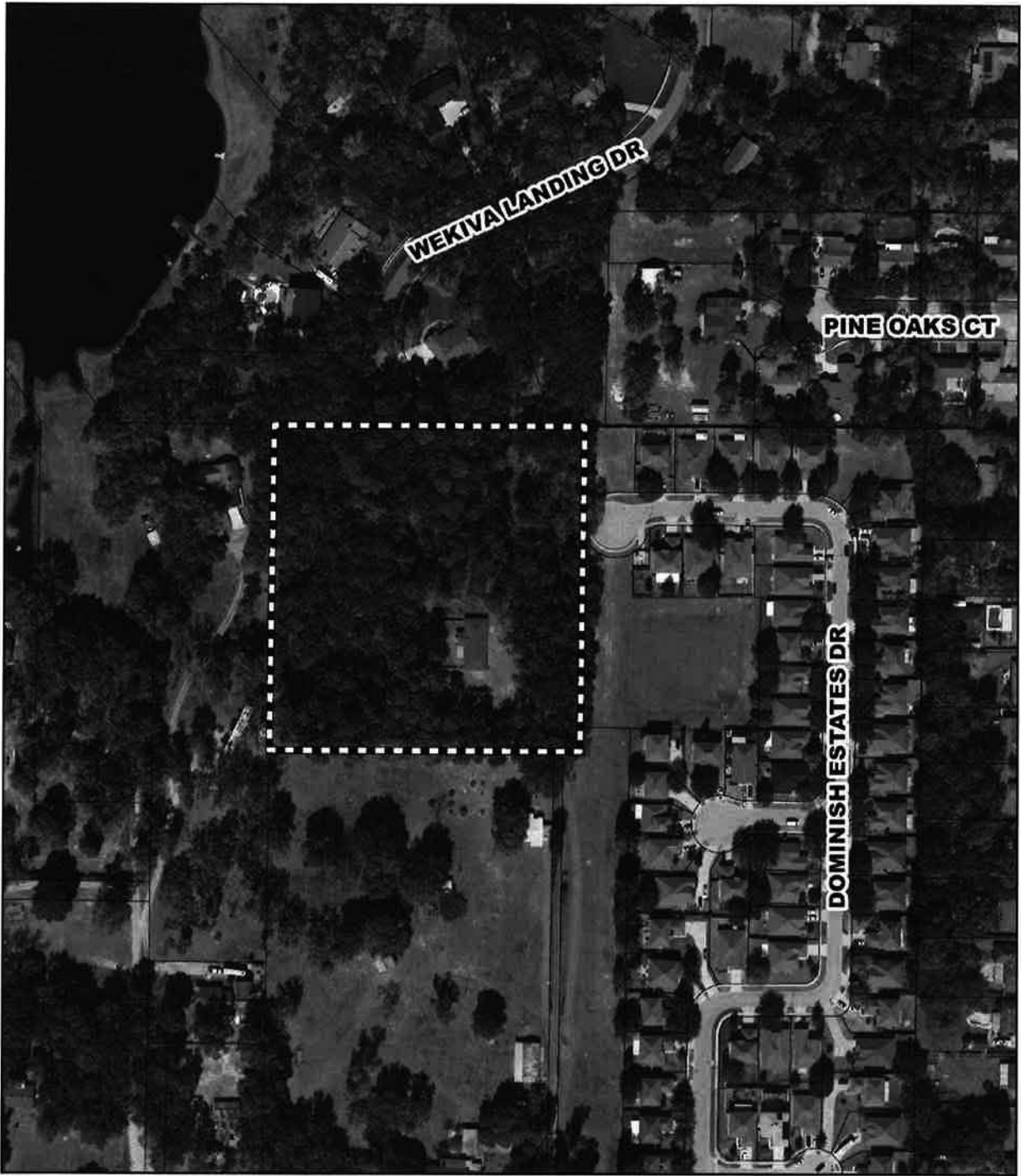
DISTRICT: # 2

S/T/R: 02/21/28

1 inch = 230 feet



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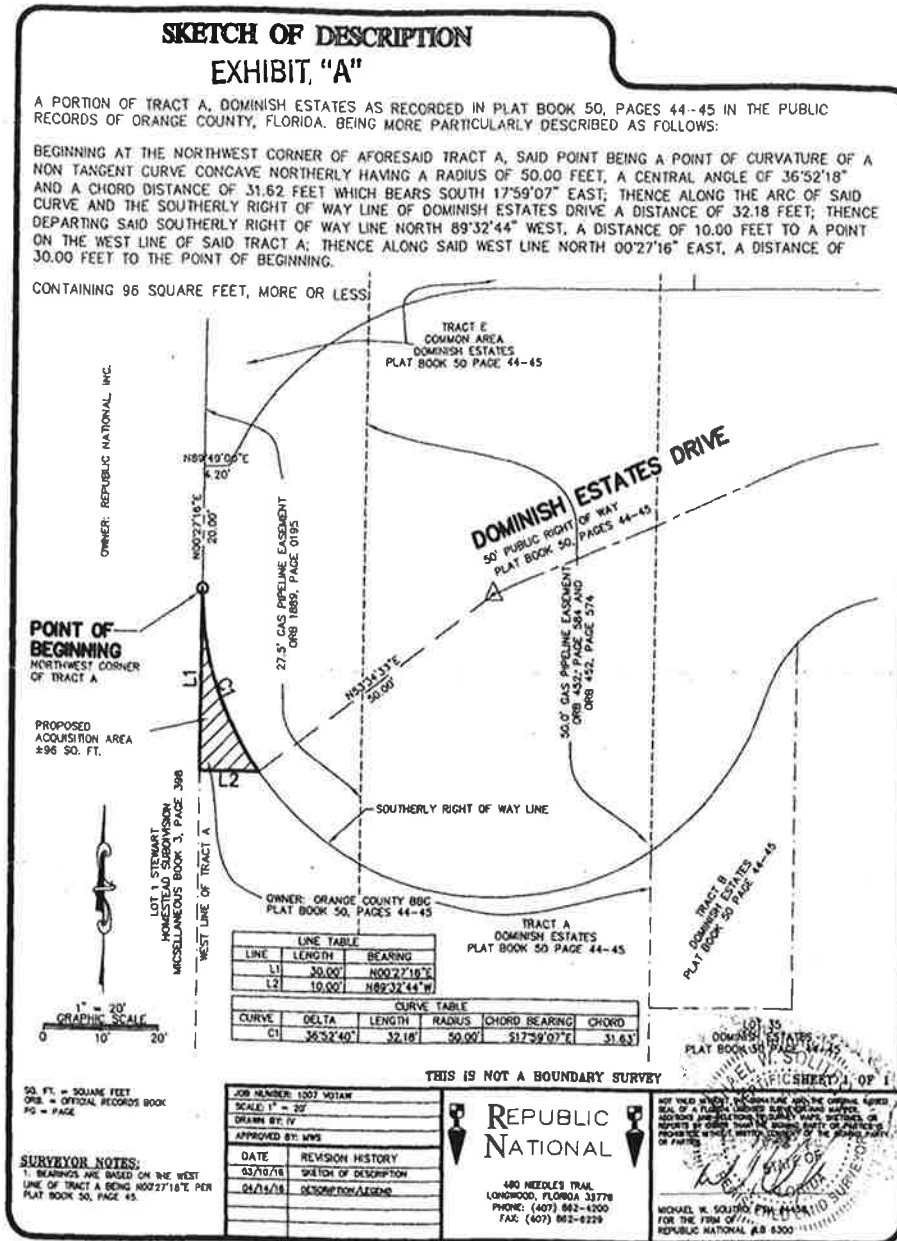
Subject Property



1 inch = 200 feet

Orange County Right-Of-Way Reservation Survey

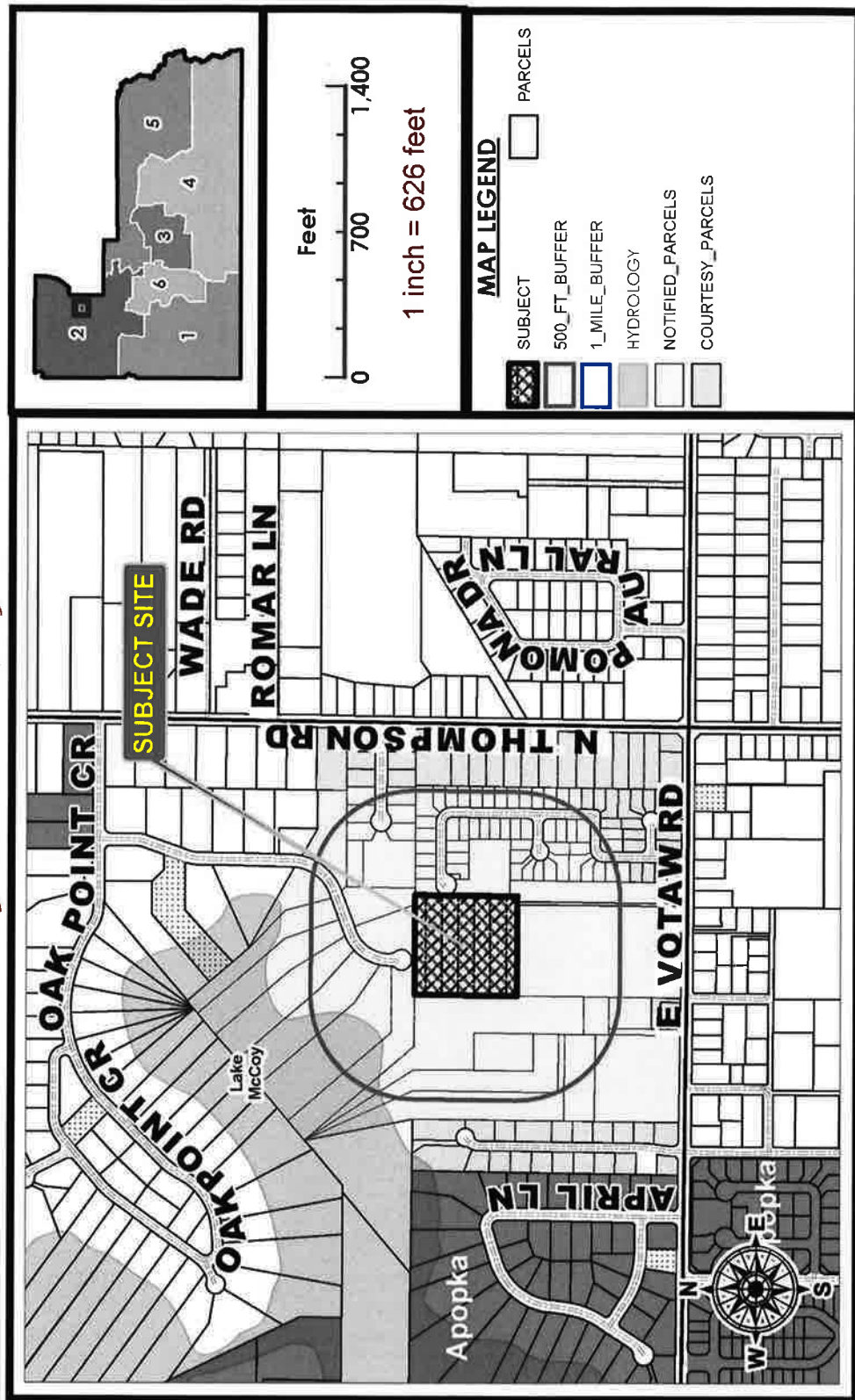
20160397702 Page 2 of 2



Public Notification Map

RZ-19-01-057_1007 Votaw Road
500 FT BUFFER, 169 NOTICES

Notification Map



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