Interoffice Memorandum

DATE: August 20, 2019

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

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

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

SUBJECT: September 10, 2019 – Public Hearing
Planning and Zoning Commission Appeal
Applicant: Robert Paymayesh, College Park RBP, LLC
Appellants: Rick Pelzer, Rebecca Pelzer, Tami Salter, Colin Salter, Victoria Villegas, Dilmar Villegas, Cassie Lynch, and Stephen Toth
Case # RZ-19-07-019 / District 3

This request is an appeal of the July 18, 2019, Planning and Zoning Commission (PZC) decision to recommend approval of the aforementioned rezoning application.

The applicant is seeking to rezone a 4.85 gross-acre property located at 8901 Curry Ford Road from A-2 (Farmland Rural District) to R-1 (Single-Family Dwelling District) to construct thirteen (13) single-family dwelling units. A community meeting was not required for this request. This appeal was received from the appellants on July 30, 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 one (1) restriction listed under the PZC recommendation in the staff report. District 3**

JVW/EPR/nt
Attachments

CASE # RZ-19-07-019

Commission District: #3

GENERAL INFORMATION

APPLICANT	Robert Paymayesh, College Park RBP, LLC
APPELLANTS	Rick Pelzer, Rebecca Pelzer, Tami Salter, Colin Salter, Victoria Villegas, Dilmar Villegas, Cassie Lynch, and Stephen Toth
OWNER	College Park RBP, LLC
HEARING TYPE	Planning and Zoning Commission Appeal
REQUEST	**A-2** (Farmland Rural District) **to** **R-1** (Single-Family Dwelling District)
LOCATION	8901 Curry Ford Road; generally located north of Curry Ford Road, west of S. Econlockhatchee Trail, and east of S. Chickasaw Trail.
PARCEL ID NUMBER	01-23-30-0000-00-004
TRACT SIZE	4.85 gross acres
PUBLIC NOTIFICATION	The notification area for this public hearing was 1,000 feet [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Two hundred eighty-four (284) notices were mailed to those property owners in the mailing area. A community meeting was not required for this application.
PROPOSED USE	Thirteen (13) Single-Family Residential 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), subject to the following restriction:

1) Development shall be limited to a maximum of thirteen (13) single-family 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 (LDR) FLUM designation and the following Comprehensive Plan provisions:

FLU1.4.1 states Orange County shall promote a range of living environments and employment opportunities in order to achieve a stable and diversified population and community.

GOAL FLU2 states that Orange County will encourage urban strategies such as infill development, coordinated land use and transportation planning, and mixed-use development, which promote efficient use of infrastructure, compact development and an urban experience with a range of choices and living options.

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 Land

Adjacent Zoning

N: R-CE (Country Estate District) *(1980)*

E: R-1 (Single-Family Dwelling District *(2009)*

**Restricted to one (1) single-family lot*

W: A-2 (Farmland Rural District) *(1957)*

S: R-1 (Single-Family Dwelling District) *(2010) (2018)*

Adjacent Land Uses

N: Single-Family Residence

E: Warehouse / Single-Family Residence

W: Single-Family Residences

S: Undeveloped Land

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.

* *These regulations may not reflect the actual requirements for all situations; see the Orange County Zoning Code for actual regulations for site requirements for this zoning district.*

Permitted Uses

Per Section 38-276 of the Orange County Code, the intent and purpose of the R-1 zoning district is provide residential development similar in general character to the R-1AA and R-1A zoning districts, 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 8901 Curry Ford Road; which is generally north of Curry Ford Road, west of S. Econlockhatchee Trail, and east of S. Chickasaw Trail.

Through this request, the applicant is seeking to rezone the subject property from A-2 (Farmland Rural District) to R-1 (Single-Family Dwelling District) to construct thirteen (13) single-family residential dwelling units. The applicant intends to improve Woodhill Avenue, which runs along the west side of the property to County standards and use this road as primary access to the subject property.

The subject property and the surrounding area are designated on the Future Land Use Map (FLUM) as Low Density Residential (LDR), which allows up to four (4) dwelling units per acre. The surrounding area is characterized primarily by single-family development, with several detached single-family residential subdivisions. Retail shopping centers are located at the nearby intersections west and east of the subject property along Curry Ford Road at S. Econlockhatchee Trail, and east of S. Chickasaw Trail.

Several properties surrounding the subject property have rezoned from the A-2 (Farmland Rural District) zoning, which is inconsistent with the LDR FLU, to R-1 (Single-Family Residential District). The 29 acre area to the north of the subject property was rezoned to R-CE (Country Estate District) in 1980 to develop the existing residential subdivision.

The two parcels to the east of the subject property were rezoned from A-2 to R-1 in 2009 and 2010, respectively, with the intent to allow the owners to apply for special exceptions. Both rezonings were approved with the restriction limiting them to one (1) single family lot each. The property immediately to the east was subsequently denied a special exception to convert the existing warehouse to a church, and the property currently remains developed with a warehouse. The property to the east of the warehouse was an existing church, and a special exception for this property was approved to allow a modular classroom to be added. Farther east is the Deerwood Landings Planned Development, which was rezoned in 2001 and is developed with a Walmart neighborhood market and a 58 unit single-family subdivision.

The Monaco single-family subdivision is located 500 feet to the west of the subject property. This subdivision was rezoned to R-1 in 1996 and is platted with sixty 60' lots. Located southwest of the subject property, the Bradfort Park single-family subdivision was rezoned to R-2 in 1992.

Finally, three parcels to the south were rezoned from A-1 to R-1 in 2010 with the intent to allow the owners to apply for special exceptions to develop two churches. Both rezonings were approved with the restriction limiting them to one (1) single family lot each. Both special exceptions were also approved but the churches were never constructed. The parcels were rezoned again in 2016 and 2018 to remove the restriction, with the intent of developing a single-family subdivision on the property.

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 JPA.

Overlay District Ordinance

The subject property is not located within an Overlay District.

Airport Noise Zone

The subject property is located within Airport Noise Zone "E". Residential development is Airport Noise Zone "E" requires a waiver of claim to be executed between the applicant and the Greater Orlando Aviation Authority for lot-splits and subdivisions.

Environmental

Wetlands are located onsite and extend offsite. Orange County Conservation Area Determination CAD-19-05-077 was issued on August 1, 2019, and depicts 0.09 acres of Class III wetland and 1.37 acres of Class I wetland on the subject property.

The site is vacant and vegetated. Development 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). All development is required to treat stormwater runoff for pollution abatement purposes. Discharge that flows directly into wetlands or surface waters without pretreatment is prohibited.

Transportation / Access

The proposed use will generate three (3) net P.M. peak hour trips. The trip generation of the proposed project does not exceed one (1) percent of the maximum volume at the adopted Level of Service on affected transportation facilities. This project will not create an impact on the roadway network.

Code Enforcement

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

Utilities

Water:	Orange County Utilities	A 24-inch watermain is located within Curry Ford right-of-way

Wastewater:	Orange County Utilities	A 24-inch forcemain is located within Curry Ford right-of-way
Reclaim Water:	Orange County Utilities	Not currently available

Schools

Orange County Public Schools (OCPS) issued a School Capacity Determination Approval Letter for application OC-19-042 on May 31, 2019, that states the subject property is vested for three (3) single-family dwelling units, and that there is sufficient school capacity to support the development of ten (10) new single-family dwelling units. This determination expires on November 27, 2019. In the event this project does not obtain a local government approval by the expiration date, the applicant must resubmit the application to be reevaluated by OCPS.

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 – (July 18, 2019)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the requested R-1 (Single-Family Dwelling District), subject to the following restriction:

1) Development shall be limited to a maximum of thirteen (13) single-family dwelling units.

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 restriction. Staff and the applicant clarified that the restriction and proposed thirteen (13) dwelling units was based on existing school capacity and the allowable density with 1.37 acres of Class II wetland located on the property. The applicant noted that they were not proposing to impact the Class II wetland area.

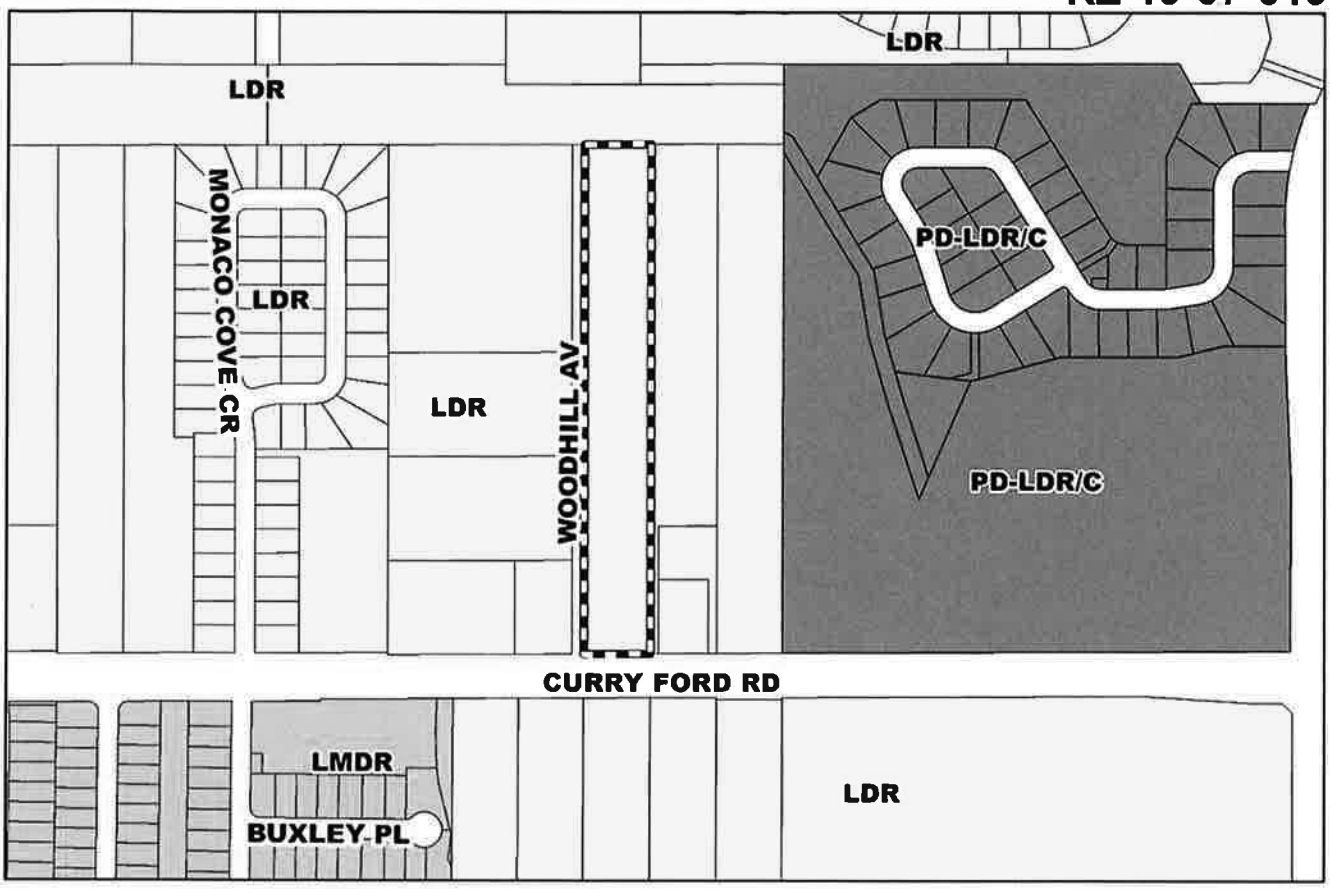
Staff indicated that two hundred eighty-four (284) notices were mailed to surrounding property owners within a buffer of 1,000 feet surrounding the subject property, with four (4) responses received in opposition and one (1) in favor. Staff also indicated that an online petition in opposition to the request had been submitted signed by eighty (80) individuals, although only six (6) of which lived within one-mile of the subject property. Those in

opposition cited concerns of loss of habitat, concerns of traffic impacts on Curry Ford Road, and that the proposed development would be incompatible with the rural properties located along Woodhill Avenue. The applicant was present for the hearing and concurred with staff's recommendation. Nine (9) members of the public were present and spoke in opposition to the request, citing concerns that the proposed development would be incompatible with the five (5) rural properties located on Woodhill Avenue.

Discussion ensued regarding access to the property. Staff noted that Woodhill Avenue is a County owned right-of-way, and although currently unmaintained, the applicant would be required to dedicate a portion of the subject property and construct Woodhill Avenue to County standards. Following the discussion, a motion was made by Commissioner Spears to find the request to be consistent with the Comprehensive Plan and recommend APPROVAL of the R-1 (Single-Family Dwelling District) zoning, subject to one restriction. Commissioner Cantero seconded the motion, which then carried on a 6-1 vote.

Motion / Second	*Gordon Spears / Jose Cantero*
Voting in Favor	*Gordon Spears, Jose Cantero, Yog Melwani, JaJa Wade, Carlos Nazario, and Jimmy Dunn*
Voting in Opposition	*Diane Velazquez*
Absent	*Eddie Fernandez*
	(Mohammed Abdallah declared a conflict of interest and recused himself from the vote.)

RZ-19-07-019



Subject Property

Subject Property

Future Land Use Map

FLUM: Low Density Residential (LDR)

APPLICANT: Robert Paymayesh, College Park RBP, LLC

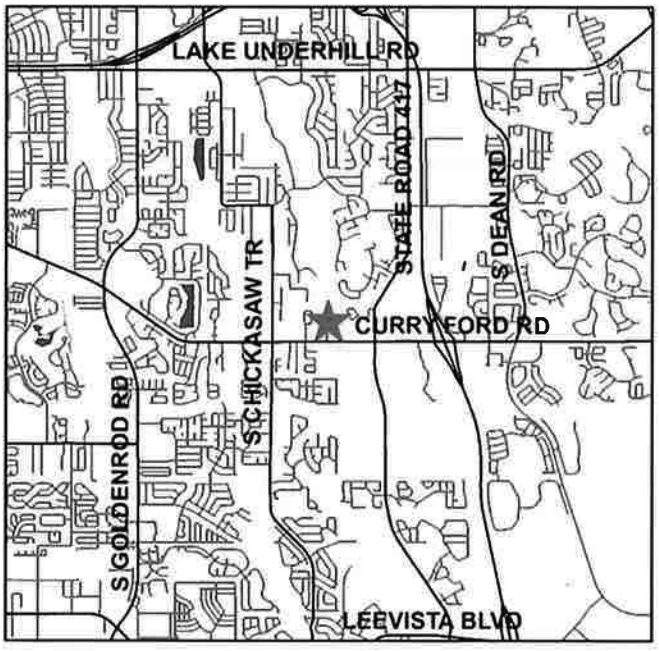
LOCATION: 8901 Curry Ford Road; generally located north of Curry Ford Road, west of S Econlockhatchee Trail, and east of S Chickasaw Trail.

TRACT SIZE: 4.85 gross acres

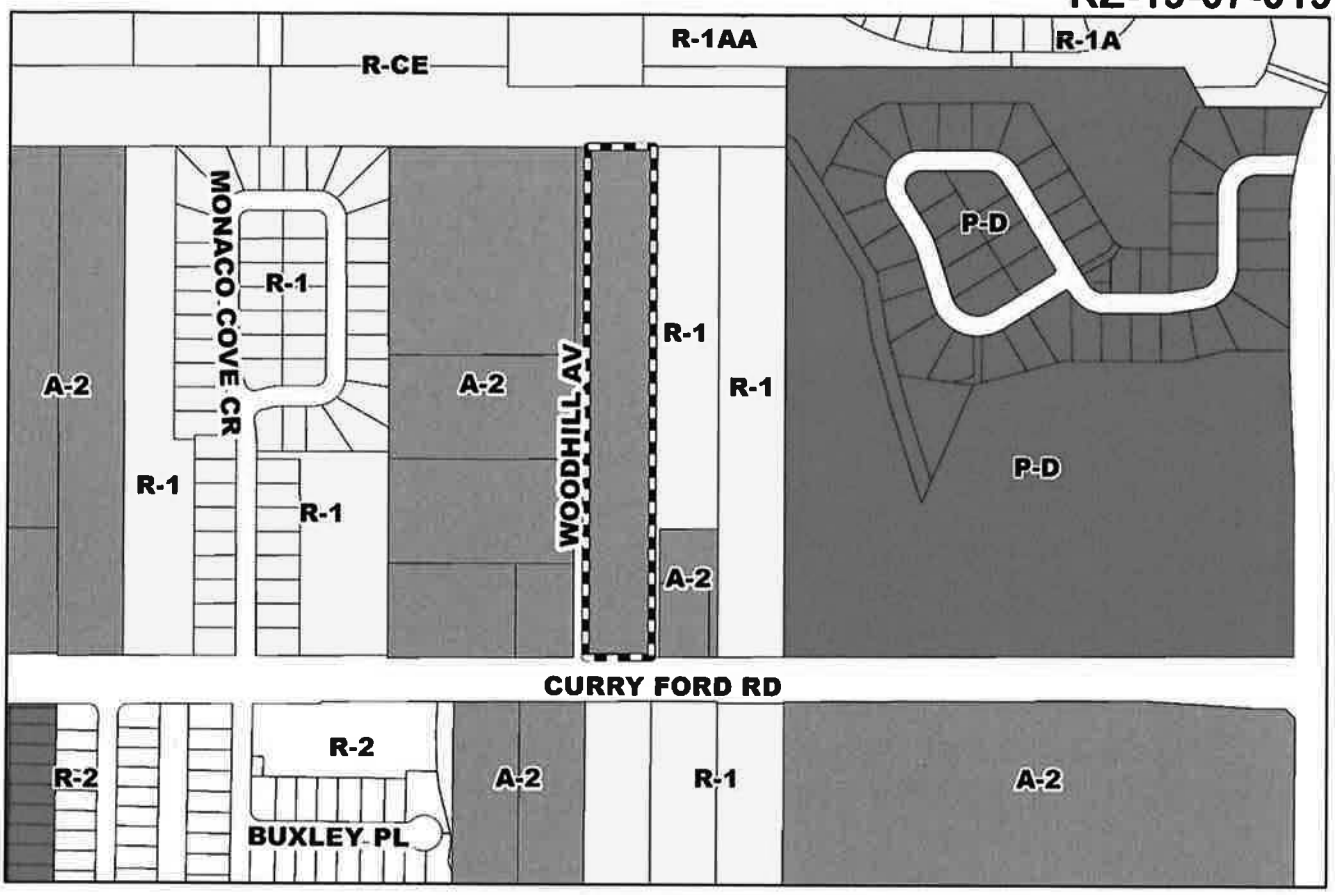
DISTRICT: # 3

S/T/R: 01/23/30

1 inch = 425 feet



RZ-19-07-019



Subject Property

Subject Property

Zoning Map

ZONING: A-2 (Farmland Rural District) to R-1 (Single-Family Dwelling District)

APPLICANT: Robert Paymayesh, College Park RBP, LLC

LOCATION: 8901 Curry Ford Road; generally located north of Curry Ford Road, west of S Econlockhatchee Trail, and east of S Chickasaw Trail.

TRACT SIZE: 4.85 gross acres

DISTRICT: # 3

S/T/R: 01/23/30

1 inch = 425 feet

RZ-19-07-019

Subject Property

N
W E
S

1 inch = 450 feet

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

RECEIVED
JUL 30 2019
Planning Division

Date: July 30, 2019

Appellant: The Homeowners & Residents of Woodhill Avenue (See Contact List 1-4 below)
(Print or type name)

Representing: The Homeowners & Residents of Woodhill Avenue
(Print or type company, group, or organization name)

Address: See Below for all 4

Telephone: See Below **Fax:** N/A **E-mail:** See Below

Respectfully request an appeal of the decision regarding rezoning number **RZ -** 1 9 - 0 7 - 0 1 9,

the Applicant being Mr. Robert Paymayesh, rendered by the Orange
(Print or type Applicant name)

County Planning & Zoning Commission on July 18, 2019.

Reason for appeal (provide a brief summary or attach additional documentation if necessary):
SEE ATTACHED SUMMARY FOR THE REASON FOR THE APPEAL
1. Rick & Rebecca Pelzer 2312 Woodhill Ave Orlando, FL 32825 (321) 663-5283 pelzerr@bellsouth.net
2. Colin & Tami Salter 2160 Woodhill Ave Orlando, FL 32825 (407) 325-5585 tami.salter@ucf.edu
3. Dilmar & Victoria Villegas 2268 Woodhill Ave Orlando, FL 32825 dilmarvillegas1@yahoo.com
4. Stephen Toth & Cassie Lynch 2324 Woodhill Ave Orlando, FL 32825 toth.stephen@gmail.com

Signature Date July 30, 2019
Rick & Rebecca Pelzer/ Colin & Tami Salter/Dilmar & Victoria Villegas/Stephen Toth & Cassie Lynch

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

We, the aggrieved residents and homeowners of Woodhill Avenue, seek to appeal the judgement of the PZC as per the case RZ-19-07-019 that was decided in favor of rezoning 8901 Curry Ford Road from A-2 to R-1, "to construct thirteen (13) single-family residential dwelling units," on 7/18/2019. There are numerous reasons for this appeal, and we list the more pressing of them as follows in no particular order.

1. Woodhill Ave. was deeded over as a right of way to Orange County in September of 1959. We are anecdotally aware that Woodhill was maintained by Orange County for a period after that date. At some point in the late 1970s the county no longer performed those duties, leaving the road unmaintained. We advise that it has not been thus unmaintained for the last 39 years. Rather, the residents of the road have maintained Woodhill Avenue for that time, performing stone and rock dumps, and utilizing personal Bobcats at our own cost. We have never attempted to be compensated by the county for our work. We care for our neighborhood and its access road, Woodhill Avenue. We find it improper to allow the developer to utilize Woodhill Avenue for the project without addressing our concerns firstly and rightly, as we are both the caretakers and primary users of the road, and as such the ones who will be most severely impacted by its redevelopment.

2. On either side of the property of 8901 Curry Ford Road there are much more diffusely built parcels of land. All lots are comprised of 2-3 homes for every 3-7 acres. As Mr. Paymayesh advised, he is not touching the wetlands at the rear of 8901 Curry Ford Road, he is then left with 3~ acres or so to build the petitioned 13 homes on. This development is completely out of character with the rural surrounding properties that comprise our neighborhood. In addition we question the logic of how 13 homes, forced into a small acreage against the character of the surrounding residences, is germane to the topic of an *Affordable* "housing crisis," a point brought up in the hearing in support of the rezoning petition.

3. At least one of the convened members, Mrs. Diane Velazquez, voted against the rezoning request. She questioned the ceding of Woodhill Avenue to the designs of the petitioner. Her actions represent to us a clear apprehension that if reconsidered will yield further disapproval of the rezoning request.

4. Our representative, Mr. Eddie Fernandez, left the meeting and did not return for our hearing. We do not find fault with Mr. Fernandez, rather with his absence during the process, and would presume he should be in attendance to matters that befall the aggrieved, members of his district.

5. Mr. Yogesh Malwani, who convened the hearing, admitted to having received "ex parte" communication from the petitioner, Mr. Robert Paymayesh. We believe this to be a clear conflict of interest with regard to the rezoning petition, as we had no such similar access prior to the hearing date.

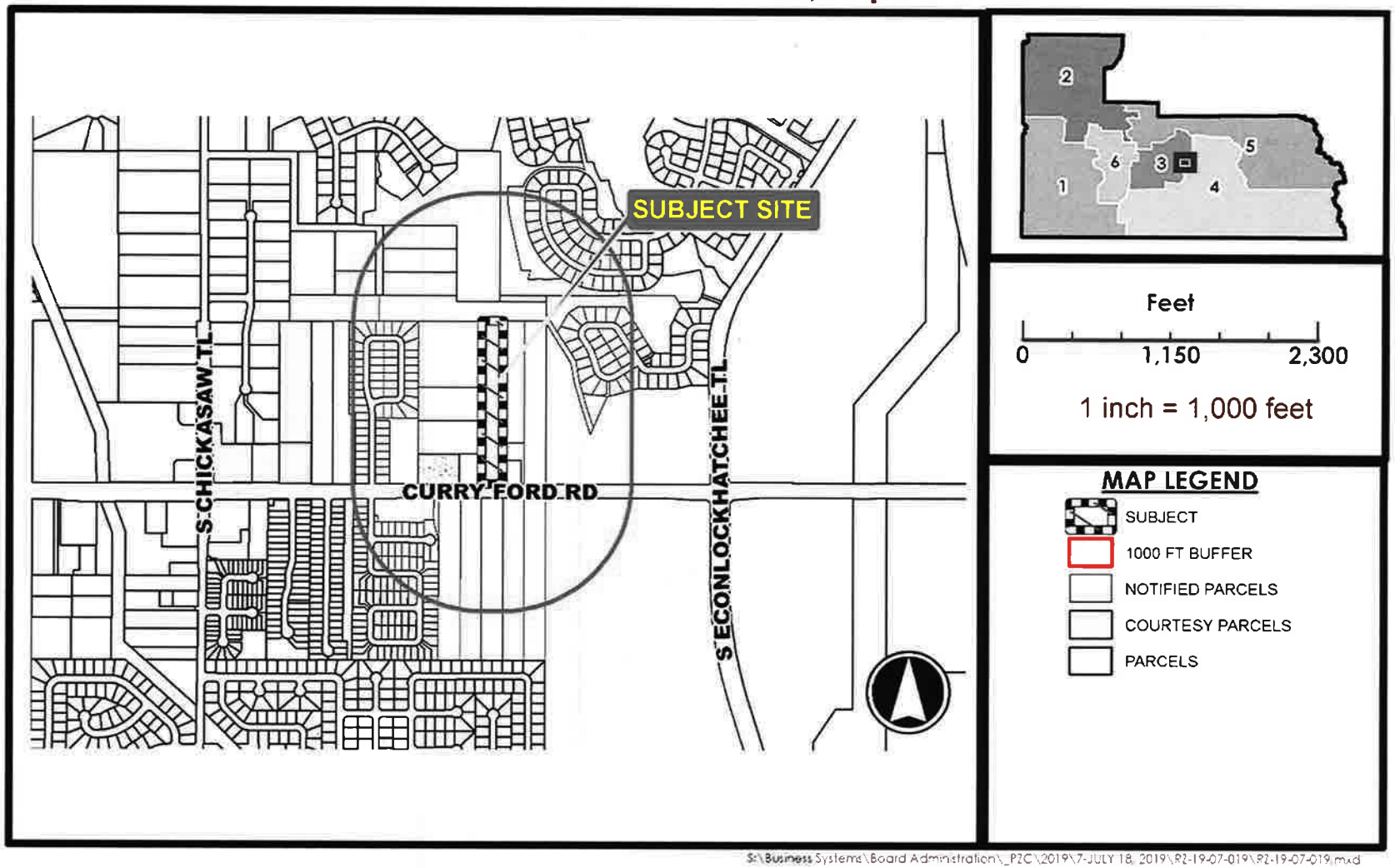
We seek a committee to reconvene and consider these points, allowing us to present our claims. To that end we petition for redress of our concerns, and look forward to the committees consideration in this matter.

Sincerely, The Aggrieved Residents of Woodhill Avenue.

Public Notification Map

8901 Curry Ford Road_RZ-19-07-019

1000 FT BUFFER, 284 NOTICES



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Case # RZ-19-07-019
Orange County Planning Division
BCC Hearing Date: September 10, 2019