




Interoffice Memorandum

DATE: October 17, 2022

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

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

CONTACT PERSON: **Joe Kunkel, P.E., DRC Chairman**
Development Review Committee
Public Works Department
(407) 836-7971

SUBJECT: November 15, 2022 – Public Hearing
Bryan Borland, Alta Horizon West Owner, LLC
Project ABC Planned Development
Case # LUPA-22-04-116 / District 1

The Project ABC Planned Development (PD) is located South of Taft Vineland Road / West of South John Young Parkway. The existing PD is approved for a mix of residential/commercial uses and this property is PD Parcel 3B which is already approved for 219 multi-family residential units.

Through this PD substantial change, the applicant is seeking to add 1.85 acres from the Southmark Centre PD to Project ABC PD with no increase to the approved entitlements. In addition, a waiver is being requested from Orange County Code from Section 38-1476 (a) to allow a minimum of 1.56 spaces per dwelling unit.

On September 7, 2022, the Development Review Committee (DRC) recommended approval of the request, subject to conditions. A community meeting was not required for this request.

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 and the PD/LUP may be found in the Planning Division for further reference.

ACTION REQUESTED: **Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Project ABC Planned Development / Land Use Plan (PD/LUP) dated “Received August 8, 2022”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1**

Attachments
JVW/NT/atv

CASE # LUPA-22-04-116

Commission District: # 1

GENERAL INFORMATION

APPLICANT Bryan Borland, Alta Horizon West Owner, LLC

OWNER Alta Headwaters Holdings, LLC

PROJECT NAME Project ABC Planned Development (PD)

PARCEL ID NUMBER(S) 09-24-29-7230-01-001 (affected parcel only)

TRACT SIZE 7.85 acres (affected parcel only)

LOCATION Generally located South of Taft Vineland Road / West of South John Young Parkway

REQUEST A request to add 1.85 acres from the Southmark Centre PD to Project ABC PD. In addition, the applicant has requested the following waiver from Orange County Code:

1. A waiver from Section 38-1476 (a) to allow a minimum of 1.56 spaces per dwelling unit, regardless of bedroom count, for the proposed 219 - unit apartment complex located on the tract 3B, in lieu of parking being required at a rate of one and a half (1.5) spaces per one (1) bedroom dwelling unit and two (2) spaces per two (2) and three (3) bedroom dwelling units.

Applicant Justification: The requested parking waiver will result in a reduction of parking on tract 3B from 373 parking spaces to 342 parking spaces. The requested reduction of approximately 8.5% adequately serves the projected demand for parking as evidenced by Alta Lakes Parking Demand Analysis Project No 22056, v1.1 Orange County, Florida dated June 16, 2022.

PUBLIC NOTIFICATION The notification area for this public hearing extended beyond 1,300 feet [Chapter 30-40(c)(3)(a) of Orange County Code requires 300 feet]. Number 23 notices were mailed to those property owners in the mailing area. A community meeting was not required for this request.

IMPACT ANALYSIS

Special Information

The Project ABC PD was originally approved on November 17, 1986. The existing PD is approved for a mix of residential/commercial uses and this property is PD Parcel 3B which is already approved for 219 multi-family residential units. The applicant is seeking to add 1.85 acres from the Southmark Centre PD to Project ABC PD with no increase to the approved entitlements. In addition, a waiver is being requested from Orange County Code from Section 38-1476 (a) to allow a minimum of 1.56 spaces per dwelling unit.

Land Use Compatibility

The proposed PD substantial change would not adversely impact any adjacent properties or result in an incompatible land use pattern.

Comprehensive Plan (CP) Consistency

The subject property has an underlying Future Land Use Map (FLUM) designation of Parks and Recreation / Open Space (PR/OS) which allows for a maximum residential density of twenty (20) dwelling units per one (1) net developable acres. The Project ABC PD was approved in 1986, predating our Comprehensive Plan designations. The proposed PD zoning district and development program is consistent with the PR/OS FLUM designation; therefore, a CP amendment is not necessary. Additionally, the request is consistent with the following CP provisions:

FLU1.4.2 Orange County shall ensure that land use changes are compatible with and serve existing neighborhoods.

FLU1.4.21 Orange County will encourage the use of vacant land within the Urban Service Area for redevelopment to improve existing conditions on-site.

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.

FLU8.2.1 Land use changes shall be required to be compatible with the 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.

FLU8.2.2 states that continuous stretches of similar housing types and density of units shall be avoided. A diverse mix of uses and housing types shall be promoted.

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 not located within an Airport Noise Zone.

Environmental

Environmental Protection Division (EPD) staff has reviewed the proposed request and did not identify any issues or concerns.

Transportation Planning

Based on the concurrency management system dated March 23, 2022, there are multiple failing segments within the project's impact area along John Young Parkway from Whisper Lakes Blvd to South Park Circle (3 segments). This information is dated and subject to change.

Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a capacity encumbrance letter prior to construction plan submittal and must apply for and obtain a capacity reservation certificate prior to issuance of the initial certificate of occupancy. Nothing in this condition and nothing in the decision to approve this land use plan shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a capacity encumbrance letter or a capacity reservation certificate.

Possible transportation concurrency entitlements under TCVRC-92-212 (Orangewood East/ ABC Property). PLEASE BE AWARE: A Vested Rights Verification by the County's Concurrency Attorney will be required to confirm if future projects will be granted vested rights entitlements under the Vested Rights Certificate. Applicant to submit proof that the development is entitled to vesting under TCVRC-92-212. Please provide backup documentation to the Concurrency Management Office confirming that the certificate is valid. Otherwise, please plan on obtaining a Capacity Encumbrance Letter (CEL) application to obtain transportation concurrency entitlements.

Community Meeting Summary

A community meeting was not required for this request.

Schools

Orange County Public Schools (OCPS) staff reviewed this request and determined that it would not have an impact on the school population since the PD entitlements are not increasing.

Specific Project Expenditure Report and Relationship Disclosure Forms

The original Specific Project Expenditure Report and Relationship Disclosure Form are currently on file with the Planning Division.

ACTION REQUESTED

Development Review Committee (DRC) Recommendation – (September 7, 2022)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Project ABC Planned Development / Land Use Plan (PD/LUP), dated “Received August 8, 2022”, subject to the following conditions:

1. Development shall conform to the Project ABC PD Land Use Plan Amendment dated "Received August 8, 2022," and shall comply with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. Accordingly, the PD may be developed in accordance with the uses, densities, and intensities described in such Land Use Plan, subject to those uses, densities, and intensities conforming with the restrictions and requirements found in the conditions of approval and complying with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. If the development is unable to achieve or obtain desired uses, densities, or intensities, the County is not under any obligation to grant any waivers or modifications to enable the developer to achieve or obtain those desired uses, densities, or intensities. In the event of a conflict or inconsistency between a condition of approval and the land use plan dated "Received August 8, 2022," the condition of approval shall control to the extent of such conflict or inconsistency.

2. This project shall comply with, adhere to, and not deviate from or otherwise conflict with any verbal or written promise or representation made by the applicant (or authorized agent) to the Board of County Commissioners ("Board") at the public hearing where this development received final approval, where such promise or representation, whether oral or written, was relied upon by the Board in approving the development, could have reasonably been expected to have been relied upon by the Board in approving the development, or could have reasonably induced or otherwise influenced the Board to approve the development. In the event any such promise or representation is not complied with or adhered to, or the project deviates from or otherwise conflicts with such promise or representation, the County may withhold (or postpone issuance of) development permits and / or postpone the recording of (or refuse to record) the plat for the project. For purposes of this condition, a "promise" or "representation" shall be deemed to have been made to the Board by the applicant (or authorized agent) if it was expressly made to the Board at a public hearing where the development was considered and approved.

3. 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, or any other development order, 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.

4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this land use plan to promptly disclose to the County any changes in ownership, encumbrances, or other matters of record affecting the property that is subject to the plan, and to resolve any issues that may be identified by the County as a result of any such changes. Developer / Applicant acknowledges and understands that any such changes are solely the Developer's / Applicant's obligation and responsibility to disclose and resolve, and that the Developer's / Applicant's failure to disclose and resolve any such changes to the satisfaction of the County may result in the County not issuing (or delaying issuance of) development permits, not recording (or delaying recording of) a plat for the property, or both.
5. Property that is required to be dedicated or otherwise conveyed to Orange County (by plat or other means) shall be free and clear of all encumbrances, except as may be acceptable to County and consistent with the anticipated use. Owner / Developer shall provide, at no cost to County, any and all easements required for approval of a project or necessary for relocation of existing easements, including any existing facilities, and shall be responsible for the full costs of any such relocation prior to Orange County's acceptance of the conveyance. Any encumbrances that are discovered after approval of a PD Land Use Plan shall be the responsibility of Owner / Developer to release and relocate, at no cost to County, prior to County's acceptance of conveyance. As part of the review process for construction plan approval(s), any required off-site easements identified by County must be conveyed to County prior to any such approval, or at a later date as determined by County. Any failure to comply with this condition may result in the withholding of development permits and plat approval(s).
6. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a capacity encumbrance letter prior to construction plan submittal and must apply for and obtain a capacity reservation certificate prior to issuance of the initial certificate of occupancy. Nothing in this condition and nothing in the decision to approve this land use plan shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a capacity encumbrance letter or a capacity reservation certificate.
7. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
8. A waiver from Orange County Code Section 38-1476 (a) is granted to allow a minimum of 1.56 spaces per dwelling unit, regardless of bedroom count, for the proposed 219 - unit apartment complex located on the tract 3B, in lieu of parking being required at a rate of one and a half (1.5) spaces per one (1) bedroom dwelling unit and two (2) spaces per two (2) and three (3) bedroom dwelling units.
9. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated August 7, 2018 shall apply:
 - a. Prior to or concurrently with the County's approval of the plat for Parcels 2B & 3B, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.

- b. The following Education Condition of Approval shall apply for Parcels 2B & 3B only:
- 1) Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of 06/26/2018.
 - 2) Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Capacity Enhancement Agreement, the County shall immediately cease issuing building permits for any residential units in excess of the zero (0) residential units allowed under the zoning existing prior to the approval of the PD zoning. The County may again begin issuing building permits upon Orange County Public Schools' written notice to the County that the developer is no longer in breach or default of the Capacity Enhancement Agreement. The developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, shall indemnify and hold the County harmless from any third party claims, suits, or actions arising as a result of the act of ceasing the County's issuance of residential building permits.
 - 3) Developer, and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, agrees that it shall not claim in any future litigation that the County's enforcement of any of these conditions are illegal, improper, unconstitutional, or a violation of developer's rights.
 - 4) Orange County shall be held harmless by the developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Capacity Enhancement Agreement.
- c. Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP). MUP updates shall be submitted to Orange County Utilities at least thirty (30) days prior to the corresponding construction plan submittal. The updated MUP must be approved prior to construction plan approval.
- d. Length of stay for hotel guests shall not exceed 179 consecutive days.
- e. Short term/transient rental is prohibited within multi-family development. Length of stay shall be for 180 consecutive days or greater.
- f. Pole signs, billboards, temporary signs, banners and balloons shall be prohibited. ~~Ground and fascia signs~~ All other signage shall comply with Chapter 31.5 of the Orange County Code.
10. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated August 23, 2016, shall apply:

- a. The following Education Condition of Approval shall apply:
 - 1) Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of 07-26-2016.
 - 2) Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Capacity Enhancement Agreement, the County shall immediately cease issuing building permits for any residential units in excess of the zero (0) residential units allowed under the zoning existing prior to the approval of the PD zoning. The County may again begin issuing building permits upon Orange County Public Schools' written notice to the County that the developer is no longer in breach or default of the Capacity Enhancement Agreement. The developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, shall indemnify and hold the County harmless from any third party claims, suits, or actions arising as a result of the act of ceasing the County's issuance of residential building permits.
 - 3) Developer, and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, agrees that it shall not claim in any future litigation that the County's enforcement of any of these conditions are illegal, improper, unconstitutional, or a violation of developer's rights.
 - 4) Orange County shall be held harmless by the developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Capacity Enhancement Agreement.
 - 5) Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.
 - b. A current Level One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review and approval as part of any Preliminary Subdivision Plan (PSP) and / or Development Plan (DP) submittal.
 - c. A mandatory pre-application/sufficiency review meeting for the plat shall be required prior to plat submittal, but after approval of the site construction plans. The applicant shall resolve, to the County's satisfaction, all items identified in the pre-application/ sufficiency review meeting prior to formal submittal of the plat to the County.
11. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated May 13, 2014, shall apply:

12. Except as modified, amended, and/or superseded, all previous applicable BCC Conditions of Approval, dated April 23, 2013, shall apply:
 - a. Approval of trips in excess of 50,685 (Average Daily Traffic) ADT's will require compliance with CMS Concurrency Management System.

13. All previous applicable BCC Conditions of Approval, including those dated, September 14, 2010, and April 19, 2005, shall apply:
 - a. Outdoor storage and display shall be prohibited on Lot 2B.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (August 7, 2018)

Upon a motion by Commissioner VanderLey, seconded by Commissioner Thompson, and carried by a vote of 7 – 0, the Board approved the substantial change request to convert the approved uses for Tract 2B from 144,000 square feet of commercial / office or 72,000 square feet of new car sales to 328 multi-family dwelling units; and to convert the approved 98,000 square feet of commercial / office uses on Tract 3B to 219 multi-family dwelling units via a trip generation table .

Aerial Map



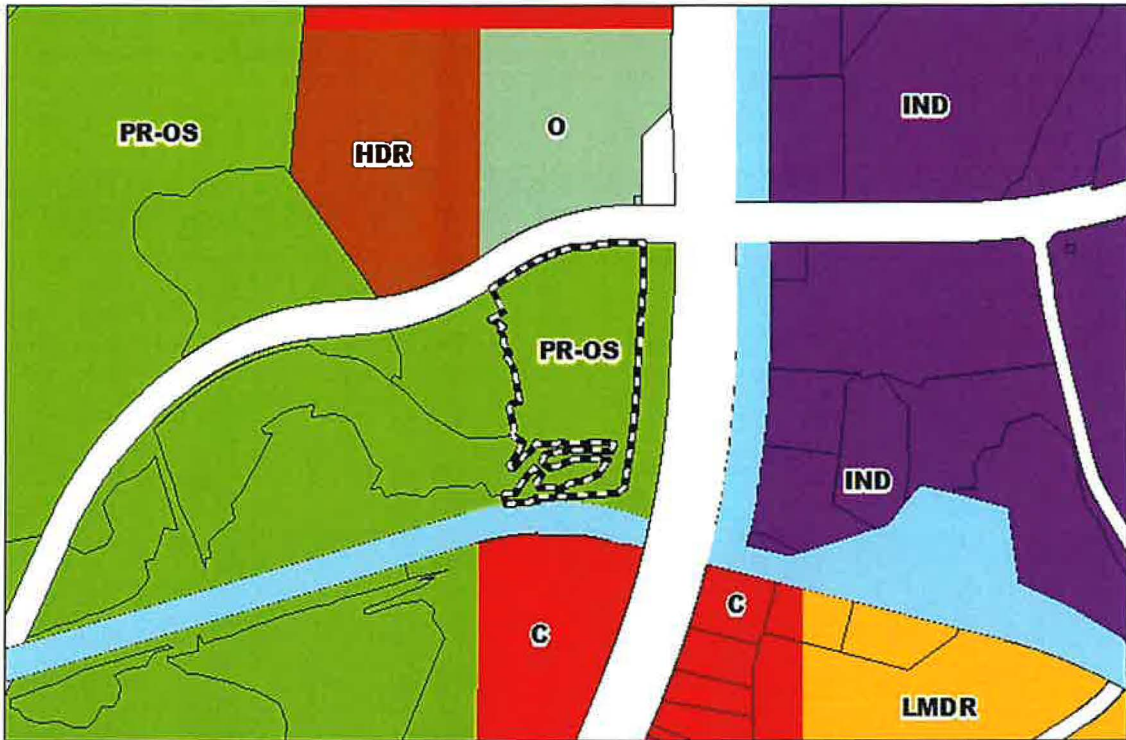
 Subject Property



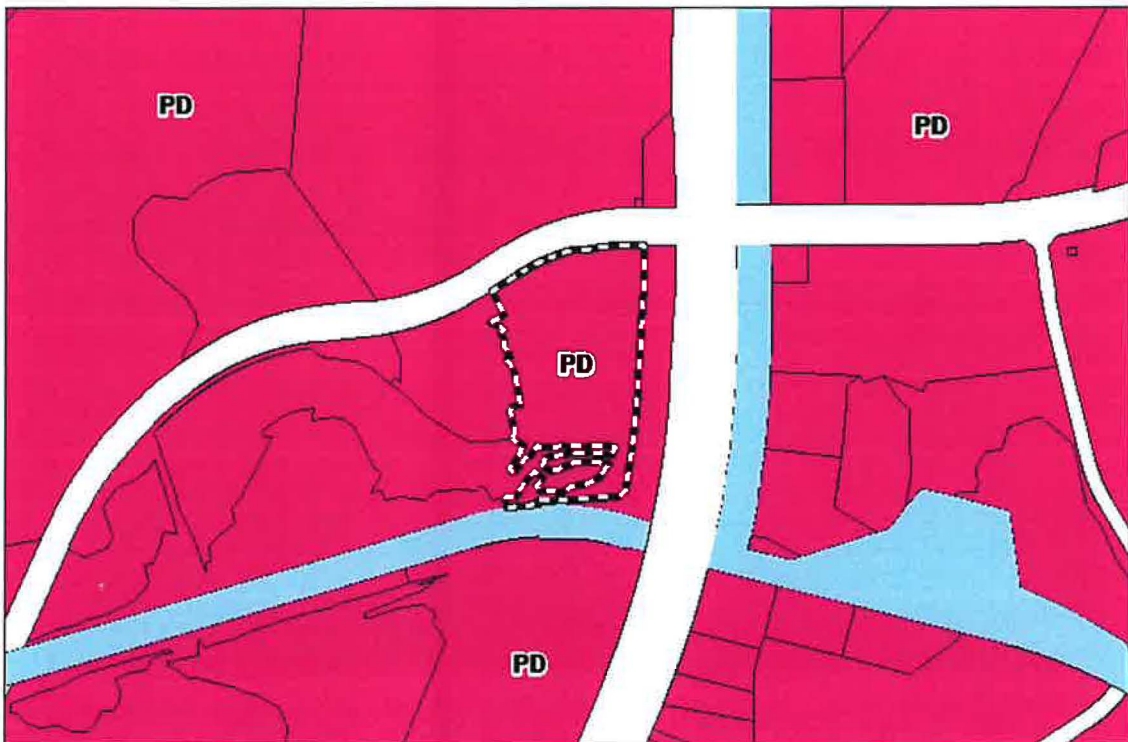
0 900 1,800 Feet



FUTURE LAND USE



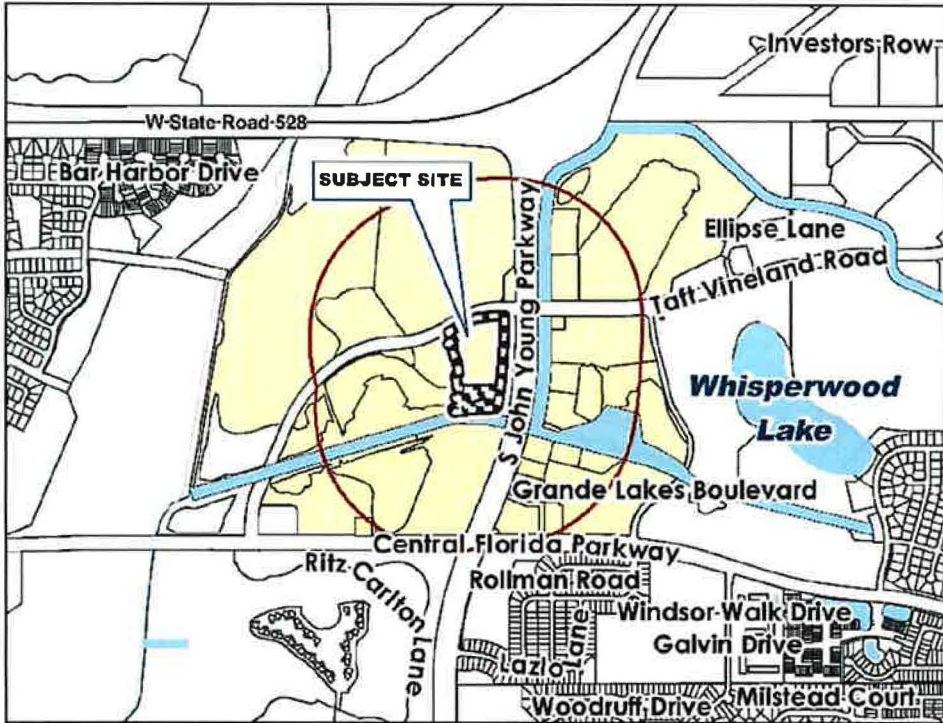
ZONING





Public Notification Map

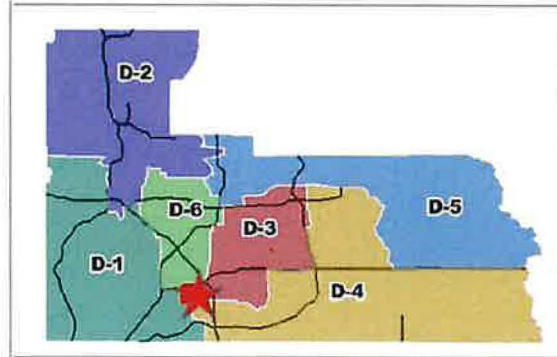
ABC PD_LUPA-22-04-116



MAP LEGEND

	SUBJECT SITE		PARCELS
	1300 FT BUFFER		NOTIFIED PARCELS
	1 MILE BUFFER		
	HYDROLOGY		

BUFFER DISTANCE: 1300
OF NOTICES: 23



SUBJECT SITE



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Notification Map

BCC Hearing Date: November 15, 2022

Orange County Planning Division

DRC Staff Report