



Interoffice Memorandum

August 26, 2024

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

FROM: Tanya Wilson, AICP, Director
Planning, Environmental, and Development Services Department

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

SUBJECT: September 10, 2024 – Public Hearing
Applicant(s): Brittany Eveler, Nvision Development
Project Name: Silver City Properties Planned Development (PD)
Project No.: CDR-24-05-127 / District 5

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of July 24, 2024, to approve the Silver City Properties Planned Development (PD). The project is generally located north of University Boulevard and east of N. Semoran Boulevard. The request is to revise the development program for Lot 4, which is currently undeveloped, to allow for 2,400 student housing beds, associated with Full Sail University, and 30,000 square feet of commercial uses. The request also includes six waivers from Orange County Code to reduce minimum building setbacks, increase the maximum student housing bed count, and increase the maximum building height. Additionally, DRC is recommending Condition of Approval #18 stating that the developer shall enter into an agreement with the County for the construction and maintenance of the proposed overhead pedestrian bridge, which will cross over University Boulevard.

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 PSP may be found in the Planning Division for further reference.

ACTION REQUESTED: Make a finding of consistency with the Comprehensive Plan and approve Silver City Properties Planned Development (PD) (CDR-24-05-127) dated "Received July 16, 2024", subject to the conditions listed under the DRC Recommendation in the Staff Report. District 5

Attachments
TW/JCK/mr

CASE # CDR-24-05-127

Commission District: #5

GENERAL INFORMATION

APPLICANT	Brittany Eveler, Nvision Development
OWNER	Silver City Properties, LTD.
PROJECT NAME	Silver City Properties Planned Development (PD)
PARCEL ID NUMBER(S)	03-22-30-0000-00-029 (affected parcel)
TRACT SIZE	35.52 gross acres (overall PD) 13.14 acres (affected parcel)
LOCATION	North of University Boulevard / East of N. Semoran Boulevard
REQUEST	To revise the development program for Lot 4, which is currently undeveloped, to allow for 2,400 student housing beds and 30,000 square feet of commercial uses.

The following six (6) waivers are also requested from Orange County Code:

1. A waiver from Orange County Code Section 38-1272(a)(3)(a) to allow a minimum required front (south) building setback for commercial buildings along the east 150 ft, to 10 ft in lieu of the minimum required 30 ft.

Applicant Justification: The development will include ground-floor retail space in conjunction with student housing units. The applicant would like the ability to create building massing along the property frontage. Fronting ground-floor retail directly to the property line maximizes pedestrian access, enhances visibility for businesses, and fosters urban connectivity and community interaction. In addition, the development may entail a pedestrian bridge connection which would require a structural landing along the south property boundary.

2. A waiver from Orange County Code Section 38-1259(3) to allow a student housing complex to contain up to 2,400 beds in lieu of not more than 750 total bedrooms.

Applicant Justification: The applicant seeks the ability to achieve the maximum density buildout as adopted by Amendment 2019-1-A-5-3, which approved a maximum density of 600 units / 2,400 beds.

3. A waiver from Orange County Code Section 38-1272(a)(5), to allow commercial buildings a maximum height of 70 ft for buildings located between 90 ft and 350 ft from University Boulevard right-of-way and a maximum height of 95 ft for buildings located beyond 350 ft from University Blvd right-of-way, in lieu of 50 ft.
4. A waiver from Orange County Code Section 38-1258 (2), to allow residential buildings a maximum height of 70 ft for buildings located between 90 ft and 350 ft from University Boulevard right-of-way and a maximum height of 95 ft for buildings located beyond 350 ft from University Blvd right-of-way, in lieu of three (3) stories or 40 ft in height.

Applicant Justification for Waivers 3 & 4: The applicant seeks to increase the height in site specific sections of the property to maximize land use efficiency, address high demand for student housing, and provide enhanced amenities and services. The additional height is also necessary to achieve the allowable density buildout as was adopted by Amendment 2019-1-A-5-3 (600 units/2,400 beds), support the integration of parking garages, positively contribute to the architectural and urban design of the area, and ensure the economic viability of the project.

5. A waiver from Orange County Code Section 38-1254(c)(1) to allow a zero foot (0') minimum front setback between interior lot lines in lieu of the minimum 25' setback.
6. A waiver from Orange County Code Section 38-1254(c)(3) to allow a zero foot (0') minimum rear setback between interior lot lines in lieu of the minimum 25' setback.

Applicant Justification for Waivers 5 & 6: These waivers will only apply if the applicant elects to create a multi-lot interconnected development with shared access and parking. To apply the code minimum front and rear setbacks if the interior lot lines become separate boundary lines would prevent the potential for a multi-lot development with shared access and parking. Ultimately, the development will be unified as a single complex.

PUBLIC NOTIFICATION The notification area for this public hearing extended beyond 1,500 feet. Chapter 30-40(c)(3)(a) of Orange County Code requires the owners of the property within three hundred (300) feet of the subject property to be notified at least 10 days prior to the date of the hearing. Five hundred and eighty (580) notices were mailed to those property owners in the mailing area.

IMPACT ANALYSIS

Project Overview

The Silver City Properties PD contains 35.52 gross acres and was originally approved in 2000. The existing development program allows for up to 220,000 square feet of commercial in Phase 1 (which encompasses Lots 1, 2 & 3) and up to 305,000 square feet of commercial in Phase 2 (which is Lot 4). The PD is located north of University Boulevard and east of N. Semoran Boulevard, with Lot 4 (which is the affected area of this request) being the majority of the western half of the PD. Lot 1 of the PD is currently developed with a grocery store with ancillary gas station, while Lot 2 is currently developed with a drive-thru quick service restaurant. In 2019, the BCC approved a Comprehensive Plan Amendment, Case # 2019-1-A-5-3, to change the Future Land Use Map (FLUM) designation of this parcel to Planned Development - Commercial / High Density Residential (Student Housing) (PD-C/HDR). This FLUM change was approved with a specific development program of 2,400 student housing beds and 30,000 square feet of commercial, which is the exact same development program being proposed with this PD Change Determination Request. The proposed student housing is associated with Full Sail University, which is located just across University Boulevard from this site.

The request also includes six (6) waivers from Orange County Code to reduce minimum building setbacks, increase the maximum student housing bed count, and increase the maximum building height

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 a FLUM designation of Planned Development - Commercial / High Density Residential (Student Housing) (PD-C/HDR) on the Future Land Use Map (see Amendment 2019-1-A-5-3, Ord. 2019-04) which allows for up to 600 student housing units (2,400 beds) and 30,000 square feet of commercial uses on the subject property. The request appears to be consistent with the Comprehensive Plan.

Overlay Ordinance

The subject property is not located within an Overlay District.

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.

Environmental

The site is located within a groundwater contamination delineated zone due to contamination associated with the northern adjacent City Industries, Inc., a National Priority Listed facility. According to the Phase I Environmental Site Assessment completed for this project (6/17/2024) this listing is not considered a Recognized Environmental Condition, due to groundwater flow and distance to the site. No activity

will be permitted on the site that may disturb, influence or interfere with: areas of soil or groundwater contamination, any remediation activities, or within the hydrological zone of influence of any contaminated area, unless prior approval has been obtained through FDEP and such approval has been provided to the Orange County EPD. An owner/operator who exacerbates any existing contamination or does not properly dispose of any excavated contaminated media may become liable for some portion of the contamination pursuant to the provisions in Section 376.308, F.S.

The subject area was included in the Orange Permitting - County Conservation Area Determination CAD 97-103 and Conservation Area Impact Permit 99-045 completed for the Silver City Properties PD. This request shall comply with all related permit conditions of approval. A Class III wetland of 2.29 acres was removed during construction of the adjacent Costco.

This site has soil that is highly suitable for gopher tortoise habitat. There is an increased likelihood for presence of gopher tortoise burrows. The applicant shall comply with the Florida Fish & Wildlife Conservation Commission (FWC) regulations. Forward any related permits to the Orange County Environmental Protection Division.

Development of the subject property shall comply with all state and federal regulations regarding wildlife and plants listed as imperiled species (endangered, threatened, or species of special concern). The applicant is responsible to determine the presence of these concerns and to verify and obtain, if necessary, any required habitat permitting of the U.S. Fish and Wildlife Service (USFWS) and the Florida Fish & Wildlife Conservation Commission (FWC).

Transportation Planning

Existing/Valid transportation capacity entitlements not found. This development will require transportation capacity via a Capacity Encumbrance Letter (CEL) Application. Should this project be located near failing roadways then a traffic study will be required with the CEL application.

Based on the Concurrency Management database (CMS) dated 5/15/2023, there are multiple failing roadway segments within the project's impact area along Aloma Ave, from Lakemont Ave to Tangerine Ave (2 segment(s)). This information is dated and subject to change.

Community Meeting Summary

A community meeting was not required for this case.

Schools

Orange County Public Schools (OCPS) staff has reviewed the proposed request and did not identify any issues or concerns.

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 – (July 24, 2024)

Make a finding of consistency with the Comprehensive Plan and approve the substantial change to the Silver City Properties PD dated “Received July 16, 2024”, subject to the following conditions:

1. Development shall conform to the Silver City Properties Planned Development (PD) dated "Received July 16, 2024," 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 July 16, 2024," 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 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, as may be amended, 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. If applicable, an Acknowledgement of contiguous Sustainable Agricultural Land pursuant to Section 163.3163, Florida Statutes, as may be amended, must be executed and recorded in the Public Records of Orange County, Florida, prior to issuance of any permits associated with this plan and a copy of such Acknowledgment shall be submitted with all future permit applications for this project.
7. No activity will be permitted on the site that may disturb, influence, or otherwise interfere with: areas of soil or groundwater contamination, or any remediation activities, or within the hydrological zone of influence of any contaminated area, unless prior approval has been obtained through the Florida Department of Environmental Protection (FDEP) and such approval has been provided to the Environmental Protection Division of Orange County. An owner/operator who exacerbates any existing contamination or does not properly dispose of any excavated contaminated media may become liable for some portion of the contamination pursuant to the provisions in section 376.308, F.S., as may be amended.
8. Prior to mass grading, clearing, grubbing or construction, the applicant is hereby noticed that this site must comply with habitat protection regulations of the U.S.

Fish and Wildlife Service (USFWS) and the Florida Fish and Wildlife Conservation Commission (FWC).

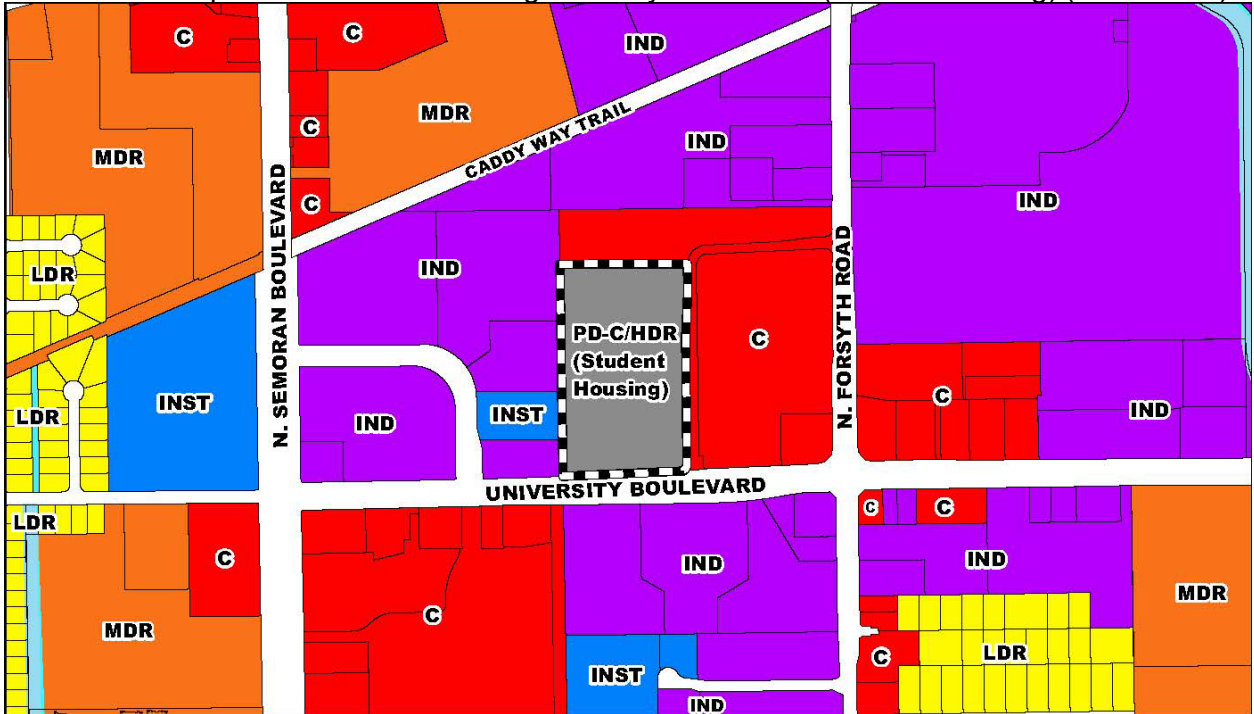
9. Unless a Natural Resource Impact Permit (NRIP) is approved by Orange County consistent with Orange County Code Chapter 15, Article X, "Wetland and Surface Water Protection", prior to Construction Plan approval, no wetland, surface water or buffer encroachments shall be permitted. Approval of this plan does not authorize any direct or indirect wetland and surface water impacts.
10. Pursuant to Article XII, Chapter 30, Orange County Code, as may be amended, unless documentation to the County's satisfaction has been provided proving that a property is exempt or vested, each property must apply for and obtain concurrency. Unless required at a different time (by agreement, condition of approval, etc.), residential properties must obtain concurrency prior to approval of the plat; non-residential properties that are required to plat must obtain concurrency for any lot with an assigned use prior to approval of the plat (lots without an assigned use shall be labeled as "future development") and non-residential properties that are not required to plat must obtain concurrency prior to obtaining the first building permit. Concurrency may be obtained earlier than plat or building permit, but it is ultimately the responsibility of the applicant to obtain concurrency, including any proportionate share agreement, as applicable, in a timely fashion. Should an applicant wait to obtain concurrency until later in the development process, the County will not be responsible for any delays caused by the applicant's failure to obtain concurrency in a timely fashion.
11. As required by Section 38-1259(e), Orange County Code, for all student housing projects, a Mobility Plan shall be submitted with the DP to the Transportation Planning Division. The student housing mobility plan shall describe and depict pedestrian and bicycle systems and facility needs consistent with this section, transit service and facility needs, university and County coordination measures that will be implemented by the developer to manage transportation demand and promote pedestrian and bicycle safety, and designation of appropriate space within the development for carsharing, bike sharing, and electric car charging stations, as they may be implemented within the university area. The student housing mobility plan also shall describe and depict the pedestrian and bicycle safety features cross-sections, marked and stamped crosswalks, safety beacons, traffic signal modifications, pedestrian scale lighting, and other pedestrian and bicycle safety features (with associated funding and maintenance responsibilities) that will be provided and are needed (and warranted, as applicable) to ensure safe pedestrian and bicycle access to adjacent land uses and across major roadways to commercial land uses and transit facilities. Improvements identified by the plans shall be constructed or implemented prior to issuance of a certificate of occupancy and shall be consistent with the most recent editions of Florida Department of Transportation standards.
12. New pole signs and billboards shall be prohibited. All other signage shall comply with Chapter 31.5 of the Orange County Code, as may be amended.
13. Short term/transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater.

14. In order to qualify as student housing, all units must comply at all times with the definition of student housing in Section 38-1, Orange County Code, as such definition exists as of the date of approval of this development plan. Failure to comply with such definition may subject the project to code enforcement and/or increased impact fees, as well as any applicable concurrency requirements.
15. Per Sec. 38-1259(a) of Orange County Code, a student housing development plan shall require approval through a public hearing before the Board of County Commissioners.
16. All facades of the structured parking, shall reflect the character, scale, massing and materiality of the principal structures surrounding them. These facades shall be architecturally treated to compliment the principal building, including but not limited to roof treatments, wall finishes, and color palette.
17. In compliance with Section 19 of the Orange County Code, the property owner / engineer may be required to provide a series of FEMA Letter of Map Changes (LOMC). For development within the 1% annual chance flood (100-year flood) floodplain without an established Base Flood Elevations (BFE), depicted as Zone A, the owner/engineer must perform a study to establish the BFE and obtain a FEMA LOMR (Letter of Map Revision) prior to site construction plan submittal. For modifications to a determined BFE (Zone AE), floodway, or flood hazard area boundaries on the Flood Insurance Rate Maps (FIRMs), a FEMA Conditional Letter of Map Revision (CLOMR) must be obtained prior to site construction plan approval; a subsequent FEMA Letter of Map Revision (LOMR) reflecting final construction will be required. Said FEMA LOMR approval must be obtained by the owner / engineer and must be submitted to the Floodplain Administrator prior to the release of the Certificate of Occupancy and / or Certificate of Completion. Compensation Storage for all projects within the 1% annual chance flood (100-year flood) floodplain shall be provide on a "cup for cup" basis in accordance with Chapter 19-107(1).
18. Developer shall enter into an agreement with the County for the construction and maintenance of the proposed overhead pedestrian bridge; such agreement shall be reviewed and approved by the County prior to or concurrent with the proportionate share agreement for this project.
19. The following waivers from Orange County Code are granted:
 - a. A waiver from Section 38-1272(a)(3)(a) to allow a minimum required front (south) building setback for commercial buildings along the east 150 ft, to 10 ft in lieu of the minimum required 30 ft.
 - b. A waiver from Section 38-1259(3) to allow a student housing complex to contain up to 2,400 beds in lieu of not more than 750 total bedrooms.
 - c. A waiver from Section 38-1272(a)(5), to allow commercial buildings a maximum height of 70 ft for buildings located between 90 ft and 350 ft from University Boulevard right-of-way and a maximum height of 95 ft for

- buildings located beyond 350 ft from University Blvd right-of-way, in lieu of 50 ft.
- d. A waiver from Section 38-1258 (2), to allow residential buildings a maximum height of 70 ft for buildings located between 90 ft and 350 ft from University Boulevard right-of-way and a maximum height of 95 ft for buildings located beyond 350 ft from University Blvd right-of-way, in lieu of three (3) stories or 40 ft in height.
 - e. A waiver from Section 38-1254(c)(1) to allow a zero foot (0') minimum front setback between interior lot lines in lieu of the minimum 25' setback.
 - f. A waiver from Section 38-1254(c)(3) to allow a zero foot (0') minimum rear setback between interior lot lines in lieu of the minimum 25' setback.
20. Except as amended, modified, and / or superseded, the following Board Conditions of Approval, dated January 9, 2024 shall apply:
- a. A waiver from Orange County Code Section 38-1272(3)(b) is granted to allow 8 feet setback for accessory structures along Forsyth Road in lieu of the required 30 feet setback from collector roads.
14. Except as amended, modified, and/or superseded, the following Board Conditions of Approval, dated June 18, 2019, shall apply:
- a. Pole signs and billboards shall be prohibited (except for three billboards located on Forsyth Road which currently exist and are approved). All other signage shall comply with Chapter 31.5 of the Orange County Code.
 - b. A waiver from Orange County Code Section 38-1476(a) is granted for Phase 1 Lot 1 only, to allow 4.4 spaces for each 1,000 square feet, in lieu of 5.0 spaces for each 1,000 square feet.
15. Except as amended, modified, and / or superseded, the following Board Conditions of Approval, dated January 5, 2016 shall apply:
- a. The billboards identified as “BB 2” and “BB 4” shall be removed within 90 days of the submittal of the first permit to convert the other signs to digital display.
 - b. The billboard identified as “BB 3” shall be allowed to operate as a three-faced billboard.

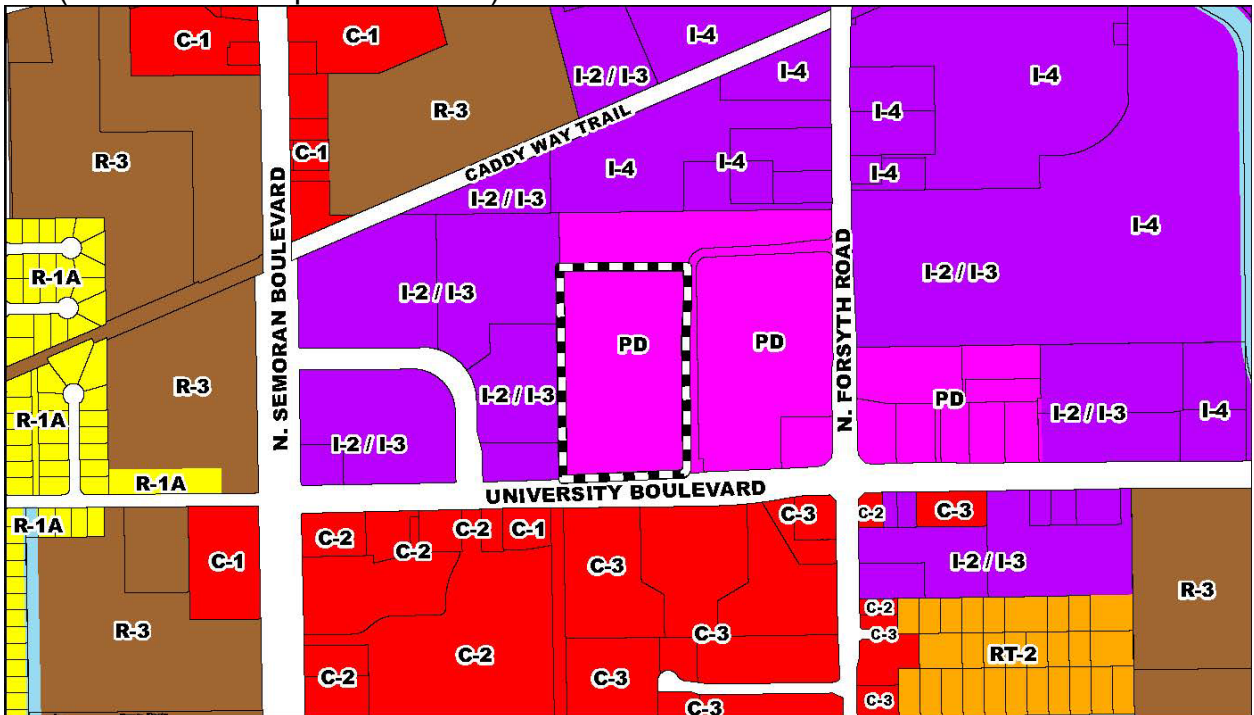
FUTURE LAND USE

Planned Development - Commercial / High Density Residential (Student Housing) (PD-C/HDR)



ZONING

PD (Planned Development District)



Land Use Plan



Public Notification Map

CDR-24-05-127



Notification Map

MAP LEGEND

	SUBJECT SITE		PARCELS
	1500FT BUFFER		NOTIFIED PARCELS
	1 MILE BUFFER		COURTESY PARCELS
	HYDROLOGY		

BUFFER DISTANCE: 1500
OF NOTICES: 580

