





Interoffice Memorandum

DATE: December 19, 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: January 14, 2020 – Public Hearing
Tom Daly, Daly Design Group
Plunk Planned Development
Case # CDR-19-10-343 / District 3

The Plunk Planned Development (PD) is located 1466 S. Dean Road, generally north of Berry Dease Road and west of Dean Road. The existing PD development program allows for up to 52 single family detached residential units.

Through this PD substantial change, the applicant is seeking to remove approved BCC conditions of approval # 19(d), 19(g), and 19(h) regarding building setbacks and building heights.

On November 20, 2019, 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 Plunk Planned Development / Land Use Plan (PD/LUP) dated “Received December 3, 2019”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 3

Attachments
JWW/EPR/nt

CASE # CDR-19-10-343

Commission District: # 3

GENERAL INFORMATION

APPLICANT	Tom Daly, Daly Design Group
OWNER	M/I Homes of Orlando LLC
PROJECT NAME	Plunk Planned Development
PARCEL ID NUMBER	Multiple Parcels; Dean's Crossing at Little Econ Plat (PB 101, P 49)
TRACT SIZE	17.16 gross acres 10.49 developable acres
LOCATION	1466 S. Dean Road or generally north of Berry Dease Road and west of Dean Road.
REQUEST	A PD substantial change to remove BCC conditions of approval # 19(d), 19(g), and 19(h) regarding building setbacks and building heights.
PUBLIC NOTIFICATION	A notification area extending beyond 500 hundred (500) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Four Hundred ninety-three (493) notices were mailed to those property owners in the notification buffer area. A community meeting was not required for this application.

IMPACT ANALYSIS

Special Information

The Plunk Property PD was originally approved for up to fifty-two (52) single family detached residential units. On December 21, 2017, the Planning and Zoning Commission recommended approval of the rezoning of the property from A-2 (Farmland Rural District) to PD (Planned Development District), subject to eleven (11) conditions in addition to the conditions recommended by the DRC, which were the result of a negotiation between the applicant and the adjacent property owner (PID 32-22-31-0000-00-020) for compatibility purposes.

Through this PD Change Determination Request (CDR), the applicant is seeking to remove several of the added compatibility conditions related to building setbacks and heights as a result of further negotiation between the property owner, M/I Homes of Orlando, and the adjacent property owner, the Caruso family (PID 32-22-31-0000-00-020). Specifically, the request is for the following; to remove condition 19(d), which required an increased principal building setback from the common eastern property line; to remove condition 19(g) which required an increased principal building setback

from the common north property line; and to remove condition 19(h), which restricted the height of the four homes north of the retention pond. The conditions proposed to be removed are shown below:

19(d): An increased principal building setback from the common property line shall be provided along the "east" buffer of forty (40) feet for 1-story homes and fifty-five (55) feet for 2-story homes.

19(g): An increased principal building setback from the common property line shall be provided along the north property line of the Caruso Parcel of one hundred ten (110) feet for 1 story homes and one hundred twenty five (125) feet for 2 story homes.

19(h): Four (4) homes, identified as directly north of the retention pond (north of the Caruso Parcel) and which are the closest to the midpoint of the northern Caruso Parcel property line, shall be restricted to a maximum building height of 1 story.

The applicant has indicated that there is a private agreement between M/I Homes and the Caruso family to address the compatibility concerns related to this project.

Land Use Compatibility

The PD Change Determination Request would not adversely impact any adjacent properties.

Comprehensive Plan (CP) Consistency

Low Medium Density Residential (LMDR) which allows for a maximum residential density of ten (10) dwelling units per one (1) net developable acre. The proposed Change Determination Request (CDR) is consistent with the designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

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

There are 6.67 acres of Class I wetlands including a portion of the Little Econlockhatchee River located on-site. Orange County Conservation Area Determination CAD-16-03-022 was completed for this project with a certified wetland boundary survey approved on January 17, 2017. This determination is binding for a period of five years.

This property is located outside of the geographical limits of the Econlockhatchee River (Big Econ) Protection ordinance, so the basin-wide regulations in Orange County Code Chapter 15 Article XI do not apply. However, the property does need to comply with the regulations in Chapter 15 Article X Wetland Conservation Areas.

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).

Transportation Concurrency

Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a capacity encumbrance letter prior to obtaining a building permit and must apply for and obtain a capacity reservation certificate prior to approval of the plat. Nothing in this condition, and nothing in the decision to approve this land use plan / preliminary subdivision 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.

Community Meeting Summary

A community meeting was not required for this request.

Schools

A Capacity Enhancement Agreement (CEA) was approved by the School Board on January 23, 2018.

Parks and Recreation

Orange County Parks and Recreation staff reviewed the Change Determination Request but 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 – (November 20, 2019)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Plunk Planned Development / Land Use Plan (PD/LUP), dated “December 3, 2019”, subject to the following conditions:

1. Development shall conform to the Plunk Property Land Use Plan (LUP) dated "Received December 3, 2019," 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 December 3, 2019," 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. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated March 20, 2018 shall apply:
 - a. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) submittal and must be approved prior to Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) approval for any streets and/or tracts anticipated to be dedicated to the County and/or to the perpetual use of the public.
 - b. The stormwater management system shall be designed to retain the 100-year/24-hour storm event onsite, unless documentation with supporting calculations is submitted which demonstrates that a positive outfall is available. If the applicant can show the existence of a positive outfall for the subject basin, then in lieu of designing for the 100-year/24-hour storm event, the developer shall comply with all applicable state and local stormwater requirements and regulations. An emergency high water relief outfall shall be provided to assure overflow does not cause flooding of surrounding areas.
 - c. All acreages identified as conservation areas and wetland buffers are considered approximate until finalized by a Conservation Area Determination (CAD) and a Conservation Area Impact (CAI) Permit. Approval of this plan does not authorize any direct or indirect conservation area impacts.
 - d. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
 - e. Tree removal/earthwork shall not occur unless and until construction plans for the first Preliminary Subdivision Plan and/or Development Plan with a tree removal and mitigation plan have been approved by Orange County.
 - f. 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 January 23, 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 3 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.
- g. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a Capacity Encumbrance Letter (CEL) prior to construction plan submittal and must apply for and obtain a Capacity Reservation Certificate (CRC) prior to approval of the plat. 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 CEL or a CRC.
 - h. The developer shall obtain water and wastewater service from Orange County Utilities subject to County rate resolutions and ordinances.
 - i. A Master Utility Plan (MUP) for the PD shall be submitted to Orange County Utilities at least thirty (30) days prior to submittal of the first set of construction plans. The MUP must be approved prior to Construction Plan approval.
 - j. All proposed vertical structures shall be located a minimum of 20 feet from the centerline of the existing 24-inch forcemain.
 - k. Simultaneous with the recording of the subdivision plat, the developer shall record in the public records of Orange County, Florida, a declaration of

covenants, conditions and restrictions, the terms of which shall include a conspicuous requirement that each initial purchaser of a residential lot in the subdivision for the personal or family uses of the purchaser must be given a copy of the declaration at or prior to the time the sales contract is executed by the purchaser, together with a disclosure statement to be executed by the purchaser stating as follows:

"I acknowledge, understand, and accept that I am purchasing a lot or home in a subdivision that, on the date of its approval by the Board of County Commissioners on INSERT APPROVAL DATE OF PSP, is located north of an animal slaughtering and meat processing facility, and is bordered by active agricultural uses. I also acknowledge, understand, and accept that noises, odors, and aesthetic objections may be associated with those uses."

In addition to the declaration requirement described above, the developer shall incorporate the following statement into each deed initially conveying title to a lot: INSERT DATE AND PAGE "The property being conveyed is part of the INSERT NAME OF FUTURE SUBDIVISION Subdivision, which is located adjacent to agricultural land and a slaughterhouse/meat processing facility."

- i. The following waivers from Orange County Code are granted:
 - 1) A waiver from Section 38-1501 to allow forty (40) foot width minimum lots and a minimum 4,400 square foot single-family detached lots, in lieu of forty-five (45) foot width minimum and a 4,500 square foot minimum.
 - 2) A waiver from Section 38-1254(2)(b) to allow a thirty (30) foot building setback from the future Dean Road right-of-way, in lieu of a thirty-five (35) foot building setback from the future Dean Road right-of-way.

- m. The right-of-way for Dean Road shall be conveyed at no cost to the County, prior to or concurrently with the plat.

- n. For compatibility purposes with Parcel #32-22-31-0000-00-020 (the "Caruso Parcel"), the following eleven (11) conditions have been presented by the applicant and shall apply to this project:
 - 1) A fifteen (15) foot "east" buffer shall be provided as an open space / landscape tract and shall be placed within the development site along the eastern property line of the Caruso Parcel.
 - 2) A six (6) foot tan PVC fence will be installed by the developer along the eastern side of the "east" buffer.
 - 3) The "east" buffer shall be planted with fourteen (14) to sixteen (16) foot tall cedar trees which shall be planted in areas where no

existing vegetation is present on the Caruso Parcel with approximately twenty-five (25) trees required.

- 4) An eight (8) foot precast concrete wall shall be installed by the developer along the north property line of the Caruso Parcel for approximately one hundred sixty (160) feet and be colored to match the PVC fence with an additional six (6) foot PVC fence installed for the remainder of the common property line which is currently wooded.
- 5) A retention pond shall be located adjacent to and north of the Caruso Parcel which shall be dedicated to Orange County. Approximately twenty (20) cedar trees measuring fourteen (14) to sixteen (16) feet tall shall be planted immediately adjacent to the Caruso Parcel and south of the retention pond.
- 6) No home development shall be permitted directly west of the Caruso Parcel.
- 7) A stormwater pond, lift station, private passive recreation, and conservation area shall be located on the property west of the Caruso Parcel. The lift station shall be buffered from the Caruso Parcel with a solid landscape hedge.
- 8) A six (6) foot tall black vinyl coated chain link fence shall be installed by the developer along the western common property line of the Caruso Parcel

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (March 20, 2018)

Upon a motion by Commissioner Clarke, seconded by Commissioner VanderLey, and carried by all members present voting AYE by voice vote, the Board approved the rezoning request from A-2 (Farmland Rural District) to PD (Planned Development District) subject to the conditions of approval listed under the Planning and Zoning Commission recommendation in the Staff Report; and further, approved modification to condition #19(i).

CDR-19-10-343



Subject Property



Subject Property

Future Land Use Map

FLUM: Low-Medium Density Residential (LDR)

APPLICANT: Thomas Daly,
 Daly Design Group

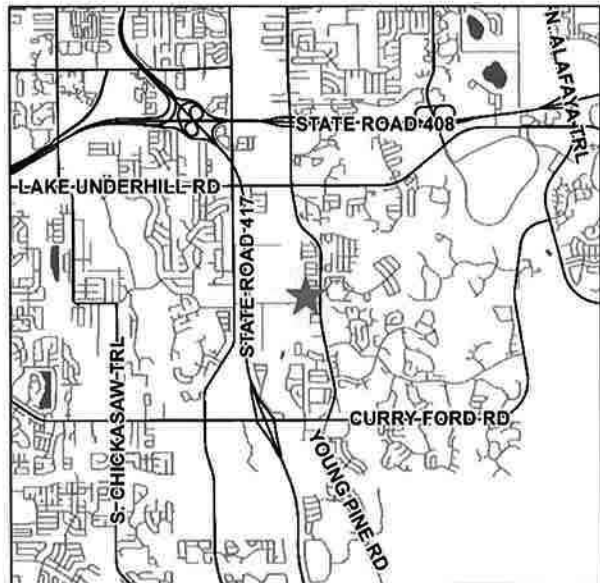
LOCATION: 1466 S. Dean Road or generally north of
 Berry Dease Road and west of Dean Road

TRACT SIZE: 17.16 gross acres

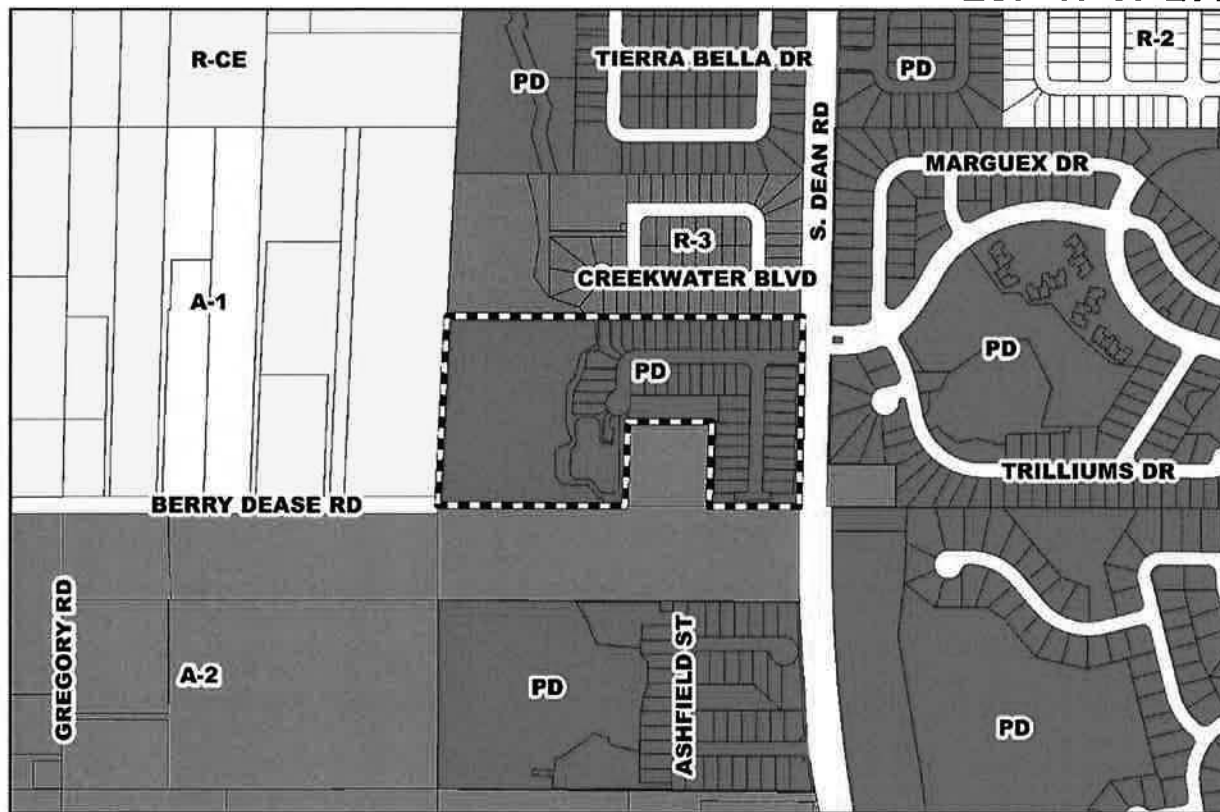
DISTRICT: # 3

S/T/R: 32/22/31

1 inch = 550 feet



LUP-17-07-230



 Subject Property



 Subject Property

Zoning Map

ZONING: PD (Planned Development District)
APPLICANT: Thomas Daly,
 Daly Design Group
LOCATION: 1466 S. Dean Road or generally north of
 Berry Dease Road and west of Dean Road
TRACT SIZE: 17.16 gross acres
DISTRICT: # 3
S/T/R: 32/22/31

1 inch = 550 feet



CDR-19-10-343

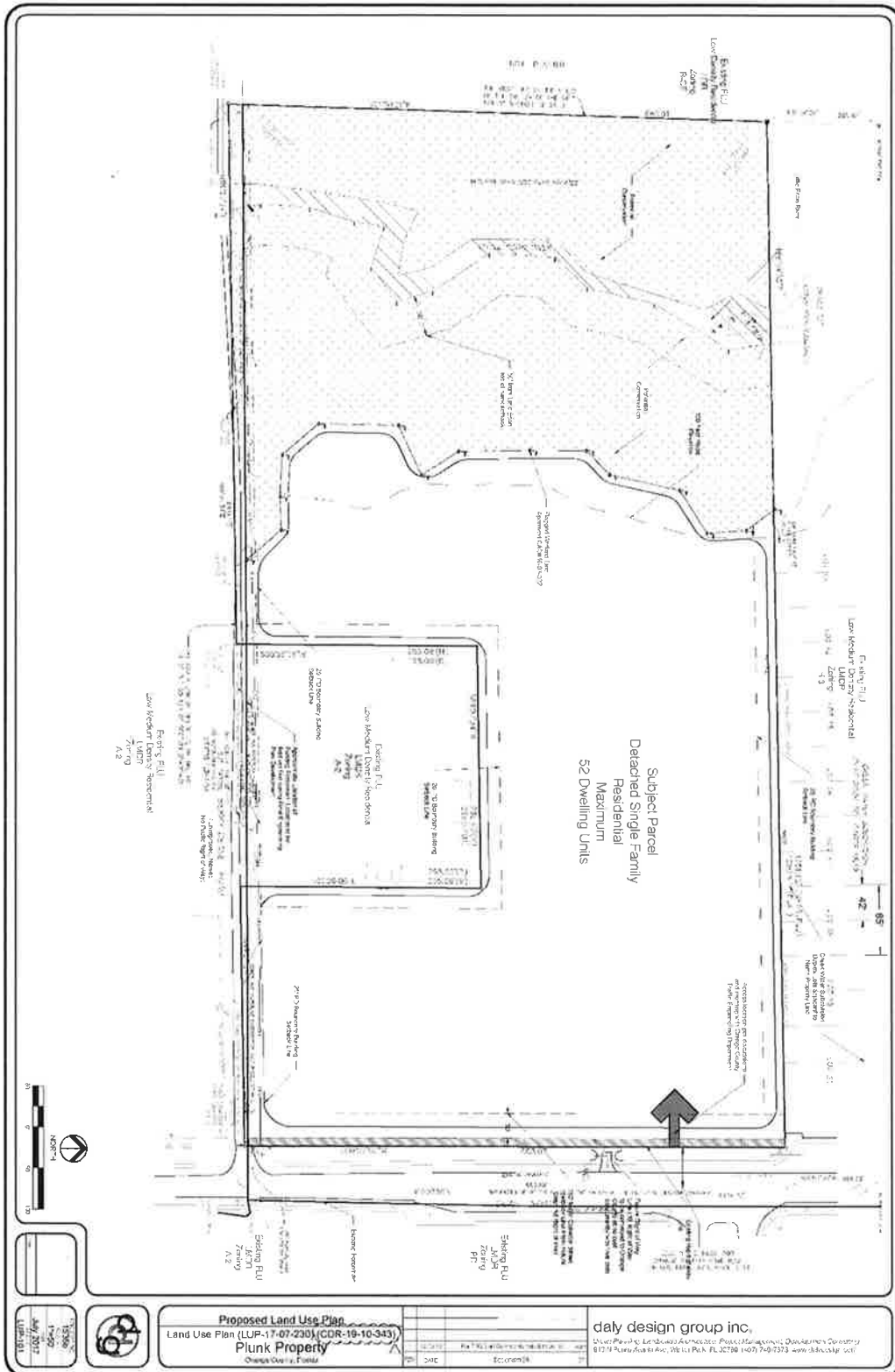


 Subject Property



1 inch = 400 feet

Plunk PD / LUP



Notification Map



Public Notification Map
Plunk Property Planned Development - CDR-19-10-343
500 FT Buffer, 493 Notices

