



**Interoffice Memorandum**

**DATE:** July 29, 2020

**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:** August 11, 2020 – Public Hearing  
James Johnston, Shutts & Bowen, LLP  
Sutton Lakes Planned Development  
Case # CDR-19-03-100 / District 1

Eric P. Raasch,  
Jr., AICP

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Raasch, Jr., AICP  
Date: 2020.07.29 15:10:23  
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The Sutton Lakes Planned Development (PD) is generally located north of Arrowhead Boulevard and east of Avalon Road. The existing PD development program allows for 20,000 square feet of commercial uses and 700 attached and detached single-family dwelling units.

Through this PD substantial change, the applicant is seeking to allow a 150-foot communication tower within the PD. Additionally, the applicant has requested one waiver from Orange County Code to allow for a minimum 635-foot separation requirement from single-family residential units for a 150 foot monopole communication tower, in lieu of a 1,050-foot (700 percent of tower height) separation.

On June 24, 2020, the Development Review Committee (DRC) recommended approval of the request, subject to conditions. A community meeting was required for this request as summarized in the staff report.

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 Sutton Lakes Planned Development / Land Use Plan (PD/LUP) dated “Received May 28, 2020”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1

Attachments  
JVW/EPR/nsw

**CASE # CDR-19-03-100**

Commission District: # 1

**GENERAL INFORMATION**

**APPLICANT** James Johnston, Shutts & Bowen, LLP

**OWNER** Westgate Resorts, LTD.

**PROJECT NAME** Sutton Lakes Planned Development

**PARCEL ID NUMBER(S)** 31-24-27-0000-00-010, 31-24-27-0000-00-009  
31-24-27-0000-00-045, 31-24-27-0000-00-038

**TRACT SIZE** 138.78 gross acres (overall PD)

**LOCATION** Generally located north of Arrowhead Boulevard and east of Avalon Road.

**REQUEST** A PD substantial change to allow a 150-foot communication tower. In addition, the applicant has requested the following waiver from Orange County Code:

1. A waiver from Section 38-1427(d)(2)(d) to allow for a minimum 635 foot separation requirement from single-family residential units for a 150-foot monopole communication tower, in lieu of a 1,050-foot (700 percent of tower height) separation.

***Applicant Justification:*** Located between the proposed communication tower and the nearest single-family residential units are (I) and existing tree canopy on the parent parcel, (II) an intervening undeveloped, wooded parcel, and (II) the Avalon Road right-of-way. The intervening areas between the proposed communication tower and the nearest single-family residential unit provide ample separation and buffering for the single-family residential units from the proposed communication tower.

**PUBLIC NOTIFICATION** A notification area extending beyond five hundred (500) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Two hundred twenty-three (223) notices were mailed to those property owners in the notification buffer area. A community meeting was held on May 16, 2019 at Bridgewater Middle School as summarized in this report below.

## **IMPACT ANALYSIS**

### **Special Information**

The Sutton Lakes PD was originally approved on March 7, 1995 and is currently entitled for 20,000 square feet of commercial uses and 700 attached and detached single-family dwelling units.

Through this PD Change Determination Request (CDR), the applicant is seeking to allow a 150-foot communication tower on the subject property. Additionally, the applicant is requesting one (1) waiver from Orange County Code to allow for a reduced separation for a 150-foot monopole communication tower from single-family residential units, in lieu of a 1,050-foot (700 percent of tower height) separation.

### **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 Growth Center – Planned Development – Commercial / Medium Density Residential / Low Density Residential (GC-PD-C/MDR/LDR). 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**

No construction, clearing, filling, alteration or grading is allowed within or immediately adjacent to a conservation area or easement (includes the conservation area and the wetland setback/buffer) without first obtaining a wetland impact permit approved by the county and obtaining other applicable jurisdictional agency permits. Reference Orange County code 15-376.

### **Transportation / Concurrency**

The proposed communication tower is considered de minimis from a transportation perspective. No additional transportation analysis is required.

### **Community Meeting Summary**

A community meeting was held on May 16, 2019 at Bridgewater Middle School. There was one (1) resident in attendance that expressed concerns related to visual impacts on adjacent properties.

**Schools**

Orange County Public Schools (OCPS) reviewed the request and determined that it will not impact public school capacity.

**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 – (June 24, 2020)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Sutton Lakes Planned Development / Land Use Plan (PD/LUP), dated “May 28, 2020”, subject to the following conditions:**

1. Development shall conform to the Sutton Lakes Planned Development (PD) dated "Received May 28, 2020," 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 May 28, 2020," 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 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. 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.
7. A waiver from Orange County Code Section 38-1427(d)(2)(d) is granted to allow for a minimum 635 foot separation requirement from single-family residential units

for a 150 foot monopole communication tower, in lieu of a 1,050 foot (700 percent of tower height) separation.

8. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated March 10, 2015 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 January 5, 2015. 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.
    - 2) 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.
    - 3) 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.
    - 4) 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. 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 approval of the plat. Nothing in this condition and nothing in the decision to approve this development 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.

- c. Right-of-Way for the improvement of Avalon Road (C.R. 545) must be dedicated prior to PSP/DP development plan approval, for anything other than for a communication tower.
- d. Excluding designated conservation areas and wetland buffers; berms and swales shall be located adjacent to Scott Lake and Rexford Lake.
- e. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
- f. Outside sales, storage, and display shall be prohibited.
- g. Short term / transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater.
- h. A waiver from Orange County Code is granted to apply the single family detached residential development standards addressed by Village PD Code Section 38-1386 (Village Home District) for maximum building height (*45 feet / 3 stories*), minimum lot size (*2,800 square feet*), minimum lot width (*32 feet*), minimum lot depth (110 feet or 90 feet with alley), minimum living area (*1,000 square feet*), maximum lot coverage (*65%*), minimum front building setback (*15 feet or 10 feet for porch*), minimum rear building setback (*20 feet*), and minimum side street building setbacks (*10 feet*); in lieu of the requirements as may otherwise be required by Code Sections 38-1251, 38-1254, 38-1501 and 38-1603.
- i. A waiver from Orange County Code is granted to apply the residential townhouse development standards addressed by Village PD Code Section 38-1387.1 for maximum building height (*55 feet / 4 stories*), minimum lot size (*1,600 square feet*), minimum lot width (*16 feet*), minimum lot depth (*100 feet*), minimum living area (*1,000 square feet*), maximum lot coverage (*75%*), minimum front building setback (*15 feet or 10 feet for porch*), minimum rear building setback (*14 feet*), and minimum side street building setback (*10 feet*); in lieu of the requirements that may otherwise be required by Code Sections 38-79(20), 38-1254(1) & (2), and 38-1603.
- j. A waiver from Orange County Code is granted to apply the commercial development standards addressed by Village PD Code Section 38-1388 (Neighborhood Center District) by allowing a maximum building height of 45 feet / 3 stories, a minimum front building setback of 10 feet, a minimum side building setback of zero (0) feet, and a minimum side street building setback of 6 feet for commercial development only; in lieu of the requirements otherwise required by Code Sections 38-1272 (PD / General Commercial) and 38-1603.
- k. Residential access to County Road 545 shall be via public right-of-way, minimum 50 feet in width.



9. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated April 29, 2003 and January 9, 1996, shall apply:
- a. The building height shall be restricted to 1 story along the lake and shall be constructed to resemble single-family houses as viewed from the lakeshore.
  - b. No watercraft of any type may be launched or operated from or used in connection with this property.
  - c. The development shall provide 50-foot-wide setbacks, including a Type B buffer next to Lots 26 and 27 of Arrowhead Lake Subdivision.
  - d. The development shall provide a 100-foot setback from C.R. 545 centerline.
  - e. Prior to construction plan approval, a master stormwater management plan shall be submitted to the Development Engineering Division for review and approval.
  - f. There shall be no vehicular, pedestrian, or other access between Sutton Lakes PD and Arrowhead Boulevard.
  - g. A new Conservation Area Determination (CAD) shall be performed prior to the first PSP/DP approval and shall be applicable to development within this PD.
  - h. No buildings of any type shall be permitted within 125 feet of the normal high water elevation.

**PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (March 10, 2015)**

Upon a motion by Commissioner Boyd, seconded by Commissioner Clarke, and carried by all present members voting AYE by voice vote, the Board made a finding of consistency with the Comprehensive Plan; and further, approved the substantial change request by Jim Hall, VHB, Inc., Sutton Lakes Planned Development / Land Use Plan (PD / LUP) - Case # CDR-14-07-182, to amend the Sutton Lakes Planned Development / Land Use Plan (PD/LUP) by converting existing development entitlements for 800 timeshare units into 700 single family residential dwelling units and a maximum of 20,000 square feet of C-1 (Retail Commercial District) uses, while removing resort ancillary support uses. The request also included three (3) waivers from Orange County Code.

CDR-19-03-100



Subject Property



Subject Property

### Future Land Use Map

**FLUM:** Growth Center - Planned Development  
 (GC-PD-C/MDR/LDR)

**APPLICANT:** James Johnston, Shutts & Bowen, LLP

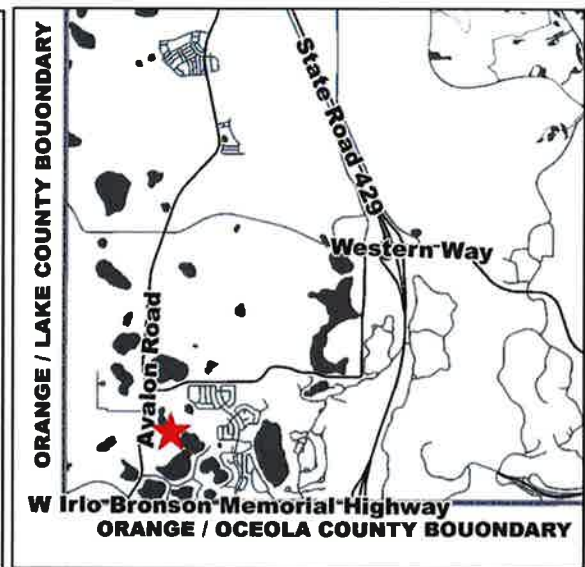
**LOCATION:** Generally located north of Arrowhead  
 Boulevard and east of Avalon Road.

**TRACT SIZE:** 138.78 gross acres

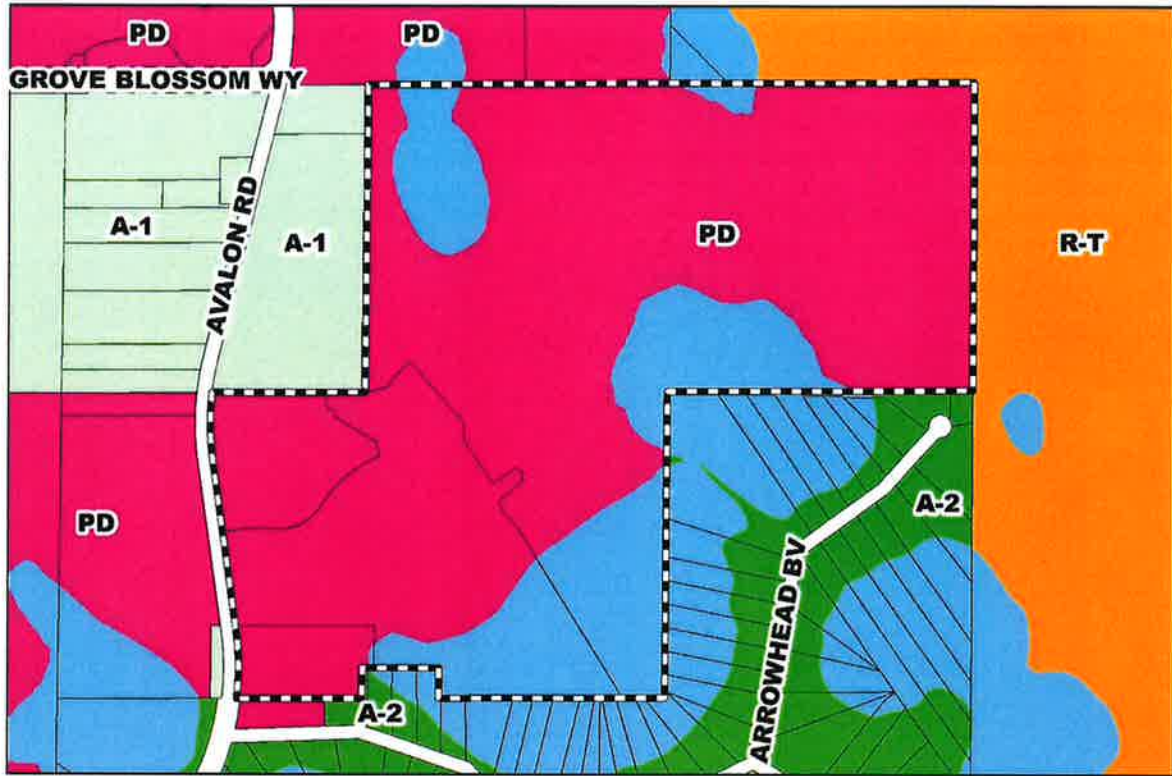
**DISTRICT:** # 1

**S/T/R:** 31/24/27

1 inch = 650 feet



CDR-19-03-100



Subject Property

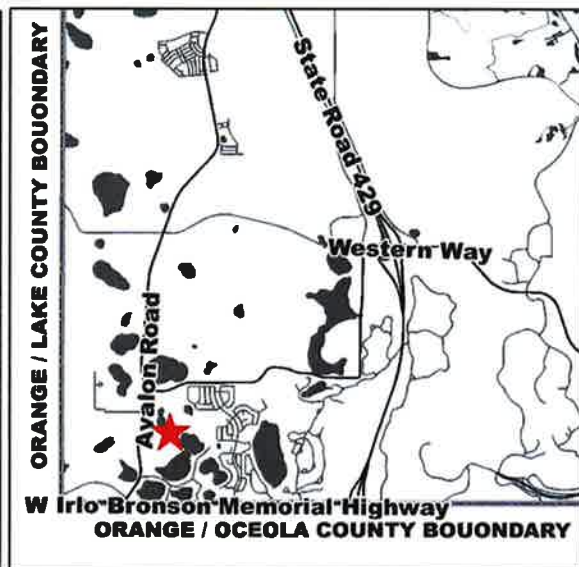


Subject Property

### Zoning Map

**ZONING:** PD (Planned Development District)  
**APPLICANT:** James Johnston, Shutts & Bowen, LLP  
**LOCATION:** Generally located north of Arrowhead Boulevard and east of Avalon Road.  
**TRACT SIZE:** 138.78 gross acres  
**DISTRICT:** # 1  
**S/T/R:** 31/24/27

1 inch = 650 feet





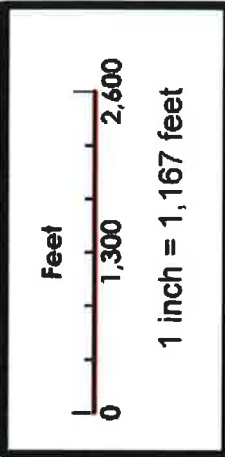
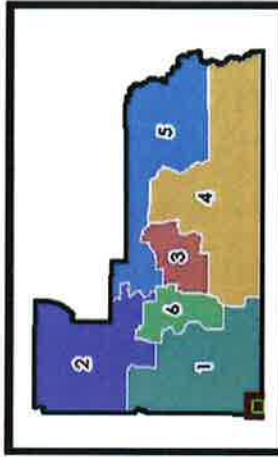
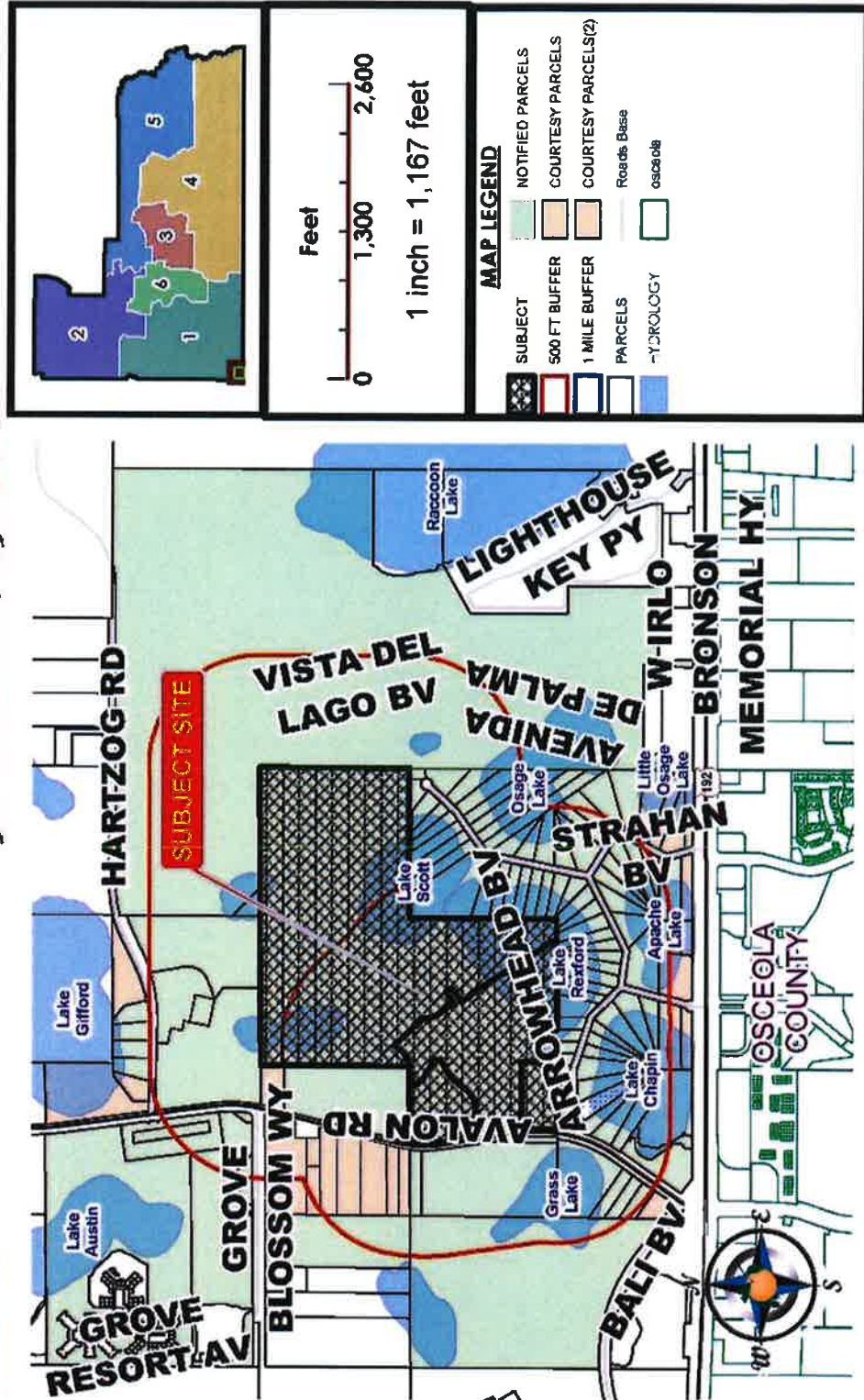




# Public Notification Map

Sutton Lakes PD\_CDR-19-03-100  
 500 FT BUFFER, 223 NOTICES

## Notification Map



**MAP LEGEND**

	SUBJECT		NOTIFIED PARCELS
	500 FT BUFFER		COURTESY PARCELS
	1 MILE BUFFER		COURTESY PARCELS(2)
	PARCELS		Roads Base
	-HYDROLOGY		osceola

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