Interoffice Memorandum



DATE:

May 19, 2021

TO:

Mayor Jerry L. Demings

-AND-

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:

June 8, 2021 - Public Hearing

Stephen Allen, Civil Corp Engineering, Inc.

Buena Vista Family Dentistry Planned Development

Case # LUP-20-09-248 / District 1

The Buena Vista Family Dentistry Planned Development (PD) is located generally north of 4th Street and east of S. Apopka Vineland Road. Through this PD rezoning, the applicant is seeking to allow for up to 3,600 square feet of office uses on the subject property. Additionally, four waivers are requested from Orange County Code related to minimum lot size, setbacks, building-base landscape area, and shade trees.

On January 13, 2021, the Development Review Committee (DRC) recommended approval of the request, subject to conditions. A community meeting was not required for this request, but a Project Informational Presentation was made available to the public on November 19, 2020.

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:

JVW/EPR/jsh

Make a finding of consistency with the Comprehensive Plan and approve the Buena Vista Family Dentistry Planned Development / Land Use Plan (PD/LUP), dated "Received January 13, 2021", subject to the conditions listed under the PZC Recommendation in the Staff Report. District 1

Attachments

PZC Recommendation Staff Report Commission District: # 1

GENERAL INFORMATION

APPLICANT

Stephen Allen, Civil Corp Engineering, Inc.

OWNERS

Arco Re Holdings, LLC

PROJECT NAME

Buena Vista Family Dentistry Planned Development (PD / LUP)

HEARING TYPE

Planning and Zoning Commission

REQUEST

R-1AA (Single Family Dwelling District) to PD (Planned Development District)

A request to rezone 0.55 acres from R-1AA to PD in order construct 3,600 square feet of Professional Office uses. This request also includes the following waivers from Orange County Code:

1. A waiver from Section 38-1392, Buena Vista North District standards to allow for a minimum lot size of 0.541 acres in lieu of 0.75 acres with Office future land use designation.

Applicant Justification: Existing lot size is below the minimum required by Buena Vista North code for office and all other uses deeming it unusable for redevelopment.

2. A waiver from Section 38-1392.1, Buena Vista North District standards to allow for a rear setback of ten (10) feet in lieu of twenty (20) feet.

Applicant Justification: The additional 10' abutting the 16' alley in the rear will help us achieve the other site requirements desired by county, such as buffers, parking lengths, driveway widths, building perimeter landscaping, etc, due to the narrowness of the site.

3. A waiver from Section 38-1394.1(a), Buena Vista North District standards to allow the landscaped area to be equal to the full linear length of the building base oriented toward the public right-of-way and have a minimum depth of eight (8) feet in lieu of a ten (10) foot building base green space for a one-story building.

Applicant Justification: The site constraints of the existing property will make achieving a 10' Building base green space difficult to achieve while also adhering to safety

dimensional criteria, such as parking lengths and drive aisle widths.

4. A waiver from Section 38-1394.1(a)(2), Buena Vista North District standards to allow one (1) shade tree planted for each twenty-five (25) feet or fraction thereof of the lineal building facade, or one (1) understory tree or palm tree planted for each fifteen (15) feet or fraction thereof of the lineal building facade in lieu of one (1) canopy tree for each one hundred (100) square feet of green space at the building base.

Applicant Justification: A canopy tree for each one hundred (100) square feet of green space at the building base will cause the spacing to be far too close together. The P-O requirements of one (1) shade tree planted for each twenty-five (25) feet or fraction thereof of the lineal building facade, or one (1) understory tree or palm tree planted for each fifteen (15) feet or fraction thereof of the lineal building facade is more reasonable.

LOCATION Generally located on the north of 4th Street, east of S.

Apopka Vineland Road.

PARCEL ID NUMBER 15-24-28-6211-67-130

TRACT SIZE 0.55 gross acres

PUBLIC NOTIFICATION The notification area for this public hearing was 600 feet

[Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Seventy-seven (77) notices were mailed to those property owners in the surrounding area. A community

meeting was not required for this application.

PROPOSED USE 3,600 square feet of Professional Office uses

STAFF RECOMMENDATION

Development Review Committee – (January 13, 2021)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Buena Vista Family Dentistry Planned Development / Land Use Plan (PD/LUP), dated "Received January 13, 2021", subject to the following conditions:

 Development shall conform to the Buena Vista Family Dentistry Land Use Plan (LUP) dated "Received January 13, 2021" 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 January 13, 2021," 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. 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.
- 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 & Wildlife Conservation Commission (FWC).
- 8. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water and wastewater systems have been designed to support all development within the PD.
- 9. The developer shall obtain water and wastewater service from Orange County Utilities subject to County rate resolutions and ordinances.
- Pole signs and billboards shall be prohibited. All other signage shall comply with Chapter 31.5 of the Orange County Code, Buena Vista North standards.
- 11. Outside sales, storage, and display shall be prohibited.
- 12. The following waivers from Orange County Code are granted:
 - a. A waiver from Section 38-1392, Buena Vista North District standards to allow for a minimum lot size of 0.541 acres in lieu of 0.75 acres with office future land use designation.
 - b. A waiver from Section 38-1392.1, Buena Vista North District standards to allow for a rear setback of ten (10) feet in lieu of twenty (20) feet.
 - A waiver from Section 38-1394.1(a), Buena Vista North District standards to allow the landscaped area to be equal to the full linear length of the building base oriented

toward the public right-of-way and have a minimum depth of eight (8) feet in lieu of a ten (10) foot building base green space for a one-story building.

d. A waiver from Section 38-1394.1(a)(2), Buena Vista North District standards to allow one (1) shade tree planted for each twenty-five (25) feet or fraction thereof of the lineal building facade, or one (1) understory tree or palm tree planted for each fifteen (15) feet or fraction thereof of the lineal building facade in lieu of one (1) canopy tree for each one hundred (100) square feet of green space at the building base.

IMPACT ANALYSIS

Overview

The subject property was originally platted as part of the Orange Center subdivision but was never developed. The current request is to rezone the subject property to allow for a 3,600 square foot dental office. It is part of the Buena Vista North Overlay district which provides for design requirements which would be applied at the time of Development Plan review. Due to the site constraints, four waivers are requested from Orange County Code to address lot size, setbacks, and landscaping.

The surrounding area to the north and east is platted for single-family development but is mostly undeveloped. Adjacent lots to the east have single-family homes, to the south is a religious community center, and to the west is a Professional Office development.

Land Use Compatibility

The applicant is seeking to rezone the subject parcel from R-1AA (Single-Family Dwelling District) to PD (Planned Development District) to allow for P-O uses, in order to construct a dental office. The proposed development program is compatible with existing development in the area, and would not adversely impact any adjacent properties.

Site Analysis

	Yes	No	Information
Rural Settlement		\boxtimes	
Joint Planning Area (JPA)		\boxtimes	
Overlay District Ordinance	\boxtimes		Buena Vista North Overlay District
Airport Noise Zone		\boxtimes	
Code Enforcement		\boxtimes	

Comprehensive Plan (CP) Consistency

The subject property has an underlying Future Land Use Map (FLUM) designation of Office (O). The proposed PD zoning district and development program is consistent with the proposed FLUM designation and the following CP provisions:

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

FLU1.4.4 states that the disruption of residential areas by poorly located and designed commercial activities shall be avoided.

FLU8.1.1 states that the zoning and future land use correlation shall be used to determine consistency with the Future Land Use Map. Land use compatibility, the location, availability and capacity of services and facilities, market demand, and environmental features shall also be used in determining which specific zoning district is most appropriate. Density is restricted to the maximum and minimum allowed by the Future Land Use Map designation regardless of zoning.

OBJ FLU8.2 states that compatibility will continue to be the fundamental consideration in all land use and zoning decisions.

FLU8.2.1 states that land use changes shall be required to be compatible with existing development and development trend in the area. Performance restrictions and/or conditions may be placed on property through the appropriate development order to ensure compatibility. No restrictions or conditions shall be placed on a Future Land Use Map change.

FLU8.2.11 states that compatibility may not necessarily be determined to be a land use that is identical to those uses that surround it. Other factors may be considered, such as the design attributes of the project, its urban form, the physical integration of a project and its function in the broader community, as well its contribution toward the Goals and Objectives in the CP. The CP shall specifically allow for such a balance of considerations to occur.

SITE DATA

Existing Use

Undeveloped Land

Adjacent Zoning

N: R-CE (Country Estate District) (1968)

E: R-CE (Country Estate District) (1968)

W: PD (Planned Development District) (2016)

S: PD (Planned Development District) (2014)

Adjacent Land Uses

N: Vacant

E: Single Family Residential, Vacant

W: Professional Offices

S: Religious Community Center

APPLICABLE PD DEVELOPMENT STANDARDS

Maximum Building Height:

35 feet (2-story)

Total Floor Area:

3600 SF

Maximum FAR:

0.15

Maximum Impervious Area: 70%

Minimum Building Setbacks:

Front Setback:

20 feet

Rear Setback:

10 feet *waiver requested

North Setback:

35 feet

South Setback:

10 feet

Minimum Open Space:

20%

SPECIAL INFORMATION

Community Meeting Summary

A community meeting was not required for this request; however, staff created and uploaded an Informational Presentation that was made available to the public on November 19, 2020. One commentary has been received at the time of this report that expressed concern about privacy for the residence to the east of the subject property and asked that a wall be put up between the properties and that existing foliage in the adjacent alleyway be preserved.

Environmental

Habitat - 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).

Solid Waste - Any miscellaneous garbage, hazardous waste, yard waste, and construction or demolition debris shall be disposed of off-site according to the solid waste and hazardous waste regulations. The applicant should call the Orange County Solid Waste Hotline at 407-836-6601 for information.

Transportation / Access

The anticipated traffic impacts for the proposed development are de minimis and a traffic study will not be required at this time. The site will be evaluated again at development permit stage.

Utilities

Water:

Orange County Utilities

Wastewater:

Orange County Utilities

Reclaim Water:

Orange County Utilities

Schools

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

State of Florida Notice

Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

Specific Project Expenditure Report and Relationship Disclosure Form

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

PLANNING AND ZONING COMMISSION (PZC) PUBLIC HEARING SYNOPSIS

The staff report was presented to the PZC with the recommendation that they make a finding of consistency with the Comprehensive Plan and recommend approval of the Buena Vista Family Dentistry Planned Development / Land Use Plan (PD/LUP), subject to the twelve (12) conditions in the staff report, and an additional condition #13, related to a privacy fence on the east side of the property.

Staff indicated that seventy-seven (77) notices were mailed to surrounding property owners within a buffer of 600 feet from the subject property, with one (1) commentary received in opposition of the request. The reasons for opposition were related to traffic and waiver requests. The applicant was present for the hearing and concurred with staff's recommendation. No members of the public were present to speak on this request.

After a brief discussion, a motion was made by Commissioner Sorbo to find the request to be consistent with the Comprehensive Plan and recommend APPROVAL of the Buena Vista Family Dentistry PD Land Use Plan, subject to thirteen (13) conditions. Commissioner Spears seconded the motion, which then carried on an 8-0 vote.

Motion / Second Trevor Sorbo / Gordon Spears

Voting in Favor Trevor Sorbo, Gordon Spears, Evelyn Cardenas,

Mohammed Abdallah, Sean McQuade, JaJa Wade, Carlos

Nazario, and Nelson Pena

Voting in Opposition None

Absent Eddie Fernandez

PZC RECOMMENDED ACTION

Planning and Zoning Commission (PZC) Recommendation – (April 15, 2021)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Buena Vista Family Dentistry Planned Development / Land Use Plan (PD/LUP), dated "Received January 13, 2021", subject to the following conditions:

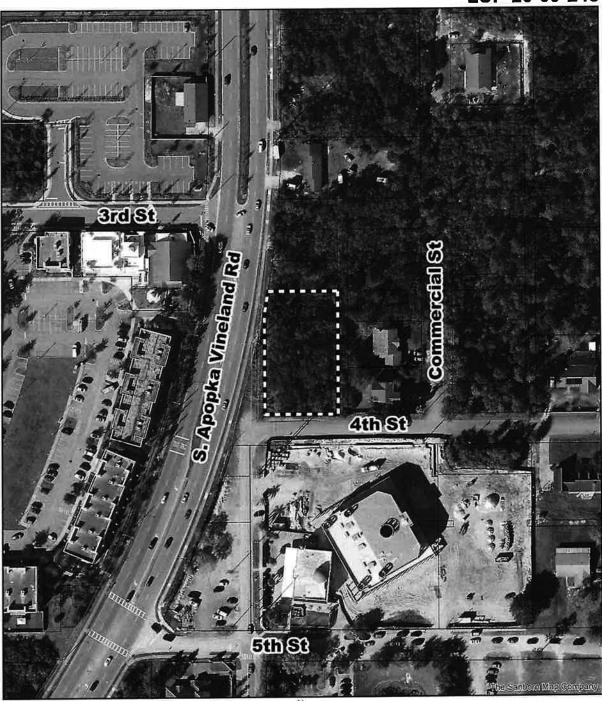
- 1. Development shall conform to the Buena Vista Family Dentistry Land Use Plan (LUP) dated "Received January 13, 2021" and shall comply with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations 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 January 13, 2021," 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. 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.
- 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 & Wildlife Conservation Commission (FWC).
- Prior to construction plan approval, hydraulic calculations shall be submitted to Orange
 <u>County Utilities demonstrating that proposed and existing water and wastewater</u>
 <u>systems have been designed to support all development within the PD.</u>
- The developer shall obtain water and wastewater service from Orange County Utilities subject to County rate resolutions and ordinances.
- Pole signs and billboards shall be prohibited. All other signage shall comply with Chapter 31.5 of the Orange County Code, Buena Vista North standards.

- 11. Outside sales, storage, and display shall be prohibited.
- 12. The following waivers from Orange County Code are granted:
 - a. A waiver from Section 38-1392, Buena Vista North District standards to allow for a minimum lot size of 0.541 acres in lieu of 0.75 acres with office future land use designation.
 - b. A waiver from Section 38-1392.1, Buena Vista North District standards to allow for a rear setback of ten (10) feet in lieu of twenty (20) feet.
 - c. A waiver from Section 38-1394.1(a), Buena Vista North District standards to allow the landscaped area to be equal to the full linear length of the building base oriented toward the public right-of-way and have a minimum depth of eight (8) feet in lieu of a ten (10) foot building base green space for a one-story building.
 - d. A waiver from Section 38-1394.1(a)(2), Buena Vista North District standards to allow one (1) shade tree planted for each twenty-five (25) feet or fraction thereof of the lineal building facade, or one (1) understory tree or palm tree planted for each fifteen (15) feet or fraction thereof of the lineal building facade in lieu of one (1) canopy tree for each one hundred (100) square feet of green space at the building base.
- A six (6) foot high opaque fence shall be constructed on the east side of the subject property.

LUP-20-09-248

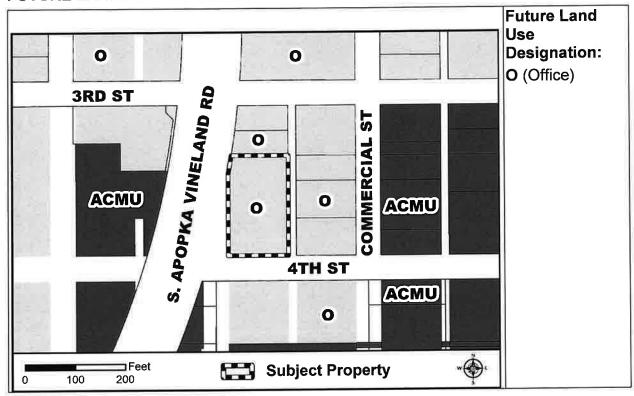




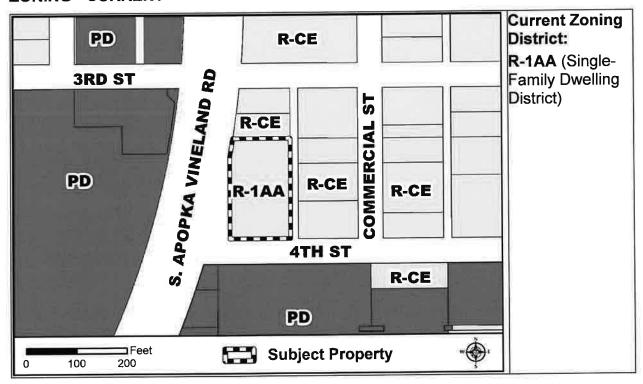


1 inch = 125 feet

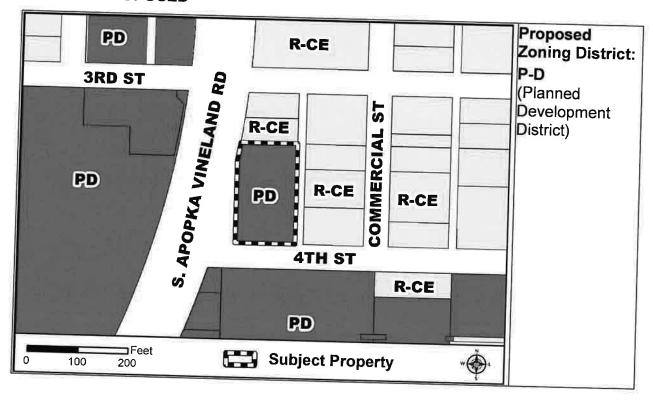
FUTURE LAND USE - CURRENT

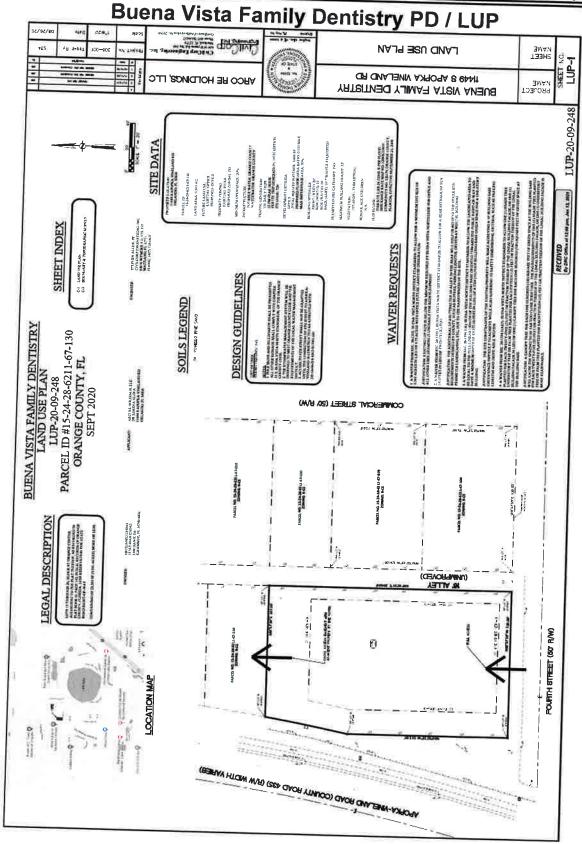


ZONING - CURRENT



ZONING - PROPOSED





Notification Map

