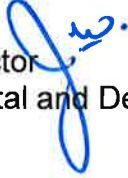





Interoffice Memorandum

DATE: November 16, 2018

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

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

CONTACT PERSON: **Eric Raasch, Interim DRC Chairman**
Development Review Committee
Planning Division 
(407) 836-5523

SUBJECT: December 18, 2018 – Public Hearing
Justin Sand, Epoch Properties, Inc.
Epoch Vista Oaks Planned Development
Case # CDR-18-07-219 / District 1

The Epoch Vista Oaks Planned Development (PD) is generally located east of Winter Garden Vineland Road and north of Zen Drive. The existing PD development program allows for 280 multi-family dwelling units within buildings that are a maximum of four (4) stories / 65 feet in height.

Through this PD substantial change, the applicant is seeking a waiver from Section 38-1258(l) to eliminate the required fencing along the right-of-way in areas directly abutted by an on-site wetland, in lieu of the fence along the entire right-of-way whenever a single-family zoned property is located across the right-of-way.

On September 26, 2018, 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 Epoch Vista Oaks Planned Development / Land Use Plan (PD/LUP) dated “Received August 20, 2018”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1**

Attachments

JVW/EPR/stt

CASE # CDR-18-07-219

Commission District: # 1

GENERAL INFORMATION

APPLICANT Justin Sand, Epoch Properties, Inc.
OWNER Epoch Vista Apartments, LLC
PROJECT NAME Epoch Vista Oaks Planned Development (PD)
PARCEL ID NUMBER(S) 08-24-28-2499-01-000 and 08-24-28-2499-23-001
TRACT SIZE 14.01 gross acres (*overall PD*)
LOCATION Generally located east of Winter Garden Vineland Road and north of Zen Drive
REQUEST A Change Determination Request (CDR) to request the following waiver from Orange County Code:

1. A waiver from Section 38-1258(I) to eliminate the required fencing along the right-of-way in areas directly abutted by an on-site wetland, in lieu of the fence along the entire right-of-way whenever a single-family zoned property is located across the right-of-way.

Applicant Justification: *The proposed project property includes a Class I wetland immediately adjacent to the right-of-way, which will remain. The intent of this code section is to provide adequate screening for single-family properties across the right-of-way. The wetland will provide adequate screening, therefore the fence is not necessary. Additionally, the single-family zoned property across the right-of-way is owned by the Home Owners Association, is a wetland, and does not contain single-family homes.*

PUBLIC NOTIFICATION A notification area extending beyond one thousand three hundred (1,300) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. One hundred seventy-nine (179) 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 Epoch Vista Oaks PD was originally approved by the Board of County Commissioners on July 18, 2017. This PD is approved for 280 multi-family dwelling units within buildings that are a maximum of four (4) stories / 65 feet in height.

Through this PD Change Determination Request (CDR), the applicant is seeking to request a waiver to eliminate the required fencing along the right-of-way in areas directly abutted by an on-site wetland, in lieu of the fence along the entire right-of-way whenever a single-family zoned property is located across the right-of-way. No change to the development program or development standards are proposed with this request.

The application of this waiver is illustrated below:



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 Medium Density Residential (MDR) and Planned Development – High Density Residential (PD-HDR). The proposed Change Determination Request (CDR) is consistent with the designations and all applicable CP provisions; therefore, a CP amendment is not necessary.

Overlay District 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

A NPDES Notice of Violation is under review for this project site. Southern portions of the wetland and wetland buffer on site have been impacted without proper permits. A restoration and monitoring plan was submitted by Bio-Tech Consulting on June 26, 2018.

Transportation / Concurrency

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.

Community Meeting Summary

A community meeting was not required for this request.

Schools

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

Parks and Recreation

Orange County Parks and Recreation staff has reviewed the proposed 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 – (September 26, 2018)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Epoch Vista Oaks Planned Development / Land Use Plan (PD/LUP), dated “August 20, 2018”, subject to the following conditions:

1. Development shall conform to the Epoch Vista Oaks PD Land Use Plan (LUP) dated "Received August 20, 2018," and shall comply with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of

these conditions. Accordingly, the PD may be developed in accordance with the uses, densities, and intensities described in such Land Use Plan, subject to those uses, densities, and intensities conforming with the restrictions and requirements found in the conditions of approval and complying with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. If the development is unable to achieve or obtain desired uses, densities, or intensities, the County is not under any obligation to grant any waivers or modifications to enable the developer to achieve or obtain those desired uses, densities, or intensities. In the event of a conflict or inconsistency between a condition of approval and the land use plan dated "Received August 20, 2018," 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. A waiver from Orange County Code Section 38-1258(i) is granted to eliminate the required fencing along the right-of-way in areas directly abutted by an on-site wetland, in lieu of the fence along the entire right-of-way whenever a single-family zoned property is located across the right-of-way.

7. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated July 18, 2017, shall apply:
 - a. 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.

 - b. 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.

 - c. Prior to the approval of the Development Plan, the Developer shall conduct a traffic signal warrant analysis at the intersection of CR 535 and Zen Drive based on projected traffic and submit to Orange County Traffic Engineering Division for review. If the signal is warranted, the signal would be constructed and funded by the Developer prior to the first Certificate of Occupancy. If installed, the signal will be put on flashing mode until such time as the actual traffic from the development meets the projected warrant.

 - d. Unless a Conservation Area Impact (CAI) permit is approved by Orange County consistent with Orange County Code Chapter 15, Article X, "Wetland Conservation Areas", prior to Construction Plan approval, no conservation area or buffer encroachments shall be permitted. Approval of this plan does not authorize any direct or indirect conservation area impacts.

- e. 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.
- f. 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).
- g. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed water, wastewater, and reclaimed water systems have been designed to support all development within the PD.
- h. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
- i. 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.
- j. Short term / transient rental is prohibited. Length of stay shall be for 180 days or greater.
- k. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
- l. A right turn lane on CR 535 into Zen Drive shall be provided by the developer, at no cost to the County, contemporaneously with construction plan approval.
- m. The following waivers from Orange County Code addressing alternative multi-family building height standards are granted:
 - i. A waiver from Section 38-1258(b) to allow a maximum multi-family building height of four (4) stories and sixty-five (65) feet when located between one hundred (100) feet, and one hundred fifty (150) feet of single-family zoned property; in lieu of varying multi-family building heights with a maximum of fifty (50) percent of the buildings being three (3) stories (forty feet) in height, with the remaining buildings being one (1) or two (2) stories in height;
 - ii. A waiver from Section 38-1258(c) to allow a maximum multi-family building height of four (4) stories and sixty-five (65) feet when the multi-family buildings are located within one hundred fifty (150) feet of single-family zoned residential properties, in lieu of a maximum multi-family building height of three (3) stories and forty (40) feet;

- iii. A waiver from Section 38-1258(d) to allow a maximum multi-family building height of four (4) stories and sixty-five (65) feet height, in lieu of a maximum multi-family building height of three (3) stories and forty (40) feet.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION *(July 18, 2017)*

Upon a motion by Commissioner VanderLey, seconded by Commissioner Nelson, and carried with all present members voting AYE by voice vote; the Board made a finding of consistency with the Comprehensive Plan; and approved the request subject to conditions of approval listed under the Development Review Committee recommendation in the Staff Report; subject to the approval of a Petition to Vacate, a Conservation Area Impact (CAI) Permit, and a revised PD land use plan.

CDR-18-07-219

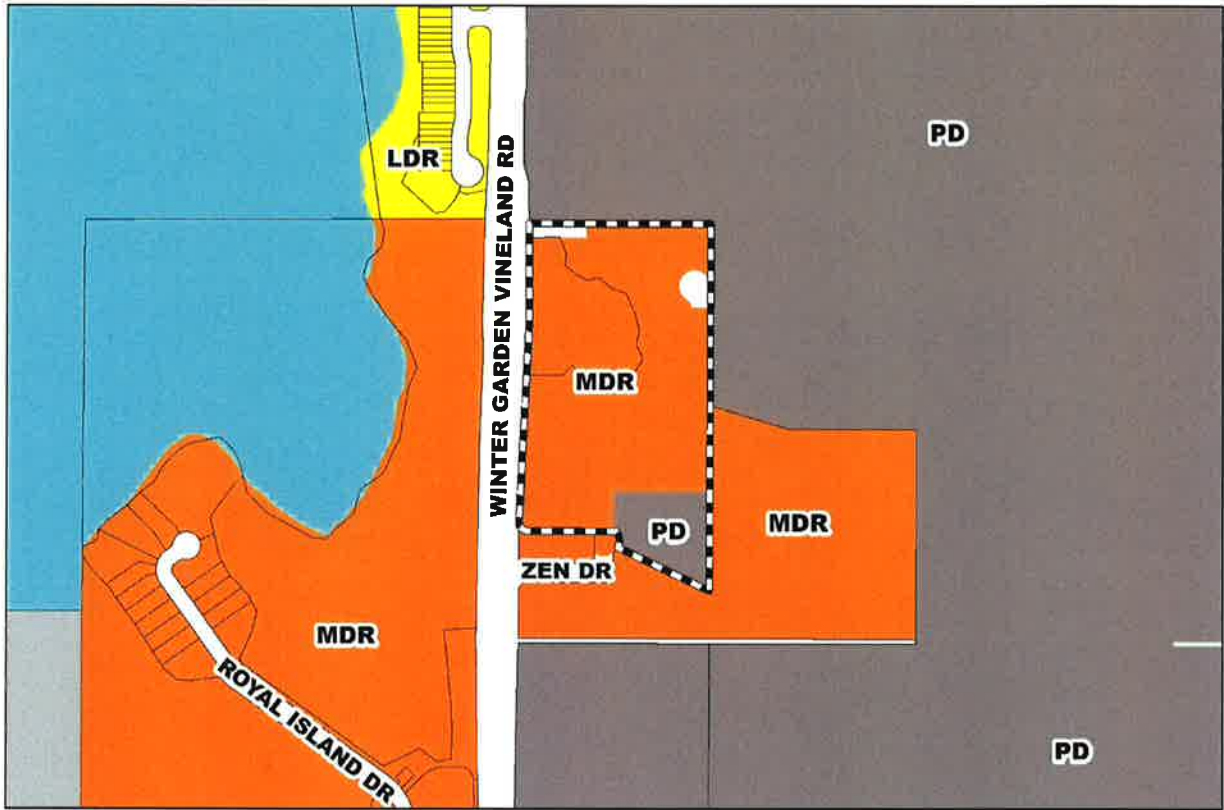


 Subject Parcels



1 inch = 300 feet

CDR-18-07-219



 Subject Property



 Subject Property

Future Land Use Map

FLUM: Medium Density Residential (MDR) and
 Planned Development - High Density
 Residential (PD-HDR)

APPLICANT: Justin Sand, Epoch Properties, Inc.

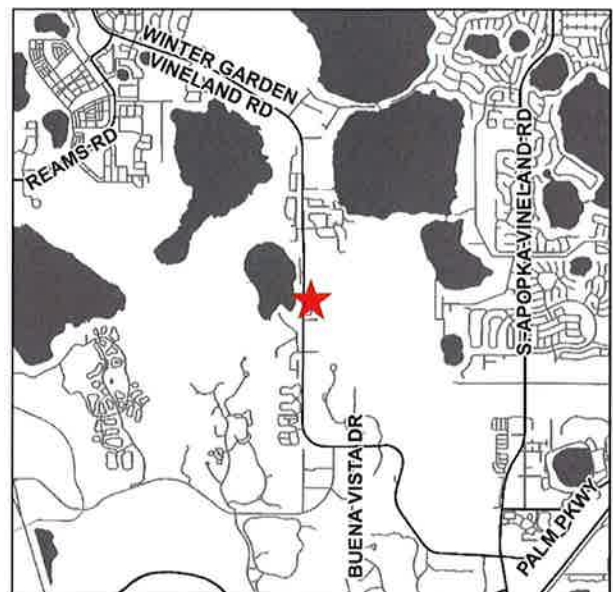
LOCATION: Generally located east of Winter Garden
 Vineland Road and north of Zen Drive

TRACT SIZE: 14.01 gross acres (overall PD)

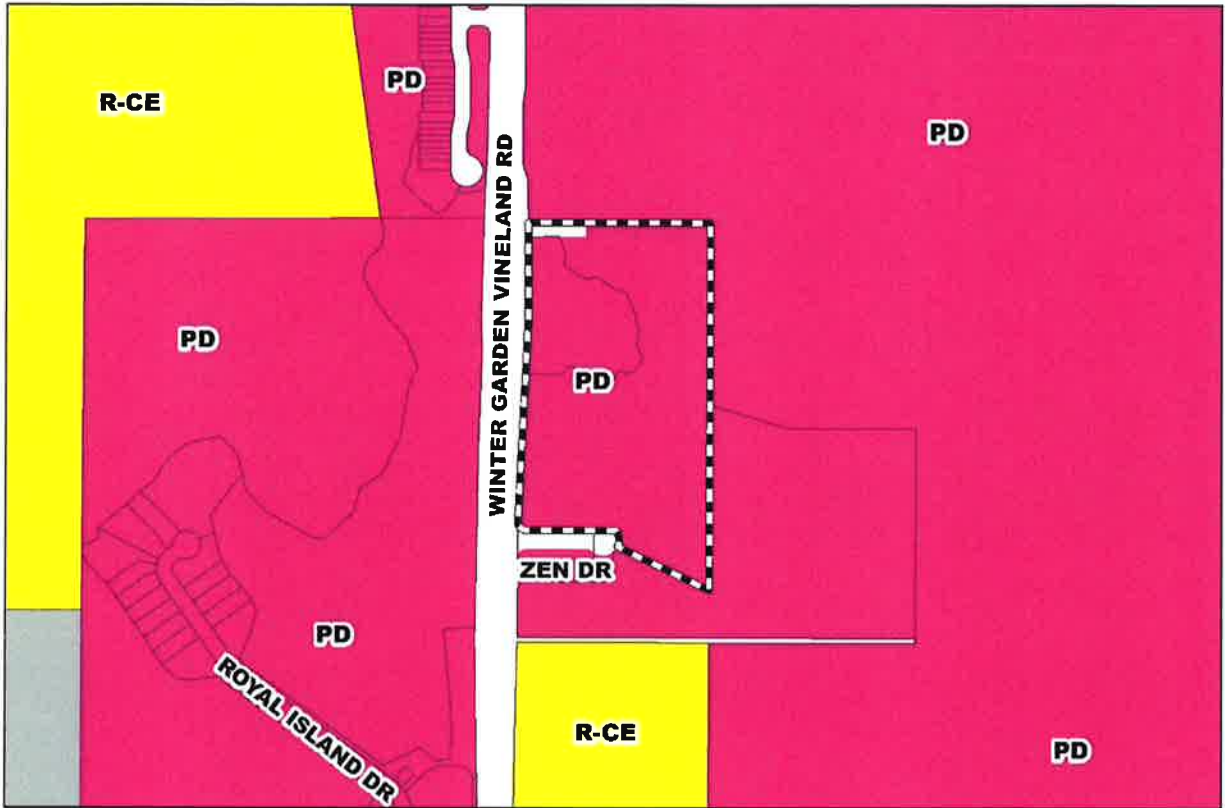
DISTRICT: # 1

S/T/R: 08/24/28

1 inch = 500 feet



CDR-18-07-219



Subject Property

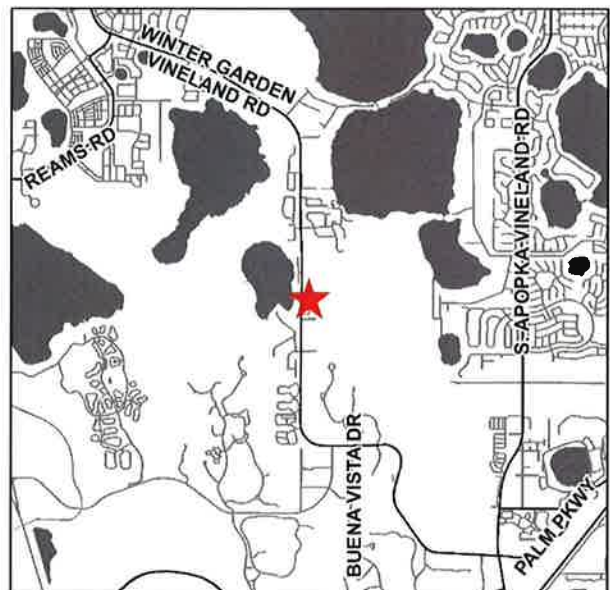


Subject Property

Zoning Map

ZONING: PD (Planned Development District)
APPLICANT: Justin Sand, Epoch Properties, Inc.
LOCATION: Generally located east of Winter Garden Vineland Road and north of Zen Drive
TRACT SIZE: 14.01 gross acres (overall PD)
DISTRICT: # 1
S/T/R: 08/24/28

1 inch = 500 feet

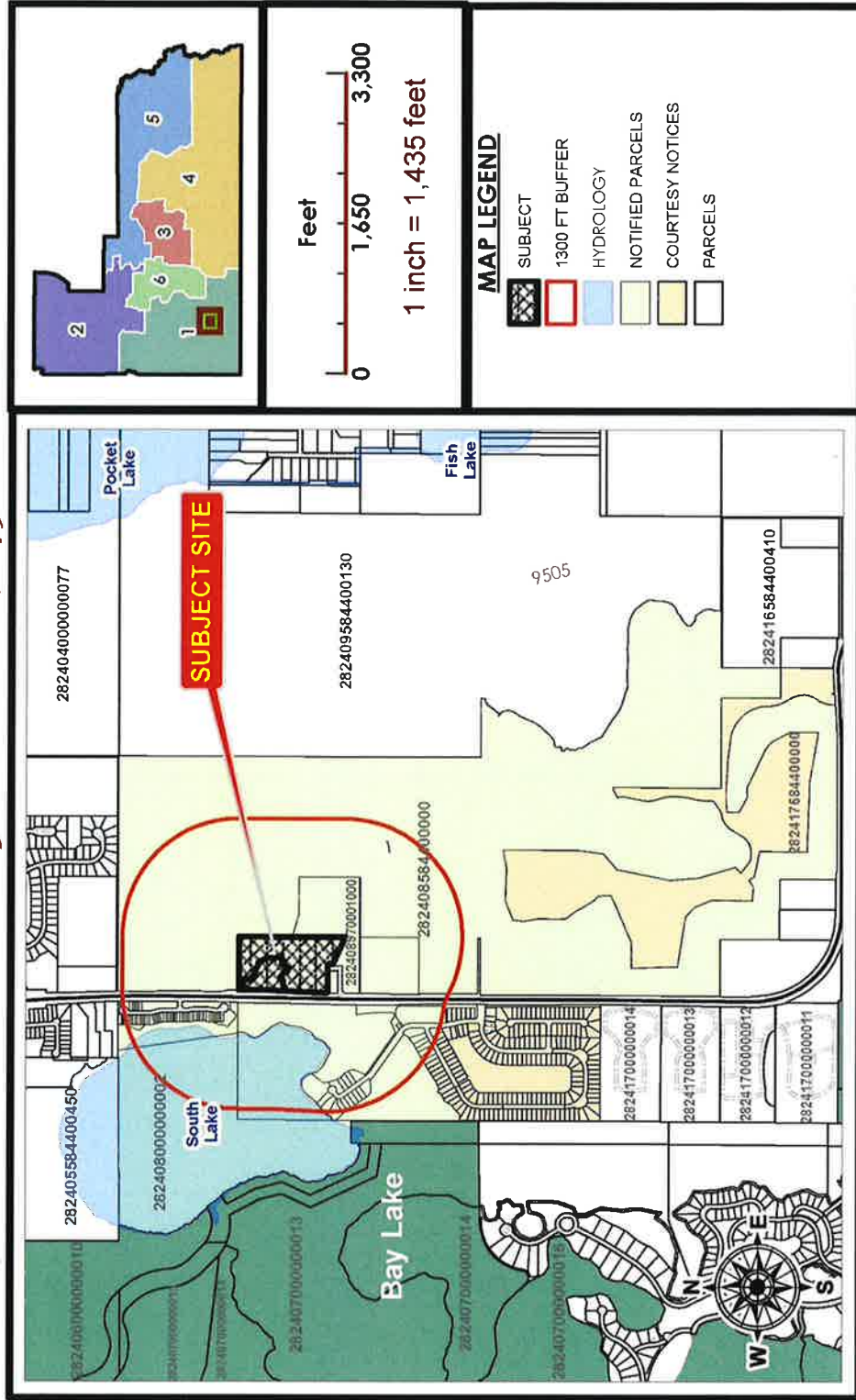


Notification Map









Public Notification Map

Epoch Vista Oaks_CDR-18-07-219
 1300 FT BUFFER, 179 NOTICES



MAP LEGEND

-  SUBJECT
-  1300 FT BUFFER
-  HYDROLOGY
-  NOTIFIED PARCELS
-  COURTESY NOTICES
-  PARCELS

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