



Interoffice Memorandum

May 10, 2024

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

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

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

SUBJECT: June 4, 2024 – Public Hearing
Applicant(s): Andrew L. Howell, A & MH LLC
Project Name: Hamlin Planned Development (PD) – Unified
Neighborhood Plan (UNP) / Hamlin Reserve Preliminary Subdivision
Plan / A portion of Parcel B - Tropical Smoothie Development Plan
(DP) Project No.: DP-23-06-185 / District 1

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of April 10, 2024, to approve the Hamlin PD – UNP / Hamlin Reserve PSP / A portion of Parcel B - Tropical Smoothie DP. The project is generally east of State Road 429, west of Hamlin Groves Trail, north of Porter Road, and south of New Independence Parkway in the Horizon West Town Center Village. The request is to construct a 1,710 square foot Tropical Smoothie Café on a 0.47-acre site.

Additionally, a waiver from Orange County Code is requested to allow for 100% of the building façade to be located at the 30-foot side street setback along Calamondin Drive in lieu of the required 10-foot build-to-line. The waiver is requested due to the presence of an existing utility easement.

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 documents and the plans may be found in the Planning Division for further reference.

ACTION REQUESTED: Make a finding of consistency with the Comprehensive Plan and approve the Hamlin Planned Development (PD) – Unified Neighborhood Plan (UNP) / Hamlin Reserve Preliminary Subdivision Plan / A portion of Parcel B - Tropical Smoothie Development Plan (DP) (DP-23-06-185) dated "Received March 19, 2024", subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1

TW/JCK/kh
Attachments

CASE # DP-23-06-185

Commission District # 1

1. GENERAL INFORMATION

Applicant: Andrew L. Howell, A & MH, LLC

Owner: A & MH, LLC

Project Name: Hamlin Planned Development (PD) – Unified Neighborhood Plan (UNP) / Hamlin Reserve Preliminary Subdivision Plan / A portion of Parcel B - Tropical Smoothie Development Plan (DP).

Hearing Type: Development Plan (DP)

Request: To construct a 1,710 square foot Tropical Smoothie Café on a 0.47 acre site.

In addition, a waiver is being requested from Orange County Code:

1. A waiver from Section 38-1390.51, Table 4-1 is requested to allow 100% of the building façade to be located at the 30 foot side street setback along Calamondin Drive in lieu of the required 10 foot build-to-line.

Applicant Justification: *There are existing utility assemblies for water and reclaim water located at the 10' build-to-line. In addition, a low knee wall (split rail fence) is also required to visually screen the rear parking area. This existing condition, the fence requirement, and along with the need to have pedestrian walkway connection between rear parking area to front of the building prohibit placement of building at the 10 feet build-to-line.*

2. PROJECT INFORMATION

- A. Overview: The subject property is generally located east of State Road 429, west of Hamlin Groves Trail, north of Porter Road, and south of New Independence Parkway. The property is located within the Hamlin Planned Development – Unified Neighborhood Plan (PD-UNP) within the Hamlin Reserve Preliminary Subdivision Plan (PSP) in Parcel B. The 2.80 acre PD Parcel is currently entitled for 40,000 square feet of non-residential uses.
- This request is to construct a 1,710 square foot Tropical Smoothie Café on a 0.47 acre site.
- B. Location: East of State Road 429 / West of Hamlin Groves Trail / North of Porter Road / South of New Independence Parkway
- C. Parcel ID(s): 29-23-27-2716-02-001 (affected parcel)
- D. Total Acres: 0.47 (affected acreage)
- E. Water Supply: Orange County Utilities
- F. Sewer System: Orange County Utilities
- G. Schools: N/A
- H. School Population: N/A
- I. Parks: Horizon West Regional Park - 1 Mile
- J. Proposed Use: 1,710 square foot Tropical Smoothie Café
- K. Site Data: Maximum Building Height: 45'
Building Setbacks: 10'
Front: 10'
Side: 10'
Major Road: 10'
Rear: 10'
Side Street: 10'
Normal High Water Elevation (NHWE): 10'
- L. Fire Station: Fire station 44 - 16990 Porter Rd.

- M. Public Notification: The notification area for this public hearing extended beyond 1000 feet. Chapter 30-40(c)(3)(a) of Orange County Code requires the owners of the property within 300 feet of the subject property to be notified at least 10 days prior to the date of the hearing. Five hundred and sixty-two (562) notices were mailed to those property owners in the mailing area.
- N. Community Meeting Summary: A community meeting was not required for this case.
- O. Transportation: A & MH LLC submitted a Capacity Encumbrance Letter Application under CEL-22-09-097 for the subject property. CEL-22-09-097 is being denied due to deficient roadways surrounding the project location. The Owner entered into a Proportionate Share Agreement (PSA) with Orange County to remedy the deficiencies and obtained BCC approval on April 11, 2023. In order to satisfy the transportation concurrency requirement, the PS Payment in the amount of \$57,632 must be paid on or before October 6, 2023.
- A Road Network Agreement for Town Center East was approved by the Board of County Commissioners on December 6, 2011, and recorded at OR Book/Page 10306/1364. The Developer has obtained vested trips for the completion of construction for Hamlin Groves Trail and New Independence Parkway to four lanes. Right-of-Way for the road network has been dedicated to the County.
- First Amendment to Town Center East Road Network Agreement ("First Amendment") between Orange County and SLF IV/Boyd Horizon West JV, LLC ("Developer") and Orlando Health Central, Inc. ("Orlando Health") was approved by the Board of County Commissioners on 7/10/2012 and recorded at ORBK 10411/ 0542 for the conveyance of Right-of-Way for the road network in Town Center. The First Amendment contemplates that the Orlando Health parcel will be included in the terms of the original agreement. Under the terms of the First Amendment, Orlando Health shall receive \$22,500 per acre in Road

Impact Fee Credits for the dedication of a 2.11-acre parcel for Hamlin Trail Right-of-Way for a total of \$47,450.00 in road impact fee credits. An additional 2.22-acre area of Right-of-Way for Porter Road will be donated to Orange County by Orlando Health at no cost to the County. Developer has assigned 650 Vested Trips to Orlando Health. Orlando Health has the option to complete the Phase 4 improvements. The First Amendment also acknowledges that Developer has acquired the Gleason Parcel which is now included in the definition of the Property.

The Second Amendment to Town Center East Road Network Agreement was approved by Board of County Commissioners on 3/15/2016 and recorded at Doc#20160137843 and adjusts the performance thresholds needed for vested trips to be allocated under the terms of the agreement and for the timing of award of transportation impact fee credits. RAC approved the Second Amendment on January 6, 2016.

Pursuant to Article XII, Chapter 30, Orange County Code, unless documentation to the County's satisfaction has been provided proving that a property is exempt or vested, each property must apply for and obtain concurrency. Unless required at a different time (by agreement, condition of approval, etc.), residential properties must obtain concurrency prior to approval of the plat; non-residential properties that are required to plat must obtain concurrency for any lot with an assigned use prior to approval of the plat (lots without an assigned use shall be labeled as "future development") and non-residential properties that are not required to plat must obtain concurrency prior to obtaining the first building permit. Concurrency may be obtained earlier than plat or building permit, but it is ultimately the responsibility of the applicant to obtain concurrency, including any proportionate share agreement, as applicable, in a timely fashion. Should an applicant wait to obtain concurrency until later in the development process, the County will not be responsible for any delays caused by the

applicant's failure to obtain concurrency in a timely fashion.

P. Environmental Protection Division:

Use caution to prevent erosion during construction along the boundary of the property, into surface waters, wetlands and buffers, and into all drainage facilities and ditches. Construction will require Best Management Practices (BMPs) for erosion control. Minimize the extent of area exposed at one time, apply perimeter controls where necessary, and perform maintenance checks every seven (7) days and after every 1/2 inch rain. The construction entry area shall be designed to prevent trucks from tracking soil onto local roads and the affected storm drainage system shall be protected. This may require periodic street sweeping.

Illicit discharges are prohibited into waters of the County or into the storm sewer system; discharge onto the ground surface is prohibited that may cause water pollution; and stormwater controls are required to reduce pollutants in stormwater discharges in compliance with county codes in order to meet the state water quality standards

Q. Comprehensive Plan:

The subject property has an underlying Future Land Use Map (FLUM) designation of Village (V). The subject property is designated PD (Planned Development) on the Zoning Map, which is consistent with the FLUM Designations.

R. Zoning:

PD (Planned Development District)

3. REQUESTED ACTION:

Development Review Committee (DRC) Recommendation – (April 10, 2024)

Make a finding of consistency with the Comprehensive Plan and approve the substantial change to the Hamlin PD - UNP / Hamlin Reserve PSP / A portion of Parcel B - Tropical Smoothie DP dated "Received March 19, 2024", subject to the following conditions:

1. Development shall conform to the Hamlin Planned Development - Unified Neighborhood Plan; Orange County Board of County Commissioners (BCC) approvals; Hamlin Reserve Preliminary Subdivision Plan; BCC approvals; Tropical Smoothie Development Plan dated "Received March 19, 2024" and to the conditions of approval listed below. Development based upon this approval shall comply with all applicable federal, state, and county laws, ordinances, and regulations, which are incorporated herein by reference, except to the extent any applicable county laws, ordinances, or regulations are expressly waived or modified by these conditions, or by action approved by the BCC, or by action of the BCC.
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.

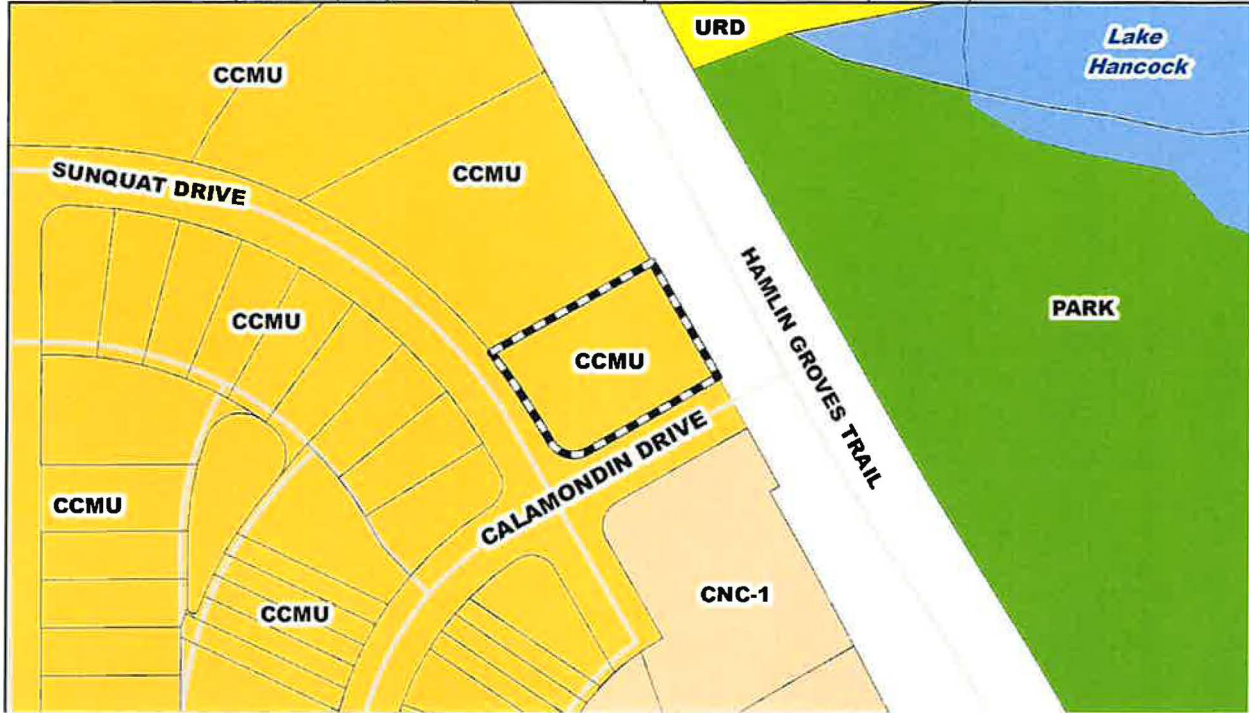
4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this development plan to promptly disclose to the County any changes in ownership, encumbrances, or other matters of record affecting the property that is subject to the plan, and to resolve any issues that may be identified by the County as a result of any such changes. Developer / Applicant acknowledges and understands that any such changes are solely the Developer's / Applicant's obligation and responsibility to disclose and resolve, and that the Developer's / Applicant's failure to disclose and resolve any such changes to the satisfaction of the County may result in the County not issuing (or delaying issuance of) development permits, not recording (or delaying recording of) a plat for the property, or both.
5. Property that is required to be dedicated or otherwise conveyed to Orange County (by plat or other means) shall be free and clear of all encumbrances, except as may be acceptable to County and consistent with the anticipated use. Owner / Developer shall provide, at no cost to County, any and all easements required for approval of a project or necessary for relocation of existing easements, including any existing facilities, and shall be responsible for the full costs of any such relocation prior to Orange County's acceptance of the conveyance. Any encumbrances that are discovered after approval of a PD Land Use Plan shall be the responsibility of Owner / Developer to release and relocate, at no cost to County, prior to County's acceptance of conveyance. As part of the review process for construction plan approval(s), any required off-site easements identified by County must be conveyed to County prior to any such approval, or at a later date as determined by County. Any failure to comply with this condition may result in the withholding of development permits and plat approval(s).
6. If applicable, an Acknowledgement of Contiguous Sustainable Agricultural Land pursuant to Section 163.3163, Florida Statutes, must be executed and recorded in the Public Records of Orange County, Florida, prior to final approval of this plan and a copy of such Acknowledgment shall be submitted with all future permit applications for this project.
7. Development plan (DP) approval by the DRC (or BCC, as applicable), shall automatically expire if construction plans are required and have not been submitted and approved within two (2) years from DP approval; if construction plans are not required, such DP shall expire two (2) years from approval unless a building permit has been obtained within such two-year period. The foregoing notwithstanding, the DRC may, upon good cause shown, grant successive one (1) year extensions to the expiration date of a DP if the developer makes written request to the DRC chair prior to the expiration date.

8. Pursuant to Article XII, Chapter 30, Orange County Code, unless documentation to the County's satisfaction has been provided proving that a property is exempt or vested, each property must apply for and obtain concurrency. Unless required at a different time (by agreement, condition of approval, etc.), residential properties must obtain concurrency prior to approval of the plat; non-residential properties that are required to plat must obtain concurrency for any lot with an assigned use prior to approval of the plat (lots without an assigned use shall be labeled as "future development") and non-residential properties that are not required to plat must obtain concurrency prior to obtaining the first building permit. Concurrency may be obtained earlier than plat or building permit, but it is ultimately the responsibility of the applicant to obtain concurrency, including any proportionate share agreement, as applicable, in a timely fashion. Should an applicant wait to obtain concurrency until later in the development process, the County will not be responsible for any delays caused by the applicant's failure to obtain concurrency in a timely fashion.
9. The project shall comply with the terms and conditions of that certain Town Center East Road Network Agreement approved on December 06, 2011, and recorded at OR Book/Page 10306/1364 in the Public Records of Orange County, Florida, as may be amended.
10. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water, wastewater, and reclaimed water systems have been designed to support all development within the DP, and that construction plans are consistent with an approved and up-to-date Master Utility Plan for the PD.
11. Outdoor sales, storage and display shall be prohibited.
12. Pole signs and billboards shall be prohibited. All other signage shall comply with the approved master sign plan or Chapter 31.5, where applicable and as may be amended.
13. 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).
14. Prior to commencement of any earth work or construction, if one acre or more of land will be disturbed, the developer shall provide a copy of the completed National Pollutant Discharge Elimination System (NPDES) Notice of Intent (NOI) form for stormwater discharge from construction activities to the Orange County Environmental Protection Division, NPDES Administrator. The original NOI form shall be sent to the Florida Department of Environmental Protection by the developer.
15. Prior to issuance of any certificate of completion, all storm drain inlets shall have metal medallion inlet markers installed. Text on the marker shall read "No Dumping, Only Rain in the Drain." Specification detail will be provided within all plan sets. Contact the National Pollutant Discharge Elimination System (NPDES) Supervisor at the Orange County Environmental Protection Division for details.

16. Prior to construction plan approval, documentation must be provided certifying that this project has the legal right to tie into the master drainage system.
17. Prior to construction plan approval, documentation with supporting calculations shall be submitted which certifies that the existing drainage system and ponds have the capacity to accommodate this development and that this project is consistent with the approved master drainage plan (MDP) for this PD.
18. The covenants, conditions, and restrictions (CC&Rs) shall contain notification to potential purchasers, builders, or tenants of this development of the proximity of the West Orange & 545 solid waste disposal facilities that are located 0.5 miles to the southwest. Such Notification shall be recorded in the public records of Orange County prior to Certificate of Occupancy.
19. A waiver from Orange County Code Section 38-1390.51, Table 4-1 is granted to allow 100% of the building façade to be located at the 30 foot side street setback along Calamondin Drive in lieu of the required 10 foot build-to-line.

FUTURE LAND USE

Planned Development (PD) / Corporate Campus Mixed Use (CCMU)

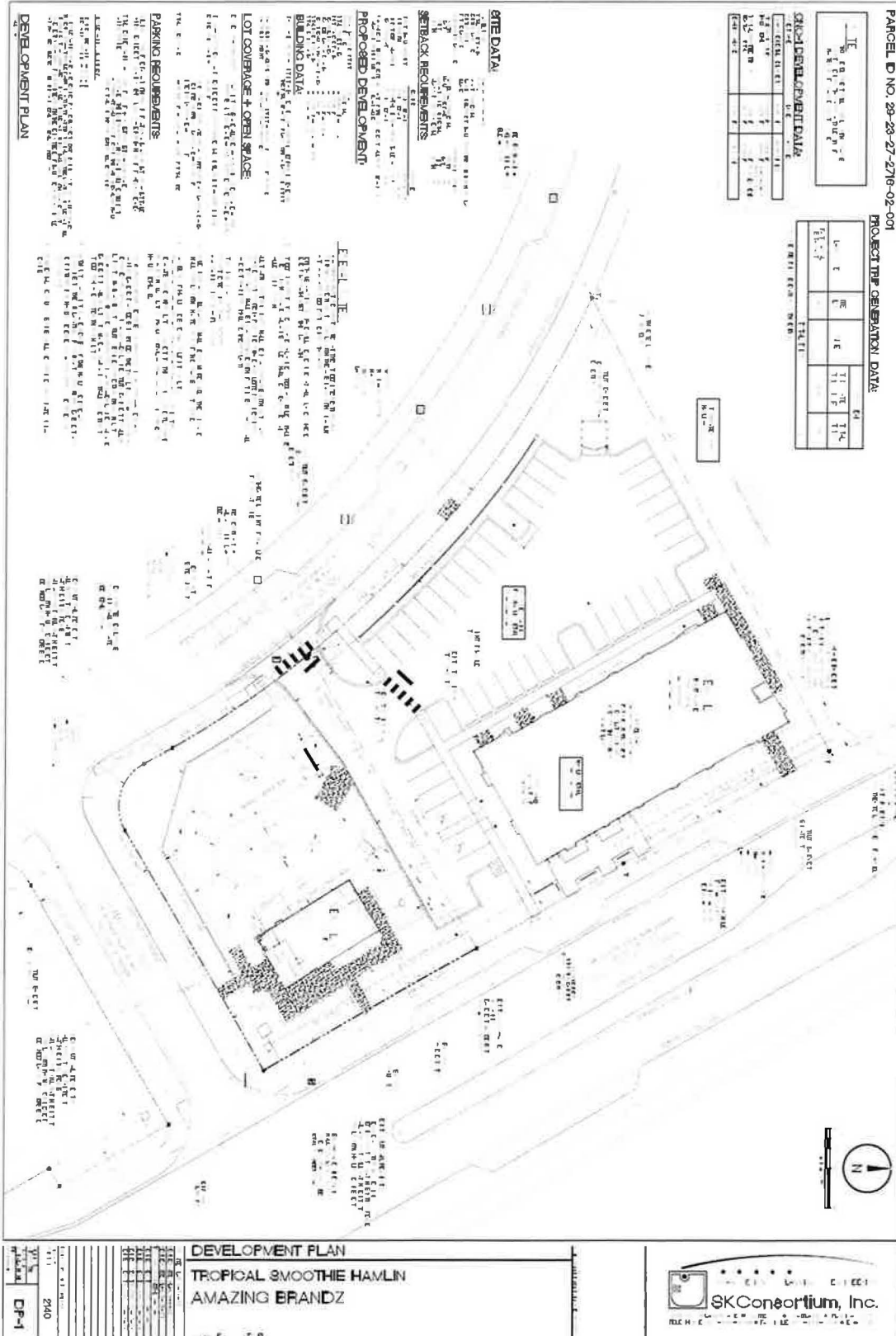


ZONING

PD (Planned Development District)



Site Plan Sheet





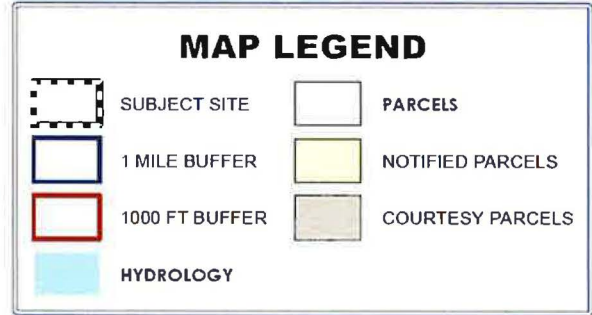
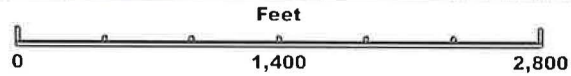
Public Notification Map

DP-23-06-185

Notification Map



SUBJECT SITE



BUFFER DISTANCE: 1000
OF NOTICES: 562

