





**Interoffice Memorandum**

**DATE:** April 6, 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:** April 21, 2020 – Public Hearing  
Peter Pensa, AVID Group  
Days Inn Lake Buena Vista Planned Development  
Case # CDR-19-10-327 / District 1

The Days Inn Lake Buena Vista Planned Development (PD) is located north of Palm Parkway and east of S. Apopka Vineland Road. The existing PD development program allows for 492 hotel rooms, with accessory restaurant, café, and gift shop uses.

Through this PD substantial change, the applicant is requesting two waivers from Orange County Code to eliminate landscaping and pavement setbacks on property lines shared with the adjacent Vista Centre PD. The affected area within the Days Inn Lake Buena Vista PD is currently improved with a drive aisle and parking area that serves the off-site property within the Vista Centre PD. The requested waivers will allow for continuation of the existing conditions, and the redevelopment of the adjacent site within the Vista Centre PD.

On February 12, 2020, 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 Days Inn Lake Buena Vista Planned Development / Land Use Plan (PD/LUP) dated “Received January 6, 2020”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1

Attachments  
JWW/EPR/jhs

**CASE # CDR-19-10-327**  
Commission District: # 1

**GENERAL INFORMATION**

**APPLICANT** Peter Pensa, AVID Group  
**OWNER** AP WH Orlando, LLC  
**PROJECT NAME** Days Inn Lake Buena Vista Planned Development  
**PARCEL ID NUMBER** 22-24-28-5112-00-030  
**TRACT SIZE** 9.48 gross acres  
**LOCATION** Generally north of Palm Parkway and east of S. Apopka Vineland Road  
**REQUEST** A PD substantial change to request the following waivers from Orange County Code:

1. A waiver from Chapter 24-4(a)(2) to provide no landscape strip and no hedge or tree plantings, in lieu of a seven (7) foot landscape strip and hedge/tree plantings along the west and east boundaries that abut Parcel ID's 22-24-28-0000-00-021 and 22-24-28-0000-00-045 (Vista Centre PD).
2. A waiver from Chapter 38-1278(4) to allow a side yard pavement setback of zero (0) feet, in lieu of thirty (30) feet along the west and east boundaries that abut Parcel ID's 22-24-28-0000-00-021 and 22-24-28-0000-00-045 (Vista Centre PD).

***Applicant's Justification for Waivers:*** *There is currently no landscape buffering at this location and it is not needed for compatibility reasons, this request is mutually supported by the two affected property owners. This area is already permitted and developed with a shared access driveway/drive aisle, cross-access between the adjacent parcels, parking spaces, drainage easement, and a sanitary sewer lift station. Approval of this waiver promotes the continued provision of shared cross-access and allows these site improvements to remain and/or be modified as part of the proposed redevelopment project on the adjacent property. Denial would adversely impact the neighbor as it would result in removal of required parking spaces needed for the existing and proposed (re)development on the adjacent property.*

**PUBLIC NOTIFICATION** A notification area extending beyond fifteen hundred (1,500) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Sixty-two (62) 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 Days Inn Buena Vista PD was originally approved June 6, 1995 and is generally located north of Palm Parkway and east of S. Apopka Vineland Road. Today, the PD includes entitlements for 492 hotel rooms, with accessory restaurant, café, and gift shop uses.

Through this PD substantial change, the applicant is requesting two waivers from Orange County Code to eliminate landscaping and pavement setbacks on property lines shared with the adjacent Vista Centre PD. The affected area within the Days Inn Lake Buena Vista PD is currently improved with a drive aisle and parking area that serves the off-site property within the Vista Centre PD. The requested waivers will allow for continuation of the existing conditions, and the redevelopment of the adjacent site within the Vista Centre PD.

### **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 Activity Center Mixed Use (ACMU). The proposed PD substantial change request is consistent with this designation and all applicable CP provisions; therefore, the request is consistent with the Comprehensive Plan.

### **Overlay Ordinance**

The subject property is located within the Tourist Commercial Signage 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**

Environmental Protection Division (EPD) staff reviewed the request, but did not identify any issues or concerns.

### **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 the decision to approve this substantial change 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) reviewed the request and determined that it will not impact public school capacity.

**Parks and Recreation**

Orange County Parks and Recreation staff reviewed the PD substantial change, 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 – (February 12, 2020)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Days Inn Lake Buena Vista Planned Development / Land Use Plan (PD/LUP), dated “January 6, 2020”, subject to the following conditions:**

1. Development shall conform to the Days Inn Lake Buena Vista Planned Development (PD) dated "Received January 6, 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 January 6, 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, 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. 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 land use plan/preliminary subdivision plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a capacity encumbrance letter or a capacity reservation certificate.
7. This project shall comply with the County's International Drive Activity Center Comprehensive Plan requirement for a 15-foot transit easement and a separate 20-foot landscape, pedestrian and utility easement needed for future roadway improvements. The easement areas required shall be shown on all plans and shall be conveyed concurrently at time of platting or dedicated to the County via separate instrument prior to Development Plan Approval.
8. The developer shall obtain water and wastewater from Orange County Utilities subject to County rate resolutions and ordinances.
9. 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.
10. Signage shall be consistent with the tourist commercial performance standards and in conformance with the plan, dated "Received March 15, 1995".
11. Outside sales, storage, and display shall be prohibited.
12. Length of stay shall not exceed 179 consecutive days.
13. The following waivers from Orange County Code are granted:
  - a) A waiver from Chapter 24-4(a)(2) to provide no landscape strip and no hedge or tree plantings, in lieu of a seven (7) foot landscape strip and hedge/tree plantings along the west and east boundaries that abut Parcel ID's 22-24-28-0000-00-021 and 22-24-28-0000-00-045 (Vista Centre PD).
  - b) A waiver from Chapter 38-1278(4) to allow a side yard pavement setback of zero (0) feet, in lieu of thirty (30) feet along the west and east boundaries that abut Parcel ID's 22-24-28-0000-00-021 and 22-24-28-0000-00-045 (Vista Centre PD).
14. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated June 28, 2011 shall apply:
  - a. A waiver from Section 38-1272(a)(1) is granted to increase the maximum impervious area from seventy (70) percent to seventy-seven (77) percent.
15. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated June 6, 1995 shall apply:

- a. Prior to construction plan approval, certification with supporting calculations shall be submitted which states that this project is consistent with the approved Master Drainage Plan for this Planned Development.
- b. Waiver of Section 38-1203(3) to allow concurrent review of the Development Plan for Phase 1 with the Land Use Plan is granted.
- c. To the extent required to comply with the consistency provision of the Growth Management Act, the following additional conditions shall be added to the Conditions of Approval:
  - i. Land uses shall be limited to those stated in Policy 1.1.3 of the International Drive Activity Center Plan. Furthermore, Policy 1.1.6 of the International Drive Activity Center Plan dealing with prohibited uses shall apply to development approvals.
  - ii. If the housing linkage program is in place prior to development plan approval for Phase II, development of nonresidential development shall be conditioned upon the development of residential units within the area designated Activity Center Residential on the future land use map. Past affordable housing efforts shall be recognized in any current linkage program.
  - iii. The development guidelines of the International Drive Activity Center shall apply to the subject property if they are established prior to development plan approval for Phase II, including but not limited to lighting standards, sign regulations, open space regulations, trip reduction program, access management controls, transit access design standards, building orientation, and location of parking.
  - iv. The property owner shall be required to participate in a property owners' association for the 1-Drive Activity Center upon its creation, subject to approval at a public hearing by the Board of County Commissioners.
  - v. Participation in a shuttle service connecting area attractions, major transportation centers, and on-site development shall be required.
- d. Section 31-1234(3)d shall be waived to allow 24% open space in lieu of 25%.
- e. Section 38-1287 of the zoning regulations shall be waived to allow setbacks as shown on the Land Use Plan.

**PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (June 28, 2011)**

Upon a motion by Commissioner Boyd, seconded by Commissioner Brummer, and carried by by all members, the Board made a finding of consistency with the Comprehensive Plan, and further approved the substantial change request by Rick Ortiz, Davidson Design Group, Inc.,



Days Inn Lake Buena Vista Planned Development (PD) Land Use Plan (LUP), to grant a waiver from Section 38-1272(a)(1) to increase the maximum impervious area from seventy (70) percent to seventy-seven (77) percent, subject to conditions.

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 Subject Property

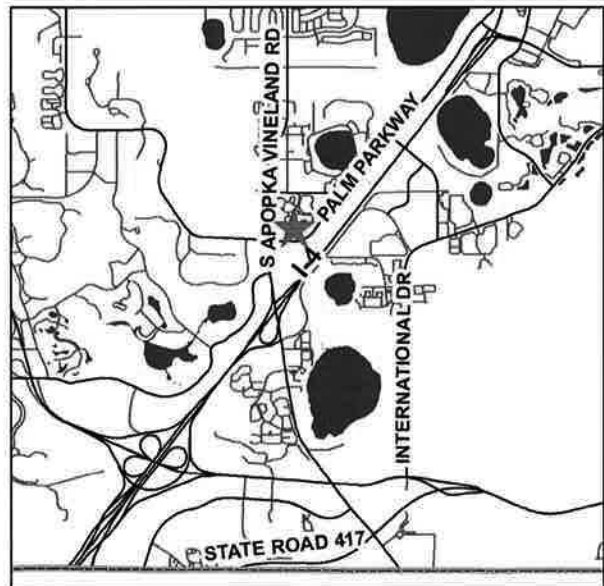


 Subject Property

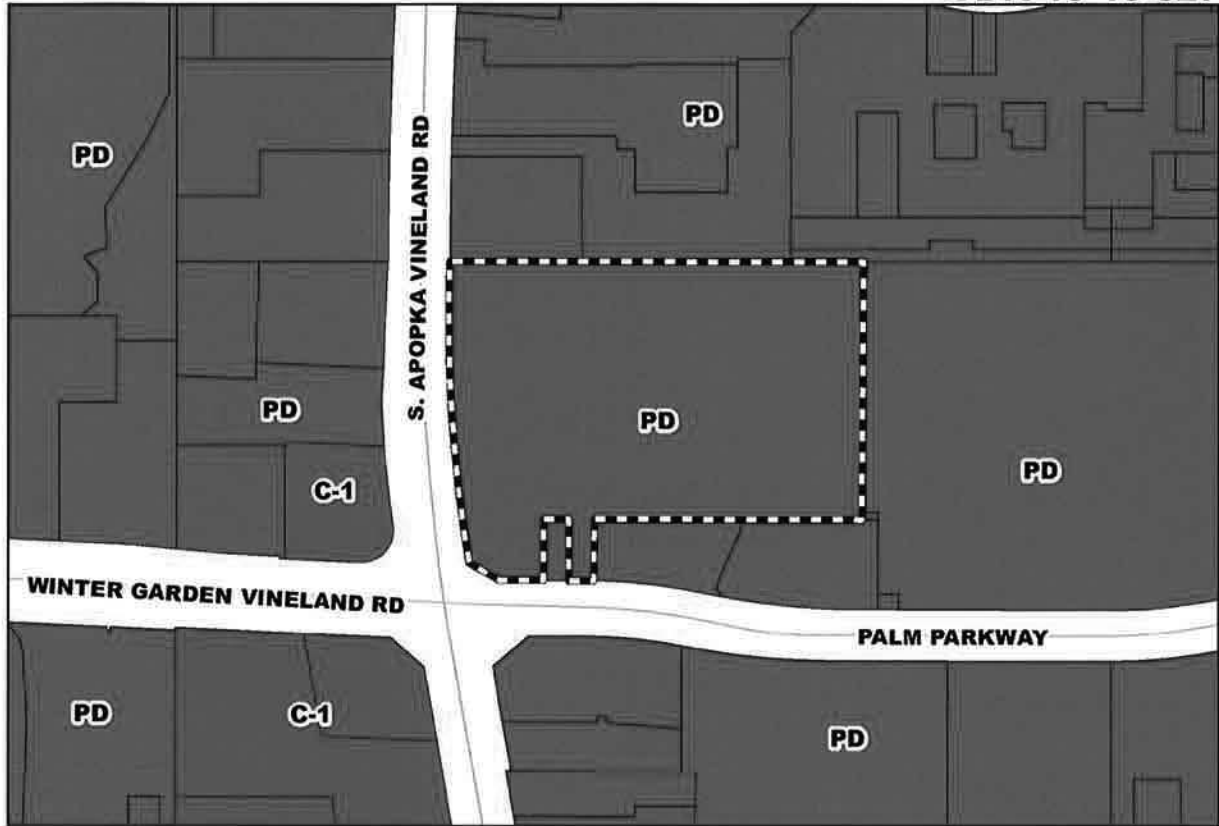
### Future Land Use Map

**FLUM:** Activity Center Mixed-Use (ACMU)  
**APPLICANT:** Peter Pensa, AVID Group  
**LOCATION:** Generally north of Palm Parkway and east of S. Apopka Vineland Road  
**TRACT SIZE:** 9.48 gross acres  
**DISTRICT:** # 1  
**S/T/R:** 22/24/28

1 inch = 300 feet



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 Subject Property



 Subject Property

**Zoning Map**

**ZONING:** PD (Planned Development District)

**APPLICANT:** Peter Pensa, AVID Group

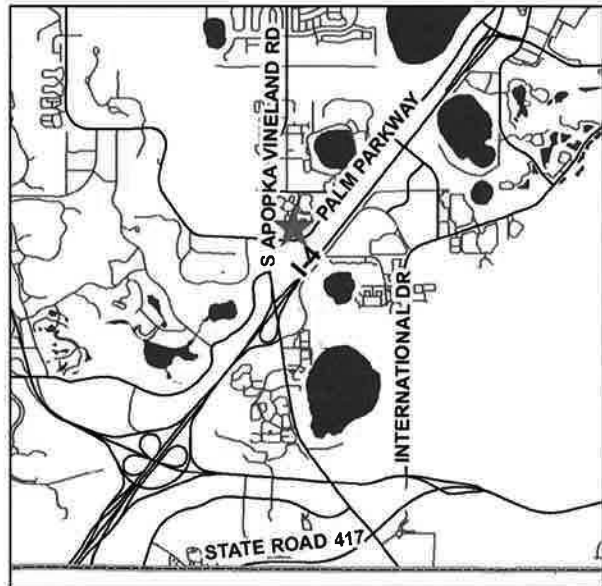
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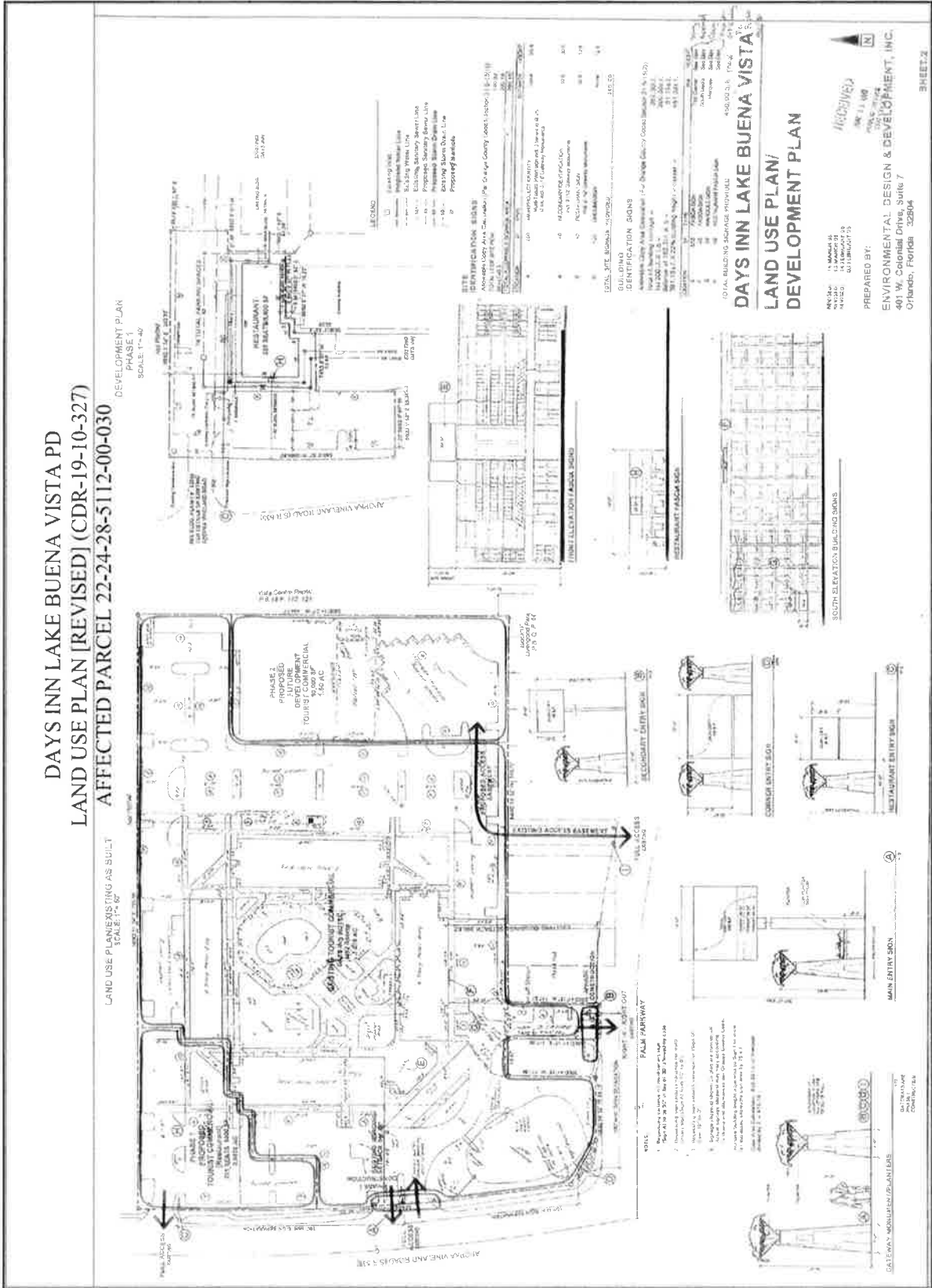
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# Days Inn Lake Buena Vista PD / LUP





# Notification Map

