



Interoffice Memorandum

DATE: November 4, 2022

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

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

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

SUBJECT: November 15, 2022 – Public Hearing
Katie LaBarr, AICP, Stantec Consulting Services, Inc.
Benson Planned Development
Case # CDR-22-03-103 / District 1

The Benson Planned Development (PD) is located south of International Drive and east of the southern extension of the Daryl Carter Parkway. The existing PD development program allows for 250,000 square feet of commercial uses, 1,000 hotel rooms, 450,000 square feet of office uses, 1,800 timeshare units, and 400 multi-family residential units.

Through this PD substantial change, the applicant is seeking to convert 11,850 square feet of commercial uses to 200 additional multi-family units.

On September 7, 2022, 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 Benson Planned Development / Land Use Plan (PD/LUP) dated “Received August 16, 2022”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1

Attachments
JVW/NT/JHS

CASE # CDR-22-03-103

Commission District: # 1

GENERAL INFORMATION

APPLICANT	Katie LaBarr, AICP, Stantec Consulting Services, Inc.
OWNER	DD Intl Drive 26.9, LLC
PROJECT NAME	Benson Planned Development (PD)
HEARING TYPE	Planned Development / Land Use Plan (PD / LUP)
LOCATION	South of International Drive, East of Daryl Carter Parkway
PARCEL ID NUMBER	23-24-28-5844-00-691
TRACT SIZE	90.4 gross acres (<i>overall PD</i>) 26.9 gross acres (<i>affected parcel</i>)
REQUEST	A PD substantial change to convert 11,850 sq. ft. of commercial into 200 additional multi-family units.
PUBLIC NOTIFICATION	A notification area extending beyond fourteen hundred (1,400) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Four hundred sixty-seven (467) notices were mailed to those property owners in the notification buffer area. A community meeting was not required for this application.

IMPACT ANALYSIS

Overview

The Benson PD was originally approved in September 1997, and currently allows 250,000 square feet of commercial, 1,000 hotel rooms, 450,000 square feet of office, 1,800 timeshare units, and 400 multi-family residential units.

Through this PD substantial change, the applicant is seeking to convert 11,850 square feet of commercial uses into 200 additional multi-family units.

Land Use Compatibility

The PD substantial change would not adversely impact any adjacent properties.

Comprehensive Plan (CP) Amendment

The subject property has an underlying Future Land Use Map (FLUM) designation of Activity Center Mixed Use (ACMU). The Benson PD was approved in 1997 and currently allows 250,000 square feet of commercial, 1,000 hotel rooms, 450,000 square feet of office, 1,800 timeshare units, and 400 multi-family residential units. The request will amend the plan by converting 11,850 square feet of commercial into 200 additional multi-family residential units. The proposed request is consistent with the designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

Community Meeting Summary

A community meeting was not held for this application.

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.

Overlay District Ordinance

The subject property is located in the Tourist Commercial Signage overlay. Signage for new development must comply with the requirements for signs found in Section 31.5, Division 2 of the County Code.

Environmental

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

Transportation Planning

Prior to development plan approval, a traffic study may be required with projected traffic generation based on established standards; all associated supporting infrastructure including connecting roadways, signalized intersection(s), and drainage systems shall be submitted as an E-permit construction plan and substantially completed prior to Certificate of Occupancy (see condition 6 below).

Schools

School capacity determination OC-22-054 was issued for this property on August 8, 2022, showing no available capacity at the elementary, middle and high schools. At the elementary school (Sunshine) the current adjusted utilization is 118.3% and with the proposed project, the utilization increases to 121.6%. For the middle school (Freedom) the current adjusted utilization rate is 102% and with the proposed project, the utilization increases to 103.1%. For the high school (Freedom) the current adjusted utilization rate is 113.9% and with the proposed project, the utilization increases to 114.5%. Unless otherwise vested, the development is still required to submit for concurrency review and, if necessary, enter into a Concurrency Mitigation Agreement.

Parks

Orange County Parks and Recreation staff reviewed the request and 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 7, 2022)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Benson Planned Development / Land Use Plan (PD/LUP), dated “August 16, 2022”, subject to the following conditions:

1. Development shall conform to the Benson Planned Development dated "Received August 16, 2022" 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 16, 2022" 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.

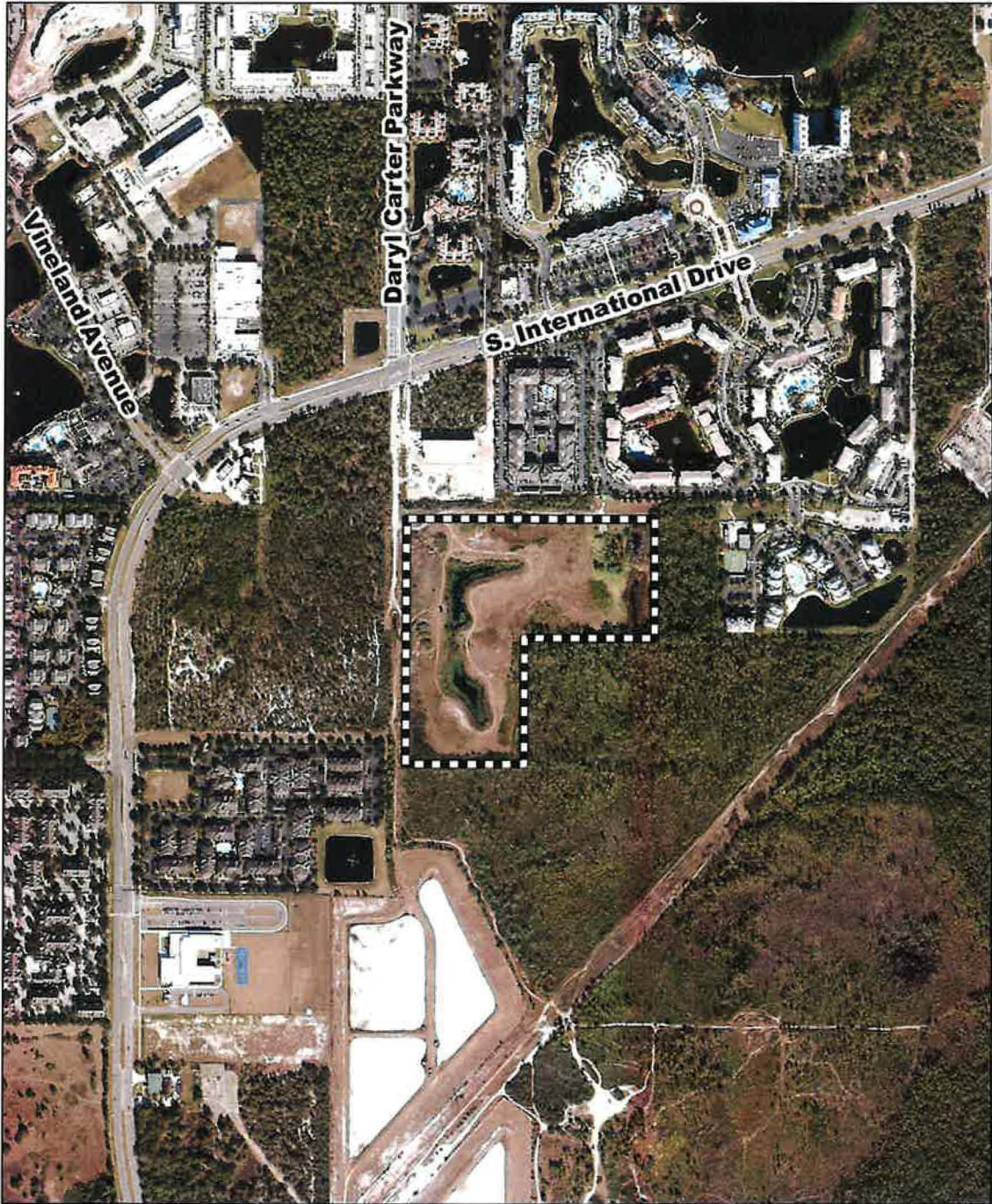
4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this land use plan to promptly disclose to the County any changes in ownership, encumbrances, or other matters of record affecting the property that is subject to the plan, and to resolve any issues that 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. Prior to or in conjunction with submittal of the initial development plan, a traffic operational study, including but not limited to a signal warrant analysis, must be provided with projected traffic volumes based on established standards. County and applicant must reach consensus on any required off-site improvements deemed necessary for safe and adequate access prior to Development Plan approval. Such improvements and all associated supporting infrastructure shall be submitted as an E-permit construction plan and a Certificate of Completion must be issued prior to issuance of the first Certificate of Occupancy, temporary or permanent.
7. 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 issuance of the initial certificate of occupancy. 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 capacity encumbrance letter or a capacity reservation certificate.
8. A Master Utility Plan (MUP) for the PD shall be submitted to Orange County Utilities at least thirty (30) days prior to submittal of the first set of construction plans. Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP). MUP updates shall be submitted to Orange County Utilities at least thirty (30) days prior to the corresponding construction plan

- submittal. The MUP and updates must be approved prior to Construction Plan approval.
9. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
 10. Short term / transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater.
 11. Pole signs and billboards shall be prohibited. All other signage shall comply with Chapter 31.5, Tourist Commercial standards of the Orange County code.
 12. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated September 9, 1997 shall apply:
 - a. To the extent required to comply with the consistency provisions of the Growth Management Act, the following conditions shall be added to the conditions of approval:
 - 1) Permitted and prohibited uses shall be those specified in Policies 1.1.3 and 1.1.6 of the International Drive Activity Center Plan.
 - 2) If the housing linkage program is in place prior to development plan approval, the 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.
 - 3) The development guidelines of the International Drive Activity Center shall apply to the subject property if they are established prior to development plan submittal, including but not limited to lighting standards, sign regulations, open space regulations, trip reduction programs, access management controls, transit access design standards, building orientation, and location of parking lots.
 - 4) The property owner shall be required to participate in a property owners' association upon its creation.
 - 5) Stormwater management facilities shall be designed as an aesthetic feature except where determined by the County Engineer to be technically unfeasible.
 - 6) Twenty-foot (20') wide pedestrian/landscape/utility easement plus a 15-foot-wide transit easement along ~~S.R. 535~~ International Drive for a total of 35 feet (with the transit easement along ~~S.R. 535~~ International Drive) shall be included in the development plan.

- 7) The development plan shall provide for interconnection of adjacent development either by cross-access easement or public right-of-way.
- 8) Electrical distribution lines shall be underground.
- 9) Participation in shuttle service connecting area attractions, major transportation centers and on-site development shall be required.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION *(September 9, 1997)*

Upon a motion by Commissioner Freeman, seconded by Commissioner Johnson, and carried by all present members, the Board approved the PD subject to conditions.

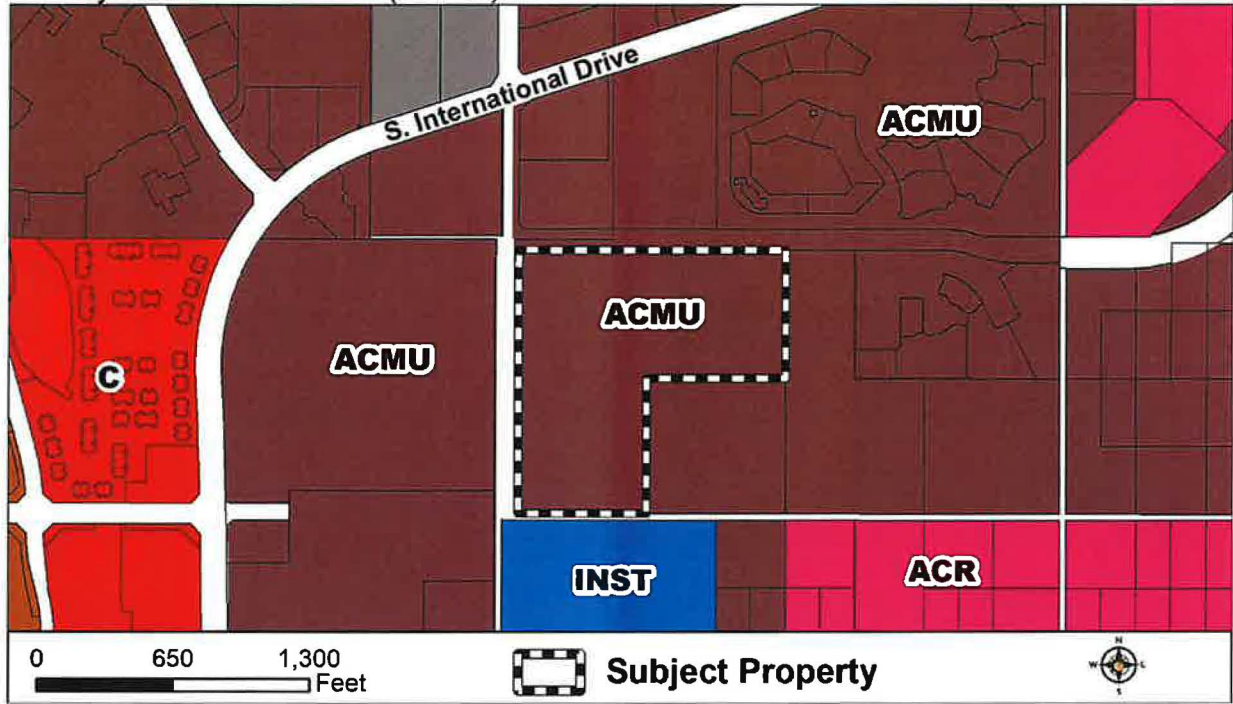


 Subject Property

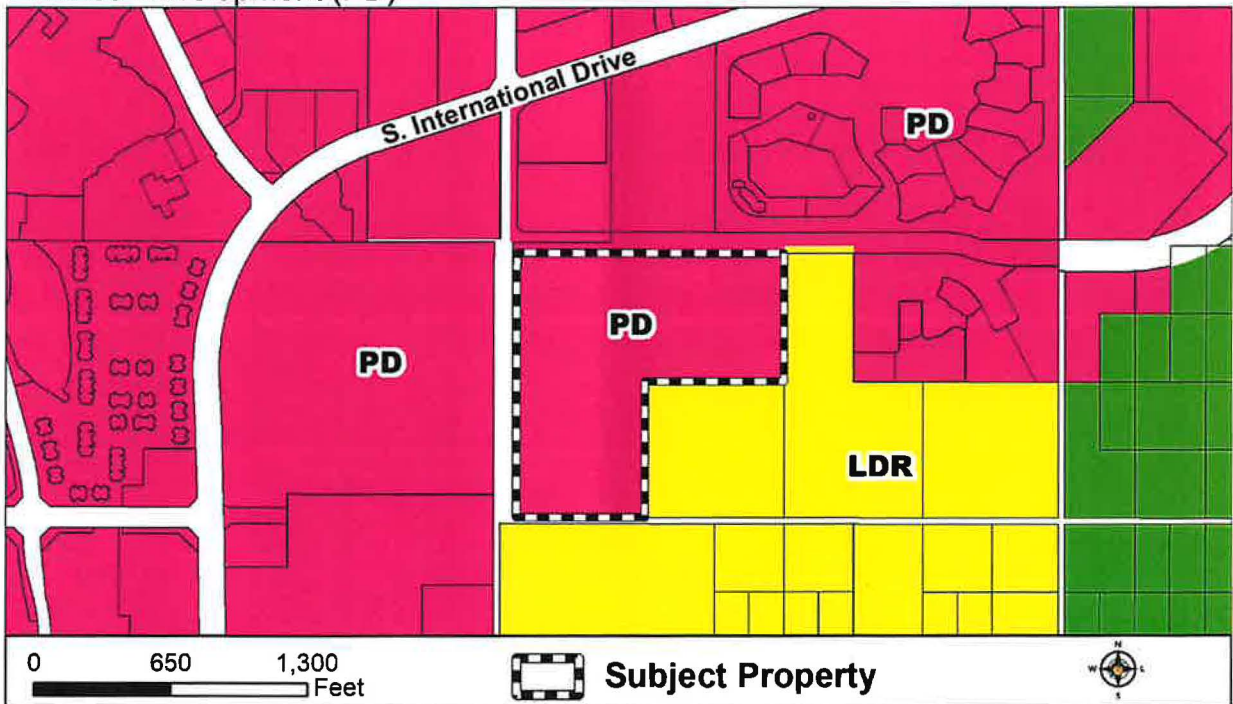


1 inch = 650 feet

Future Land Use Map Activity Center Mixed Use (ACMU)



Zoning Map Planned Development (PD)



Benson PD / LUP

LEGAL DESCRIPTION

Section 17.02, Florida Statutes, requires a legal description of the property to be included in the plat. The legal description of the property is as follows:

... (Detailed legal description text) ...

... (Additional legal description text) ...

COMMENTS

... (Comments regarding the legal description) ...

... (Additional comments) ...

LAND USE PLAN

... (Detailed description of the land use plan) ...

... (Additional details) ...

RECEIVED

By DRC Approved Stamp at 2:33 pm, Aug 16, 2022

Case Number: CDR-22-03-103

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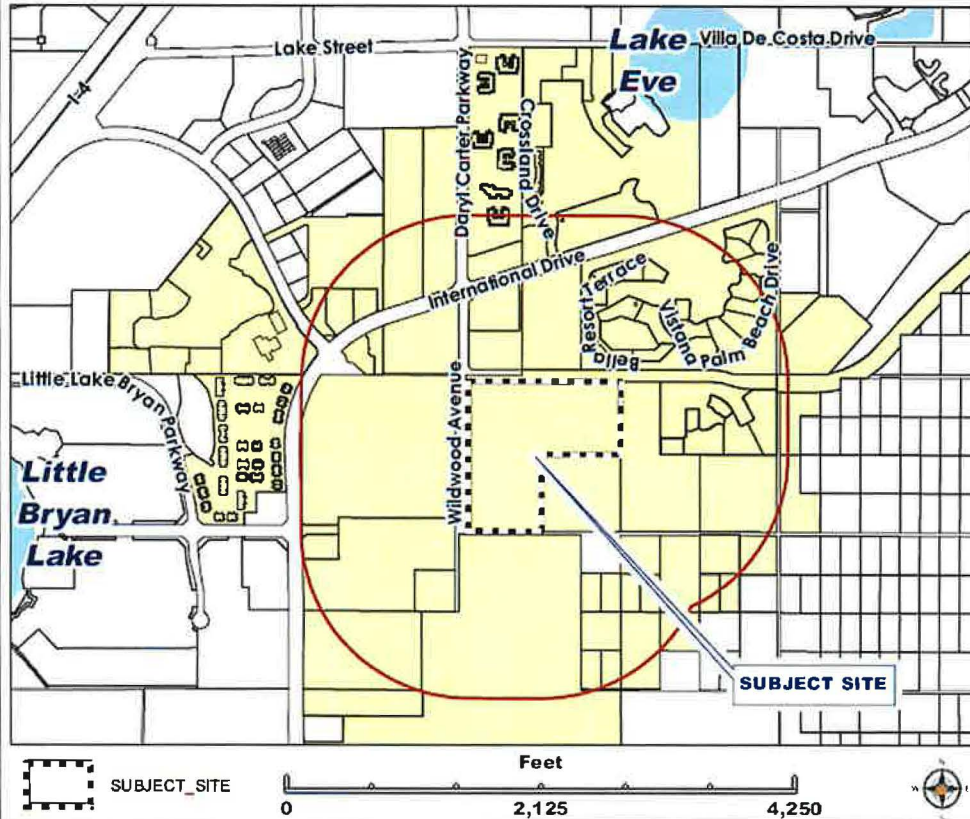
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Public Notification Map

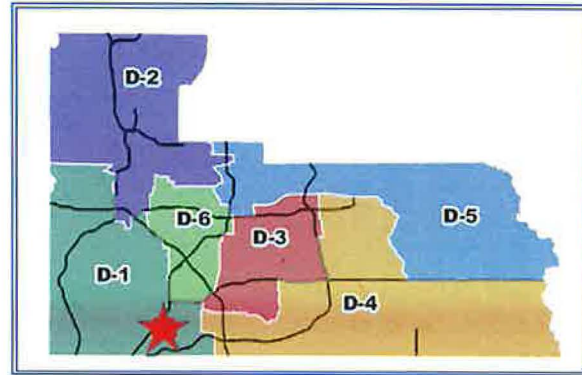
BENSON PD_CDR-22-03-103



MAP LEGEND

	SUBJECT_SITE		NOTIFIED_PARCELS
	1400 FT BUFFER		PARCELS
	HYDROLOGY		

BUFFER DISTANCE: 1400
OF NOTICES: 467



Notification Map

DRC Staff Report
 Orange County Planning Division
 BCC Hearing Date: November 15, 2022