



**Interoffice Memorandum**

**DATE:** September 8, 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

Eric P. Raasch,  
Jr., AICP

Digitally signed by Eric P.  
Raasch, Jr., AICP  
Date: 2020.09.08 17:47:28  
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**SUBJECT:** September 22, 2020 – Public Hearing  
Applicant: Robert Paymayesh  
Bargrove Property Planned Development / Bargrove Preliminary  
Subdivision Plan  
Case # CDR-20-06-158 / District 2

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of August 12, 2020, to approve a substantial change to the Bargrove Property Planned Development (PD) / Bargrove Preliminary Subdivision Plan (PSP) to delete four lots in order to reconfigure Active Park P-1 and Open Space OS-7, thereby eliminating BCC condition of approval #25; add two (2) lots on Street "B"; depict a phasing line; change grading type on Lots 41 – 46 and 74 – 86 from Type "A" to Type "C", and revise the cul-de-sac on Street "B".

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 PSP may be found in the Planning Division for further reference.

**ACTION REQUESTED:** Make a finding of consistency with the Comprehensive Plan and approve the Bargrove Property PD / Bargrove PSP dated "Received August 3, 2020", subject to the conditions listed under the DRC Recommendation in the Staff Report.  
**District 2**

JVW/EPR/lme  
Attachments

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**CASE # CDR-20-06-158**

Commission District # 2

**1. REQUEST**

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of August 12, 2020, to approve a substantial change to the Bargrove Property Planned Development (PD) / Bargrove Preliminary Subdivision Plan (PSP) to delete four (4) lots in order to reconfigure Active Park P-1 and Open Space OS-7, thereby eliminating BCC condition of approval #25; add two (2) lots on Street "B"; depict a phasing line; change grading type on Lots 41 – 46 and 74 – 86 from Type "A" to Type "C", and revise the cul-de-sac on Street "B".

Existing Board condition #25, which is proposed to be removed, reads as follows:

*25. All residential properties adjacent to open space and park tracts OS-4, OS-7, and P-1 shall meet the following requirements: fencing adjacent to such open space and park tracts shall be prohibited, front yards for such properties shall face the open space / park tracts, all such residential properties shall have front-facing facades, and such open space and park tracts shall be accessible to other homeowners in the subdivision. All of the above requirements shall be included in the covenants, conditions, and restrictions (CC&Rs). For those lots fronting the open space and park tracts, the portion of the lot facing the street shall be treated as the front yard for setback purposes.*

This condition was originally added by the DRC for purposes of Crime Prevention Through Environmental Design (CPTED), as the original layout featured a fully fenced park area with limited access points behind the residential units. Due to the re-design of the park area, this condition is no longer needed.

**2. PROJECT ANALYSIS**

- A. Location: North of Sadler Road / East of U.S. 441
- B. Parcel ID: 09-20-27-0000-00-023, 09-20-27-0000-00-086
- C. Total Acres: 192.92
- D. Water Supply: City of Apopka
- E. Sewer System: City of Apopka
- F. Schools: Zellwood ES – Enrolled: 619 / Capacity: 569  
Wolf Lake MS – Enrolled: 1,476 / Capacity: 1,090  
Apopka HS – Enrolled: 3,387 / Capacity: 3,230
- G. School Population: 52

- H. Park: East Tangerine Park - 1 Mile
- I. Proposed Use: 186 Single-Family Residential Dwelling Units
- J. Site Data: Maximum Building Height: 35'  
Minimum Living Area: 2,000 Square Feet  
Minimum Lot Width: 85'  
Building Setbacks:  
25' Front  
25' Rear  
10' Side  
15' Side Street  
50' NHWE
- K. Fire Station: 20 – 3200 North Washington Street
- L. Transportation: There are multiple failing roadway segments within the project's impact area and a traffic study and proportionate share may be required. However, no new entitlements are proposed under the current request.

### **3. COMPREHENSIVE PLAN**

The Future Land Use designation of the subject parcel is Rural Settlement 1/1 (RS 1/1). The PD (Planned Development District) zoning is consistent with this designation.

### **4. ZONING**

PD (Planned Development District) (Bargrove Property PD)

### **5. REQUESTED ACTION:**

Approval subject to the following conditions:

1. Development shall conform to the Bargrove Property PD Land Use Plan; Orange County Board of County Commissioners (BCC) approvals; Bargrove Preliminary Subdivision Plan dated "Received August 3, 2020," 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. In the event of a conflict or inconsistency between a condition of approval of this preliminary subdivision plan and the preliminary subdivision plan dated "Received August 3, 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 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 preliminary subdivision 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. The developer shall enter into a Use Agreement for the perpetual maintenance of the green area within the close in the cul-de-sac.
7. Fencing in the rear yards adjacent to Tracts P-1, OS-7, and OS-4 shall be limited to four (4) feet in height, if opaque, or six (6) feet in height if translucent.
8. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated July 17, 2018, shall apply:
  - a. 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.
  - b. Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.
  - c. The covenants, conditions, and restrictions (CC&Rs), or as appropriate, a recorded restrictive covenant on the property and a note on the plat shall include notification to the homebuyers and HOA/POA that neither potable wells nor irrigation wells using local groundwater will be allowed on site.
  - d. The applicant / owner has an affirmative obligation to expressly notify potential purchasers, builders, and/or tenants of this development, through an appropriate mechanism, including a conspicuous note on the plat and/or a recorded restrictive covenant, as applicable, shall include notification of the prior use of this property as a citrus grove.
  - e. 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.
  - f. No activity will be permitted on the site that may disturb, influence, or otherwise interfere with: areas of soil or groundwater contamination, or any

remediation activities, or within the hydrological zone of influence of any contaminated area, unless prior approval has been obtained through the Florida Department of Environmental Protection (FDEP) and such approval has been provided to the Environmental Protection Division of Orange County. An owner/operator who exacerbates any existing contamination or does not properly dispose of any excavated contaminated media may become liable for some portion of the contamination pursuant to the provisions in section 376.308, F.S.

- g. 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).
- h. 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.
- i. The site shall be stabilized following grubbing, clearing, earth work or mass grading to establish a dense stand of grass, or shall incorporate other approved Best Management Practices, on all disturbed areas if development does not begin within 7 days. Final stabilization shall achieve a minimum of seventy percent (70%) coverage of the disturbed land area and shall include a maintenance program to ensure minimum coverage survival and overall site stabilization until site development. Prior to clearing or grubbing, or approval of mass grading or constructions plans a letter of credit or cash escrow acceptable to the County shall be submitted to guarantee the required site stabilization and maintenance of all disturbed areas. The County Engineer shall establish the amount of the letter of credit or cash escrow.
- j. 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.
- k. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
- l. 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.

- m. New streets which are an extension of or in alignment with existing streets shall bear the same name as that borne by such existing streets.
- n. Short term / transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater.
- o. Unless otherwise specified to the County's satisfaction in the PSP, a Development Plan, in conformance with the requirements of Section 34-131(b) (20), including the appropriate group type, is required for the park / recreation tract(s) within this Preliminary Subdivision Plan (PSP), or phase thereof, as appropriate. Regardless of whether the park / recreation tract is included in the PSP or approved via a separate Development Plan, the park / recreation area tract(s) shall be constructed as part of the subdivision infrastructure and completed prior to issuance of the Certificate of Completion (C of C) for the infrastructure for the phase in which the park / recreation tract(s) is located.
- p. A mandatory pre-application/sufficiency review meeting for the plat shall be required prior to plat submittal, but after approval of the site construction plans. The applicant shall resolve, to the County's satisfaction, all items identified in the pre-application / sufficiency review meeting prior to formal submittal of the plat to the County.
- q. A Municipal Service Benefit Unit (MSBU) shall be established for the standard operation and maintenance of street lighting inventory including leasing, fuel, and energy costs for this project. Street lighting fixtures, poles, and luminaries used in this project shall be selected from the approved inventory list supplied by the Orange County Comptroller. Street lighting fixtures, poles, and luminaries used in this project shall be supplied and installed by the utility company that services the area of the project, as authorized by law or agreement, and thereafter maintains the street lighting inventory. The developer shall obtain approval of the street lighting fixtures, poles, and luminaries from the Orange County Comptroller Special Assessments Department via a "Letter of Commitment" prior to the installation of the street lighting fixtures, poles, and luminaries and prior to the plat being recorded by Orange County Comptroller Official Records section. All installation costs and street lighting operational costs prior to the effective date of the MSBU approval by the Orange County Board of County Commissioners shall be the sole responsibility of the developer.
- r. Roads and drainage system(s), including any retention pond(s), will be owned and maintained by Orange County with a Municipal Service Benefit Unit (MSBU) established for stormwater system functionality. Routine maintenance, including mowing, beyond that provided by the County, shall be the responsibility of the Homeowners' Association.
- s. The stormwater management system shall be designed to retain the 100-year / 24-hour storm event onsite, unless documentation with supporting

calculations is submitted which demonstrates that a positive outfall is available. If the applicant can show the existence of a positive outfall for the subject basin, then in lieu of designing for the 100-year/24-hour storm event, the developer shall comply with all applicable state and local stormwater requirements and regulations. An emergency high water relief outfall shall be provided to assure overflow does not cause flooding of surrounding areas.



## Zoning Map

CDR-20-06-158



Subject Parcel           Subject Property

**Zoning Map**

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

**APPLICANT:** Robert Paymayesh, PE Group, LLC

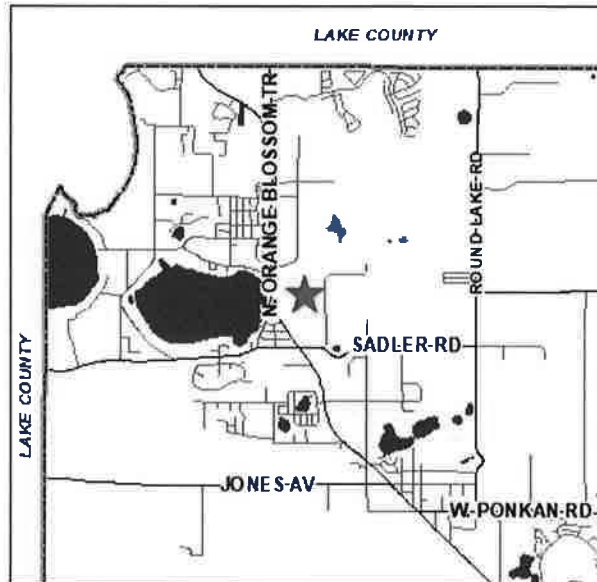
**LOCATION:** 5131 N. Orange Blossom Trail and 4950 Cemetery Road; or generally located east of N. Orange Blossom Trail and approximately 1,300 feet north of Sadler Road

**TRACT SIZE:** 192.92 gross acres (overall PD)

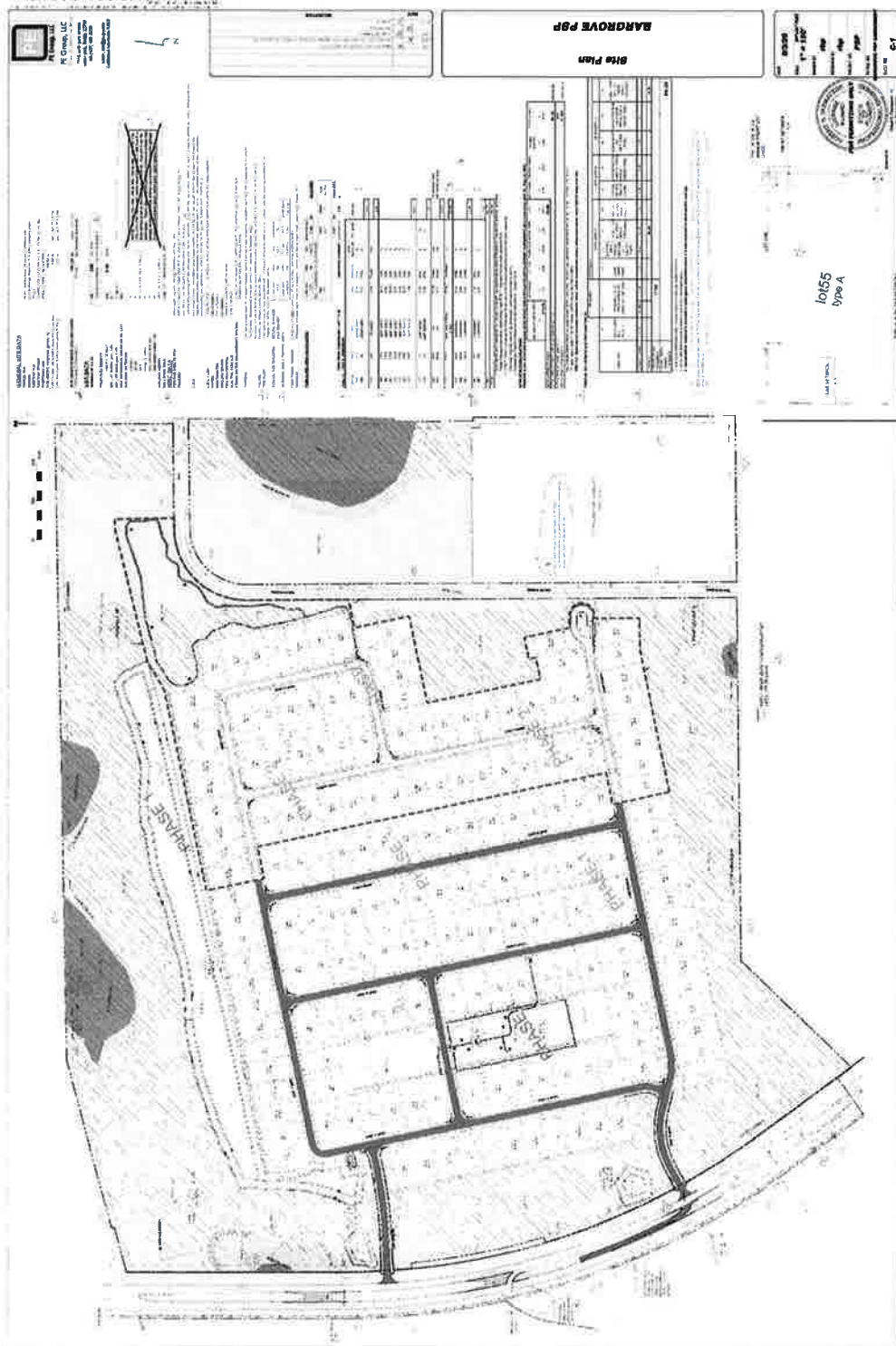
**DISTRICT:** # 2

**S/T/R:** 09/20/27

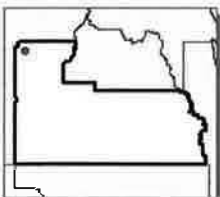
**1 inch = 950 feet**



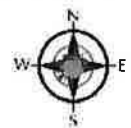
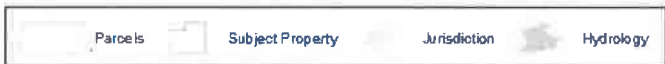
**Site Data & Notes Sheet & Site Plan Sheet**



**Aerial**



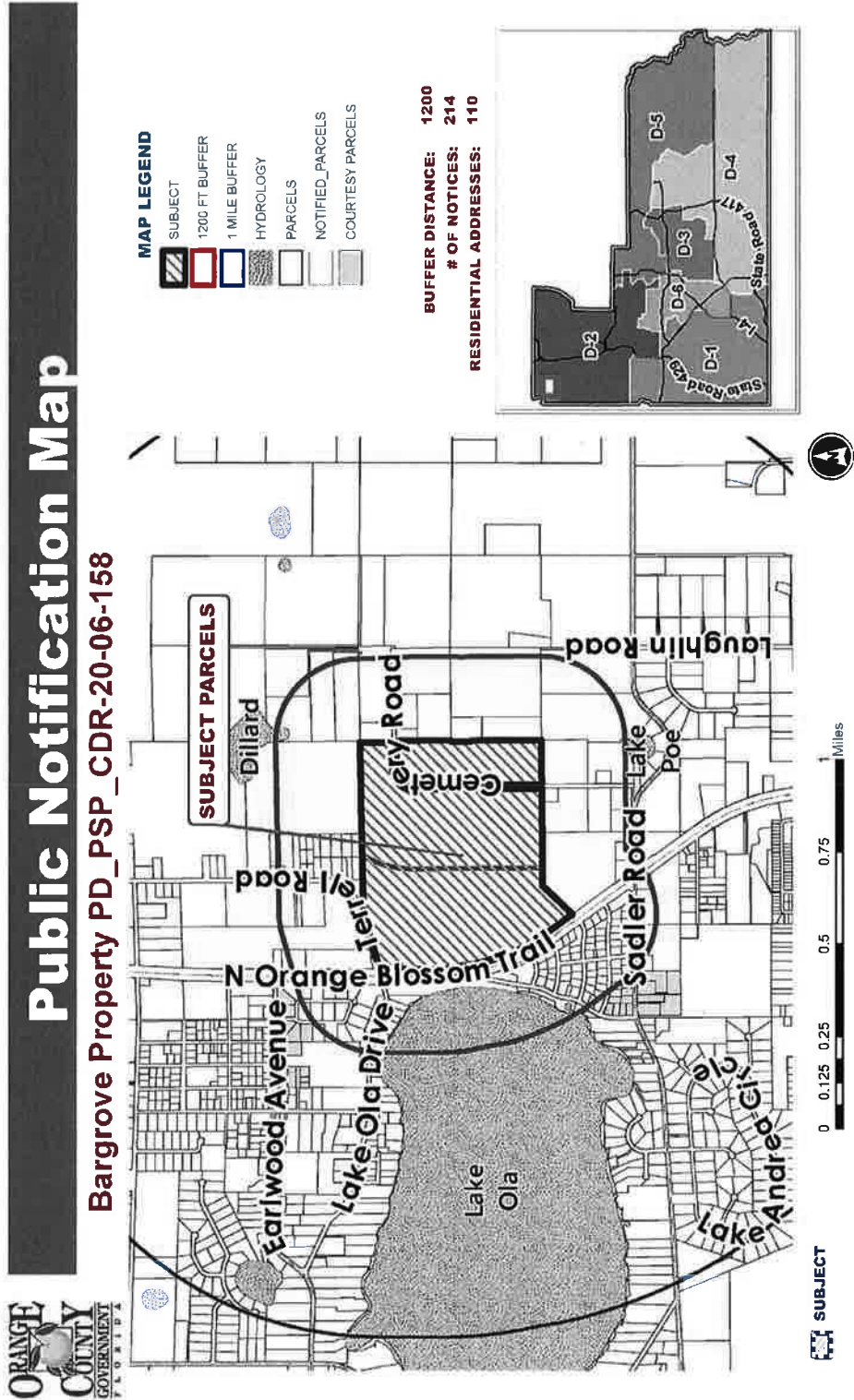
**Bargrove Property PD / Bargrove  
PSP Case # CDR-20-06-158**



1 : 6,000  
1 in : 500 ft

# Notification Map

S:\Business Systems\Board Administrations\SUBSTANTIAL CHANGE\20\DR\Bargrove Property\_PD\_PSP\_CDR-20-06-158\CDR-20-06-15



## Public Notification Map

Bargrove Property PD\_PSP\_CDR-20-06-158

