

Interoffice Memorandum

DATE: April 25, 2025

TO: Mayor Jerry L. Demings and County Commissioners

THROUGH: N/A

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

CONTACT: Nicolas Thalmueller, AICP, DRC Chairman



PHONE: (407) 836-5523

DIVISION: Development Review Committee

ACTION REQUESTED:

Make a finding of consistency with the Comprehensive Plan and approve the Fenton Street Planned Development / Land Use Plan (PD / LUP) received March 10, 2025, subject to the conditions listed under the Planning & Zoning Commission (PZC) Recommendation in the Staff Report. District 1.

PROJECT: Fenton Street Land Use Plan / Planned Development (LUP-24-12-297)

PURPOSE: The subject property is located on the south side of Fenton Street just east of S Apopka Vineland Road, and adjacent to but not located within the Buena Vista North (BVN) Overlay District. The property is immediately bounded by a single-family subdivision to the north, wetlands to the south, and a single-family residence to the west. However, a couple parcels farther west is a multi-family entitled parcel within the Kerina Parkside PD and a mixed use commercial and multi-family residential development across S Apopka Vineland.

Through this request, the applicant is seeking to rezone 3.22 acres from R-CE (Country Estate District) to PD (Planned Development District) with a proposed development program of up to six single-family attached residential dwelling units.

This proposal received a recommendation of approval from the DRC on March 19, 2025, and a recommendation of approval from the PZC on April 24, 2025.

BUDGET: N/A

CASE # LUP-24-12-297

Commission District: # 1

GENERAL INFORMATION

APPLICANT Momtaz Barq, Terra-Max Engineering, Inc.

OWNER If Youre Lucky Revocable Living Family Trust

PROJECT NAME Fenton Street Land Use Plan / Planned Development (LUP / PD)

PARCEL ID NUMBER(S) 15-24-28-5844-00-161

TRACT SIZE 1.24 upland developable acres / 3.22 gross acres

LOCATION South of Fenton Street / West of S. Apopka Vineland Road / East of Winter Garden Vineland Road

REQUEST To rezone 3.22 acres from R-CE (Country Estate District) to PD (Planned Development District) with a proposed development program of up to six (6) single-family attached residential dwelling units.

PUBLIC NOTIFICATION The notification area for this public hearing extended beyond 1,000 feet. Chapter 30-40(c)(3)(a) of Orange County Code requires the owners of the property within three hundred (300) feet of the subject property to be notified at least 10 days prior to the date of the hearing. Two hundred and sixty five (265) notices were mailed to those property owners in the mailing area.

IMPACT ANALYSIS

Project Overview

The subject property is located on the south side of Fenton Street just east of S. Apopka Vineland Road, and adjacent to but not located within the Buena Vista North (BVN) Overlay District. The property is immediately bounded by a single-family subdivision to the north, wetlands to the south, and a single-family residence to the west. However, a couple parcels farther east is a multi-family entitled parcel within the Kerina Parkside Planned Development (PD) and a mixed use commercial and multi-family residential development across S. Apopka Vineland.

Through this request, the applicant is seeking a development program of up to six (6) single-family attached residential dwelling units. All proposed development will be located on the upland developable portion of the subject property along Fenton Street that is designated Medium Density Residential (MDR) on the Future Land Use Map (FLUM). The southern portion of the property, designated Rural (R) on the FLUM, is identified as wetland and will not include any development.

SITE DATA

Existing Use	Undeveloped Land
Adjacent Zoning	N: Planned Development (PD) E: R-CE (Country Estate District) W: PD (Planned Development District) & R-CE (Country Estate District) S: PD (Planned Development District)
Adjacent Land Uses	N: Single-Family Subdivision E: Single-Family Residence W: Wetland S: Wetland

APPLICABLE PD DEVELOPMENT STANDARDS

PD Perimeter Setback:	25 feet
Maximum Building Height:	35 feet
Minimum Lot Size:	2,000 square feet
Minimum Lot Width:	20 feet
Minimum Living Area:	500 square feet (under HVAC)

Minimum Building Setbacks

Front Setback:	20 feet
Rear Setback:	20 feet
Side Setback:	0 feet / 10 feet*
<i>*0 feet for internal lots. 10 feet for end units</i>	

Minimum Open Space:	Consistent with Code Section 38-1234
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Land Use Compatibility

The applicant is seeking to rezone 3.22 acres from R-CE to PD in order to construct up to six (6) single family attached residential units (townhomes). No waivers are requested. The proposed development program is compatible with existing development in the area and would not adversely impact any adjacent properties.

Comprehensive Plan (CP) Consistency

The subject property has an underlying Future Land Use Map (FLUM) designation of Low Medium Density Residential (LMDR) on the upland portions and Rural (R) on the wetlands portions. The LMDR designation allows for a maximum residential density of ten (10) dwelling unit per net developable acre. The proposed PD zoning district and development program is consistent with the LMDR FLUM designation, therefore a CP amendment is not necessary. Additionally, the request is consistent with the following CP provisions:

FLU1.4.2 states that Orange County shall ensure that land uses changes are compatible with and serve existing neighborhoods.

FLU1.4.4 states that the disruption of residential areas by poorly located and designed commercial activities shall be avoided.

FLU8.1.1 states that the zoning and future land use correlation shall be used to determine consistency with the Future Land Use Map. Land use compatibility, the location, availability and capacity of services and facilities, market demand, and environmental features shall also be used in determining which specific zoning district is most appropriate. Density is restricted to the maximum and minimum allowed by the Future Land Use Map designation regardless of zoning.

OBJ FLU8.2 states that compatibility will continue to be the fundamental consideration in all land use and zoning decisions.

FLU8.2.1 states that land use changes shall be required to be compatible with existing development and development trend in the area. Performance restrictions and/or conditions may be placed on property through the appropriate development order to ensure compatibility. No restrictions or conditions shall be placed on a Future Land Use Map change.

FLU8.2.11 states that compatibility may not necessarily be determined to be a land use that is identical to those uses that surround it. Other factors may be considered, such as the design attributes of the project, its urban form, the physical integration of a project and its function in the broader community, as well its contribution toward the Goals and Objectives in the CP. The CP shall specifically allow for such a balance of considerations to occur.

Overlay 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.

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Environmental

An Orange County Wetland Determination (WD) WD-24-11-080 application was submitted on 11/04/2024 and is in progress. Natural Resource Impact Permit (NRIP) application NGP-25-02-007 was submitted on 02/10/2025 for proposed wetland/surface water impacts. No wetland/surface water or upland buffer encroachments shall be permitted, unless an impact permit is approved by Orange County EPD consistent with OC Code Chapter 15, Article X Wetland and Surface Water Protection.

No construction, clearing, filling, alteration or grading is allowed within or immediately adjacent to a wetland/surface water, or within an upland buffer, without first obtaining a Natural Resource Impact Permit (NRIP) approved by the County and obtaining other applicable jurisdictional agency permits.

Transportation Planning

Existing/Valid transportation capacity entitlements not found. Development will require transportation capacity via a Capacity Encumbrance Letter (CEL) Application. NOTE: Should this project be located near failing roadways then a Traffic Impact Analysis (TIA) will be required with the CEL application.

Based on the Concurrency Management database (CMS) dated 1/17/2025, there are multiple failing roadway segments within the project's impact area. Apopka-Vineland Rd, from Kilgore Rd to Sand Lake Rd (1 segment(s)), Turkey Lake Rd, from Central Florida Pkwy to Sand Lake Commons Blvd (1 segment(s)), Vineland Ave, from Winter Garden-Vineland Rd / Kissimmee Vineland / SR 535 to Little Lake Bryan Pkwy (1 segment(s)), and Winter Garden-Vineland Rd, from Interstate 4 to Sunset Blvd (4 segment(s)) are failing. This information is dated and subject to change.

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, and non-residential properties which are required to plat, must obtain concurrency prior to approval of the plat 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.

Community Meeting Summary

A community meeting was held Thursday, February 27, 2025 at Sand Lake Elementary School for this project. A total of 265 notices were sent to a 1000- foot buffer surrounding the proposed project area. There were approximately 31 residents in attendance, excluding Orange County staff, representatives from District 1, and the applicant team. Several concerns were expressed during the meeting including the type of uses proposed and the possible effects on surrounding neighborhood, which is lower density and or/rural in character, increased traffic, particularly around the intersection of Fenton Street and Apopka Vineland Road. The overall tone of the meeting was negative.

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Utilities

Water: Orange County Utilities

Wastewater: Orange County Utilities

Schools

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

Sand Lake ES

Enrollment: 730 / Capacity: 768

Southwest MS

Enrollment: 1,276 / Capacity: 1,300

Lake Buena Vista HS

Enrollment: 2,114 / Capacity: 2,707

Parks and Recreation

Parks and Recreation Staff have reviewed the request and did not identify any issues or concerns.

State of Florida Notice

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.

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 – (March 19, 2025)

Make a finding of consistency with the Comprehensive Plan and approve the substantial change to the Fenton Street Planned Development / Land Use Plan (PD/LUP), dated "Received March 10, 2025", subject to the following conditions:

1. Development shall conform to the Fenton Street Land Use Plan (LUP) dated "Received March 10, 2025," 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

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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 March 10, 2025," 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 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, as may be amended, 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.

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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, as may be amended, must be executed and recorded in the Public Records of Orange County, Florida, prior to issuance of any permits associated with this plan and a copy of such Acknowledgment shall be submitted with all future permit applications for this project.
7. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
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. Any development associated within this Planned Development shall provide adequate off-site improvements as determined by the County Engineer to accommodate the project as proposed in any development plan and/or preliminary subdivision plan, including but not limited to improvement of Fenton Street from Woodland Forrest Road to the western boundary of the property. Such off-site improvements within a publicly dedicated right-of-way must be submitted as an E-Plan along with the required surety per Chapter 21-202 and 21-208.
10. 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.

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11. Unless a Natural Resource Impact Permit (NRIP) is approved by Orange County consistent with Orange County Code Chapter 15, Article X, "Wetland and Surface Water Protection", prior to Construction Plan approval, no wetland, surface water or buffer encroachments shall be permitted. Approval of this plan does not authorize any direct or indirect wetland and surface water impacts.
12. All acreages identified as wetlands, surface waters and upland buffers are considered approximate until finalized by a Wetland Determination (WD) and/or a Natural Resource Impact Permit (NRIP). Approval of this plan does not authorize any direct or indirect wetland/surface water impacts.
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 and Wildlife Conservation Commission (FWC).
14. Short term/transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater.
15. Pole signs and billboards shall be prohibited. All other signage shall comply with Chapter 31.5 of the Orange County Code, as may be amended.
16. 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.
17. 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, and non-residential properties which are required to plat, must obtain concurrency prior to approval of the plat 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.

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PLANNING AND ZONING COMMISSION (PZC) PUBLIC HEARING SYNOPSIS

The staff report was presented to the PZC with the recommendation that they make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the requested PD (Planned Development District) zoning. The applicant was present and agreed with the staff recommendation. No members of the public were present to speak during public comment.

Staff indicated that three hundred forty-six (346) notices were sent to property owners and residents extending beyond 1,500 feet surrounding the property, and that staff had received zero (0) responses in favor, and zero (0) responses in opposition of the request.

A motion was made by Commissioner Spears and seconded by Commissioner Fernandez to recommend APPROVAL of the requested PD (Planned Development District) zoning subject to twenty-five (25) conditions listed in the staff report including five (5) from Orange County Code. The motion carried 4 to 1.

Motion / Second *Gordon Spears / Eddie Fernandez*

Voting in Favor *Gordon Spears, Eddie Fernandez, George Wiggins and Evelyn Cardenas*

Voting in Opposition *David Boers*

Absent *Walter Pavon, Camille Evans, Nelson Pena, and Michael Arrington*

Commented [NT1]: This is a placeholder and will be filled after the PZC hearing

PZC RECOMMENDED ACTION

Planning and Zoning Commission (PZC) Recommendation – (April 24, 2025)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Fenton Street Planned Development / Land Use Plan (PD/LUP), dated "Received March 10, 2025", subject to the following conditions:

1. Development shall conform to the Fenton Street Land Use Plan (LUP) dated "Received March 10, 2025," 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

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condition of approval and the land use plan dated "Received March 10, 2025," 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 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, as may be amended, 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

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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).

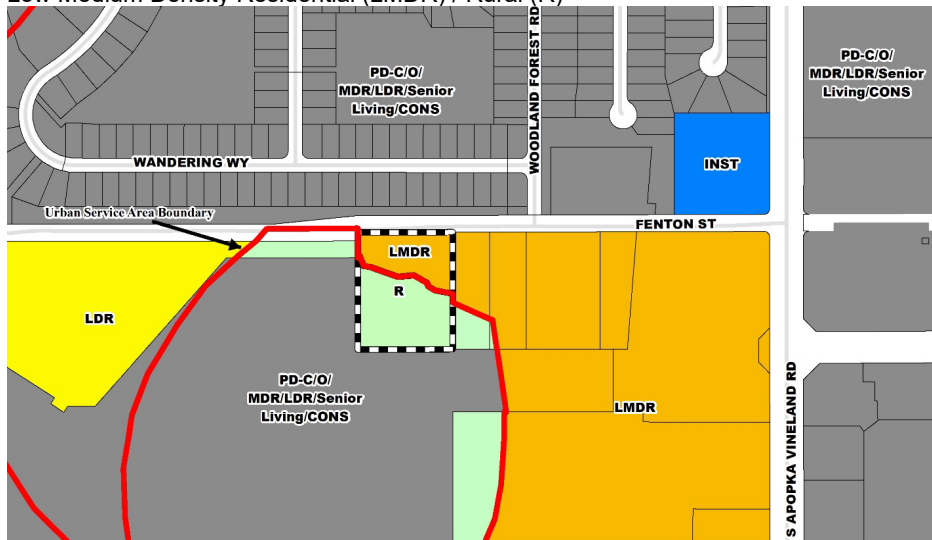
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11. Unless a Natural Resource Impact Permit (NRIP) is approved by Orange County consistent with Orange County Code Chapter 15, Article X, "Wetland and Surface Water Protection", prior to Construction Plan approval, no wetland, surface water or buffer encroachments shall be permitted. Approval of this plan does not authorize any direct or indirect wetland and surface water impacts.
12. All acreages identified as wetlands, surface waters and upland buffers are considered approximate until finalized by a Wetland Determination (WD) and/or a Natural Resource Impact Permit (NRIP). Approval of this plan does not authorize any direct or indirect wetland/surface water impacts.

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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 and Wildlife Conservation Commission (FWC).
14. Short term/transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater.
15. Pole signs and billboards shall be prohibited. All other signage shall comply with Chapter 31.5 of the Orange County Code, as may be amended.
16. 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.
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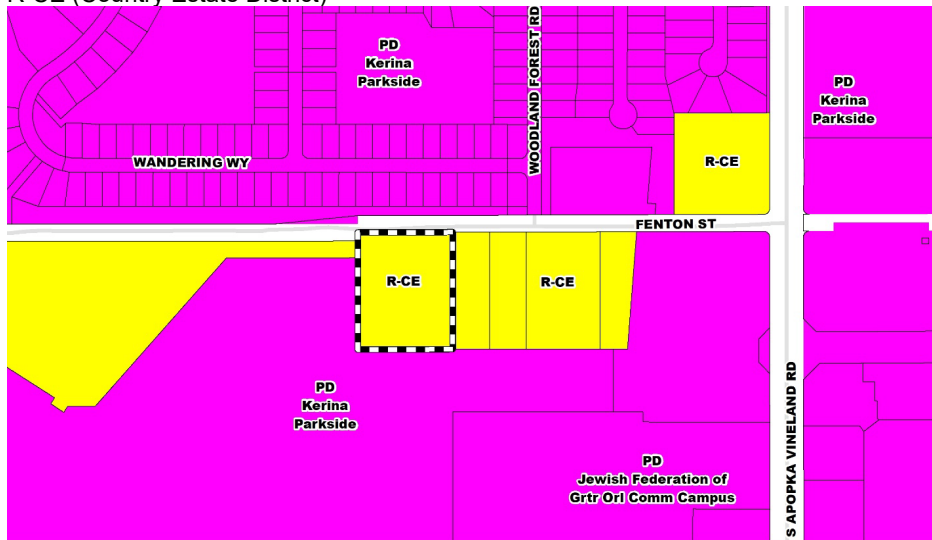
FUTURE LAND USE

Low Medium Density Residential (LMDR) / Rural (R)



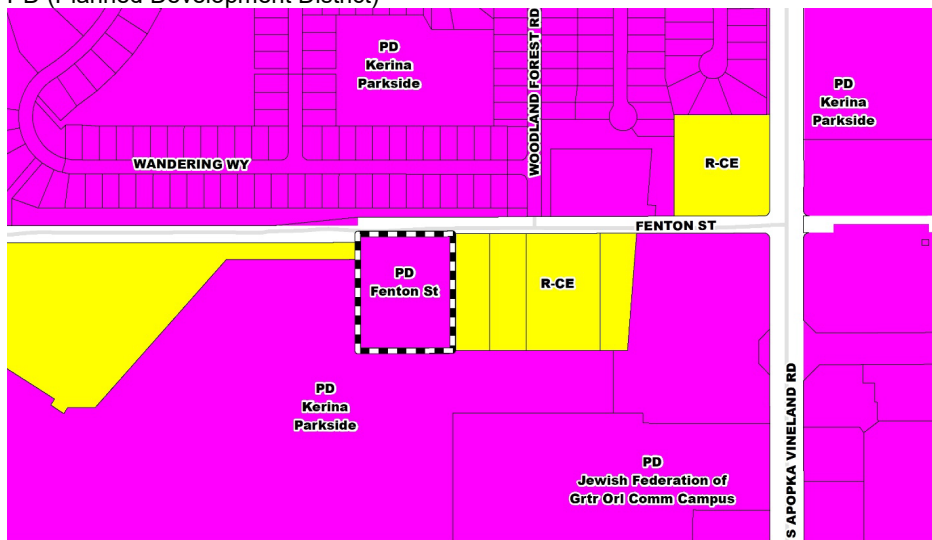
ZONING - CURRENT

R-CE (Country Estate District)

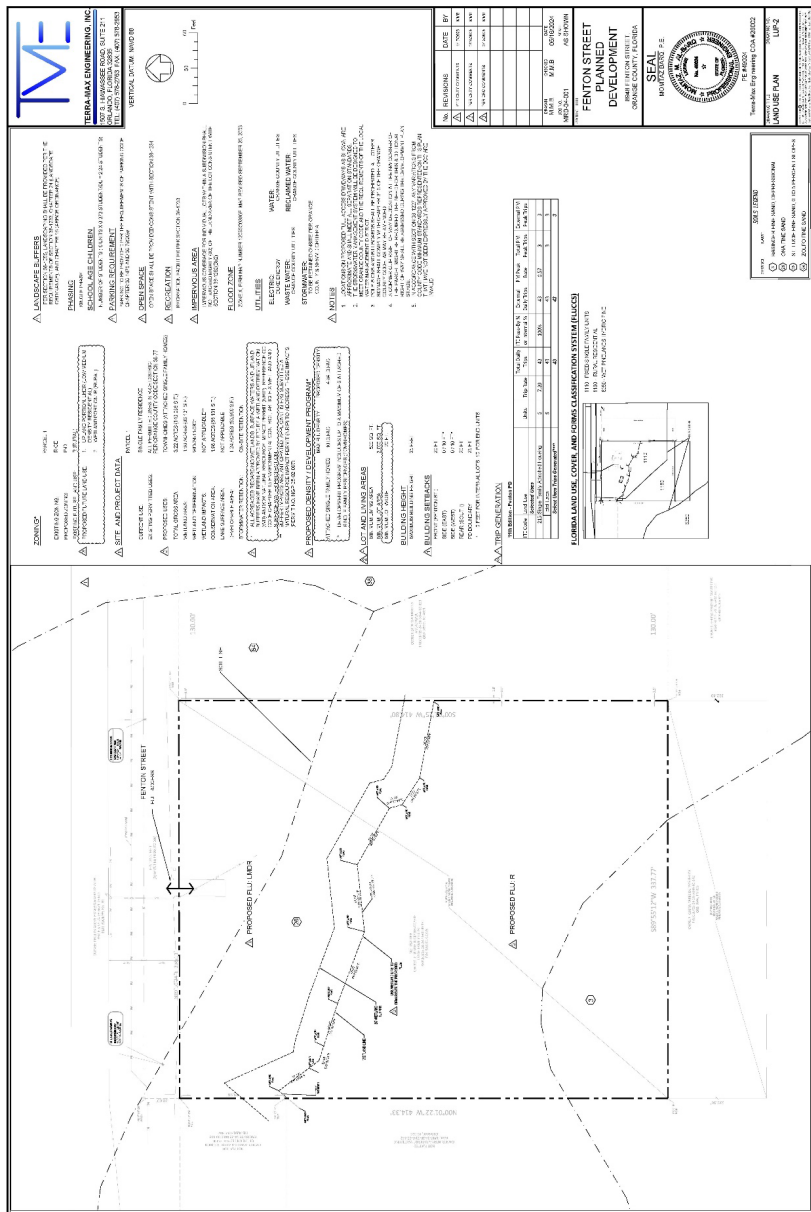


ZONING - PROPOSED

PD (Planned Development District)



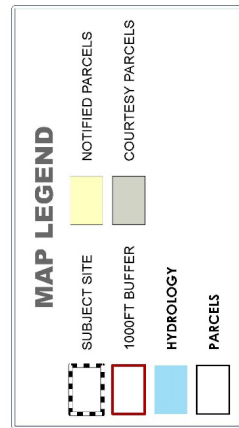
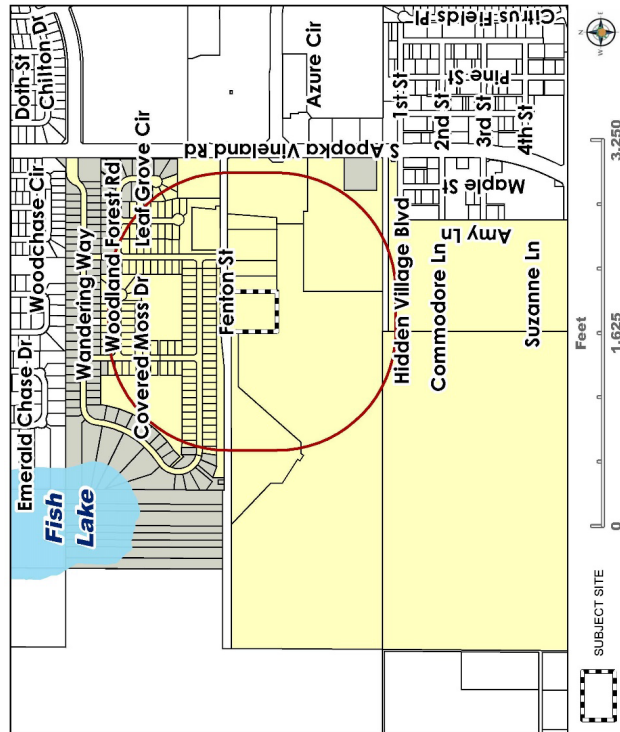
Site Plan Sheet



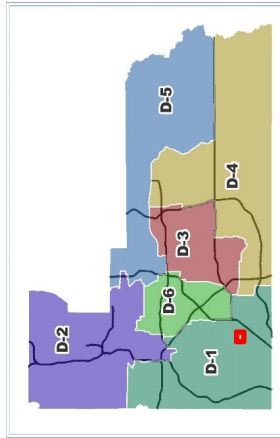


Public Notification Map

LUP-24-12-297



BUFFER DISTANCE: 1000
OF NOTICES: 265



\\ocnas\gmsdept\Business Systems\Board Administration\2_PZC\2025\4 - April\LUP-24-12-297\LUP-24-12-297.mxd