



Interoffice Memorandum

DATE: September 6, 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: September 27, 2022 – Public Hearing
Jason Mahoney, NV5, Inc.
Grassmere Reserve Planned Development
Case # CDR-22-03-109 / District 2

The Grassmere Reserve Planned Development (PD) is located north of N. Orange Blossom Trail, east of Junction Road, and south of W. Ponkan Road. The existing PD development program allows for 100 single-family units and 32,670 square feet of commercial uses.

Through this PD substantial change, the applicant is seeking to increase the development program from 100 single-family dwelling units to 200 single-family dwelling units; reduce the minimum lot size from 70' to 50'; reduce the residential lot side setbacks from 10' to 5', and increasing Wekiva Open Space acreage from 68 acres to 71.96 acres.

On July 27, 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 Grassmere Reserve Planned Development / Land Use Plan (PD/LUP) dated “Received August 1, 2022”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 2**

Attachments
JVW/NT/JHS

CASE # CDR-22-03-109

Commission District: # 2

GENERAL INFORMATION

APPLICANT	Jason Mahoney, NV5, Inc.
OWNER	ECP Grassmere, LLC
PROJECT NAME	Grassmere Reserve Planned Development (PD)
PARCEL ID NUMBER	26-20-27-0000-00-020
TRACT SIZE	129.8 gross acres (overall PD)
LOCATION	Generally located north of N. Orange Blossom Trail, east of Junction Road, south of W. Ponkan Road, and west of Cayman Circle.
REQUEST	A PD substantial change to increase the development program from 100 single-family dwelling units to 200 single-family dwelling units; reduce the minimum lot size from 70' to 50'; reduce the residential lot side setbacks from 10' to 5', and increasing Wekiva Open Space acreage from 68 acres to 71.96 acres.
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]. Seven hundred eighty-four (784) 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 Grassmere Reserve PD was originally approved in November 2005. The PD currently is entitled for 100 single-family units and 32,670 square feet of commercial uses.

Through this PD substantial change, the applicant is seeking to increase the residential density from 1 unit per 1 acre to 2 units per 1 acre, decrease the minimum lot size, reduce the minimum lot side setback, and increase the required open space. The increase in density was previously approved through Future Land Use Map (FLUM) amendment to Rural Settlement Low Density Residential (RSLD 2/1) (Regular Cycle Amendment 2021-2-A-2-1) in April, 2022.

The proposed uses would include up to 200 dwelling units and 32,670 square feet of commercial development developed in two phases. This is an increase of 100 dwelling units over the previously approved LUP (there is no change to the maximum commercial

FAR). Minimum lot width for residential development is proposed to be reduced from 70' to 50' and side setbacks reduced from 10' to 5'. The open space is increasing from 68 acres to 71.96 acres.

Land Use Compatibility

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

Comprehensive Plan (CP) Amendment

This requested change was applied for pending approval of Future Land Use Map (FLUM) amendment 2021-2-A-2-1 from Rural Settlement 1/1 (RS 1/1) to Rural Settlement Low Density 2/1 (RSLD 2/1) and also in conjunction with text Amendment 2021-2-C-FLUE-2 to Future Land Use Element Policies FLU6.2.7 and FLU6.2.8. This amendment allows the owners of certain parcels of over 100 gross acres situated at the perimeter of Rural Settlements and meeting other specific location criteria to request a Future Land Use Map designation of Rural Settlement Low Density (RSLD 2/1). Both were adopted by the BCC on April 5, 2002 and, unless challenged, are anticipated to be effective by late May, 2022. The proposed change would be consistent with the Comprehensive Plan if the amendments are effective.

Community Meeting Summary

A community meeting was not held for this application. A virtual community meeting was held for FLUM amendment 2021-2-A-2-1 on May 18, 2021 with four (4) residents in attendance. Questions from the public covered a range of topics that included concerns over site connection to water/sewer from the City of Apopka, the location and number of access points for the site, the estimated price range and market sector of the housing project, and the presence of natural and enhanced buffering on the site. Overall, the attendees did not express support for or opposition to the proposed FLUM amendment. The tone of the meeting was neutral.

Rural Settlement

The property is located within the Zellwood Rural Settlement and is part of the Zellwood Preservation District.

Joint Planning Area (JPA)

The subject property is not located within a JPA.

Overlay District Ordinance

The subject property is not located within an Overlay District.

Environmental

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

Transportation Planning

Analysis of the project trips under the currently-approved RS 1/1 future land use designation versus the proposed RSLD 2/1 classification indicates that the proposed development will result in an increase in the number of pm peak trips and will, therefore, impact the area roadways. However, based on the Concurrency Management System Database, several roadways within the project's impact area operate at acceptable levels of service, and capacity is available to be encumbered.

Schools

The applicant submitted a formal school capacity determination to OCPS (OC-21-021). Capacity is not available for the proposed 200 single-family dwelling units. Each school serving students within the geographic area of the project site is currently over capacity.

Parks

Orange County Parks and Recreation staff reviewed the Change Determination 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 – (July 27, 2022)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Grassmere Reserve Planned Development / Land Use Plan (PD/LUP), dated “August 1, 2022”, subject to the following conditions:

1. Development shall conform to the Grassmere Reserve Planned Development Land Use Plan Amendment dated “Received August 1, 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 1, 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 Use Notification. 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, of the prior use of this property as a citrus grove. Portions of the property are located within a State of Florida Department of Environmental Protection delineated area for ethylene dibromide that has potable water well construction regulatory guidelines.

7. Per Comprehensive Plan Policy FLU8.1.4, this PD shall be limited to 32,670 square feet of commercial uses.
8. 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 development 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.
9. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated October 27, 2020 shall apply:
 - a. Unless the Florida Department of Transportation formally objects or disallows it, a right turn deceleration lane shall be required on U.S. 441 at the entrance to the commercial parcel.
10. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated August 20, 2019 shall apply:
 - a. Lake Grassmere shall be limited to non-motorized watercraft.
 - b. 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.
 - c. All acreages identified as conservation areas and wetland buffers are considered approximate until finalized by a Conservation Area Determination (CAD) and a Conservation Area Impact (CAI) Permit. Approval of this plan does not authorize any direct or indirect conservation area impacts.
 - d. 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).
 - e. 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, that the adjacent land use includes publicly managed property. The notice shall indicate that the adjacent property will require the use of resource management practices that may result in periodic temporary conditions that may limit outdoor activities. These practices will include, but not be limited to, ecological burning, pesticide and herbicide usage, exotic plant and animal removal, usage of heavy equipment and

machinery, and other practices as may be deemed necessary for proper resource management.

- f. The applicant/owner has an affirmative obligation to expressly notify potential purchasers, builders, and/or tenants of this development, through the appropriate mechanism, including a conspicuous note on the plat and/or a recorded restrictive covenant, as applicable, of the proximity of solid waste management facilities.
 - g. Approval of this plan does not constitute approval of a permit for the construction or alteration of a boat dock, boardwalk, observation pier, fishing pier, community pier or other similar permanently fixed or floating structures. Any person desiring to construct any of these structures shall apply to the Orange County Environmental Protection Division, as specified in Orange County Code Chapter 15 Environmental Control, Article IX Dock Construction, prior to installation, for an Orange County Dock Construction Permit, as well as to any other Orange County Division(s) for any other applicable permits.
 - h. 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.
 - i. Pole signs and billboards shall be prohibited. All other signage shall comply with Chapter 31.5 of the Orange County Code.
 - j. The developer shall obtain water and wastewater service from the City of Apopka.
 - k. The following waivers from Orange County Code are granted:
 - 1) A waiver from Section 38-556(a) to allow a minimum lot size of 70' by 120' lot size (8,400 square feet lot area), in lieu of code required minimum lot width of 100' and 1/3 acre (14,520 square feet lot area) for lots with central water service.
 - 2) A waiver from Orange County Code Section 38-556(b) to allow for a front setback of 25 feet, in lieu of 30 feet.
11. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated June 13, 2006 shall apply:
- a. Developer shall comply with all provisions of the Public Education Agreement entered into with the Orange County School Board as of April 12, 2005. The developer has a signed Capacity Enhancement Agreement with Orange County Public Schools dated September 28, 2005 (executed on October 12, 2005), and is on file with the Orange County Planning Division.

Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Public Education Agreement, the County shall immediately cease issuing building permits for any residential

units in excess of the 10 (ten) residential units allowed under the zoning existing prior to the approval of the PD zoning. The County shall again begin issuing building permits upon Orange County Public Schools' written notice to the County that the developer is no longer in breach or default of the Public Education Agreement. The developer and its successor or assign under the Public Education Agreement, shall indemnify and hold the County harmless from any third party claims, suits, or actions arising as a result of the act of ceasing the County's issuance of residential building permits.

Developer, or its successor or assign under the Public Education Agreement, agrees that it shall not claim in any future litigation that the County's enforcement of any of these conditions are illegal, improper, unconstitutional, or a violation of developer's property rights.

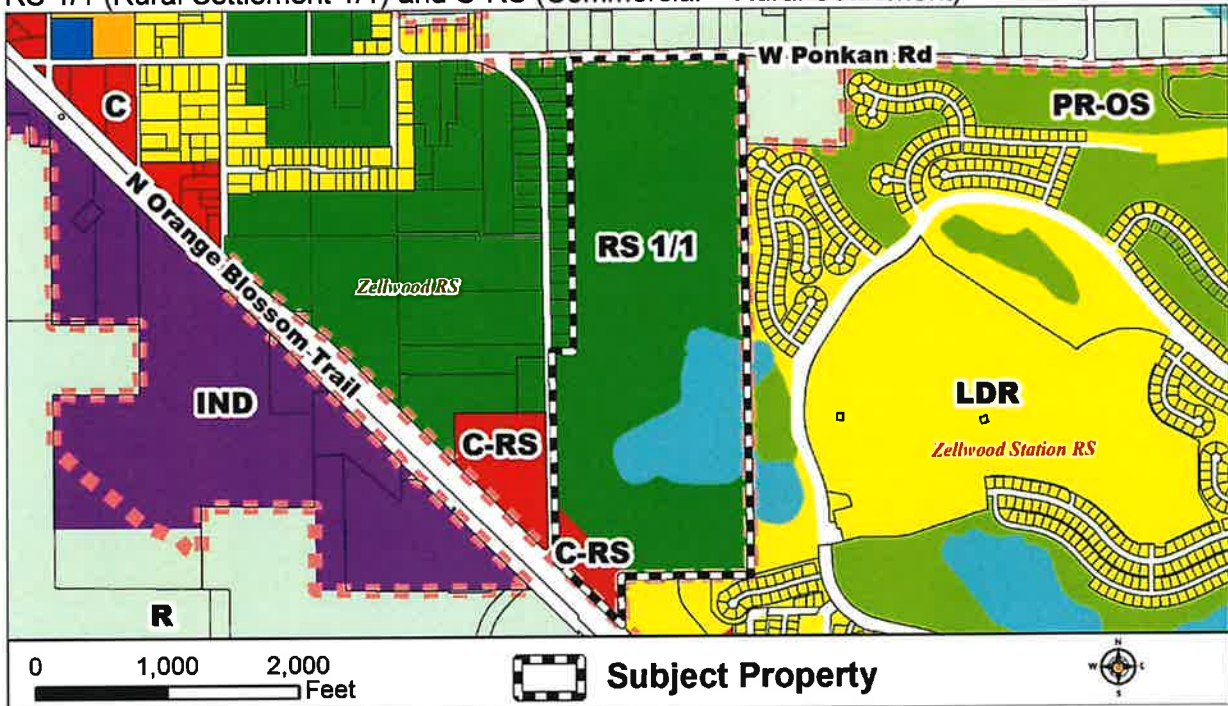
Orange County shall be held harmless by the developer and its assigns under the Public Education Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Public Education Agreement.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (October 27, 2020)

Upon a motion by Commissioner Moore, seconded by Commissioner Gomez Cordero, and carried by all present members, the Board made a finding of consistency with the comprehensive plan and approved the PD substantial change to the Grassmere Reserve PD to add 32,670 square feet of commercial development and remove notes #10 and #12 from the plan, which required the evaluation of a masonry wall adjacent to U.S. 441 at the Preliminary Subdivision Plan stage, and based the number of homes on site on the available uplands as documented by a Conservation Area Determination (CAD).

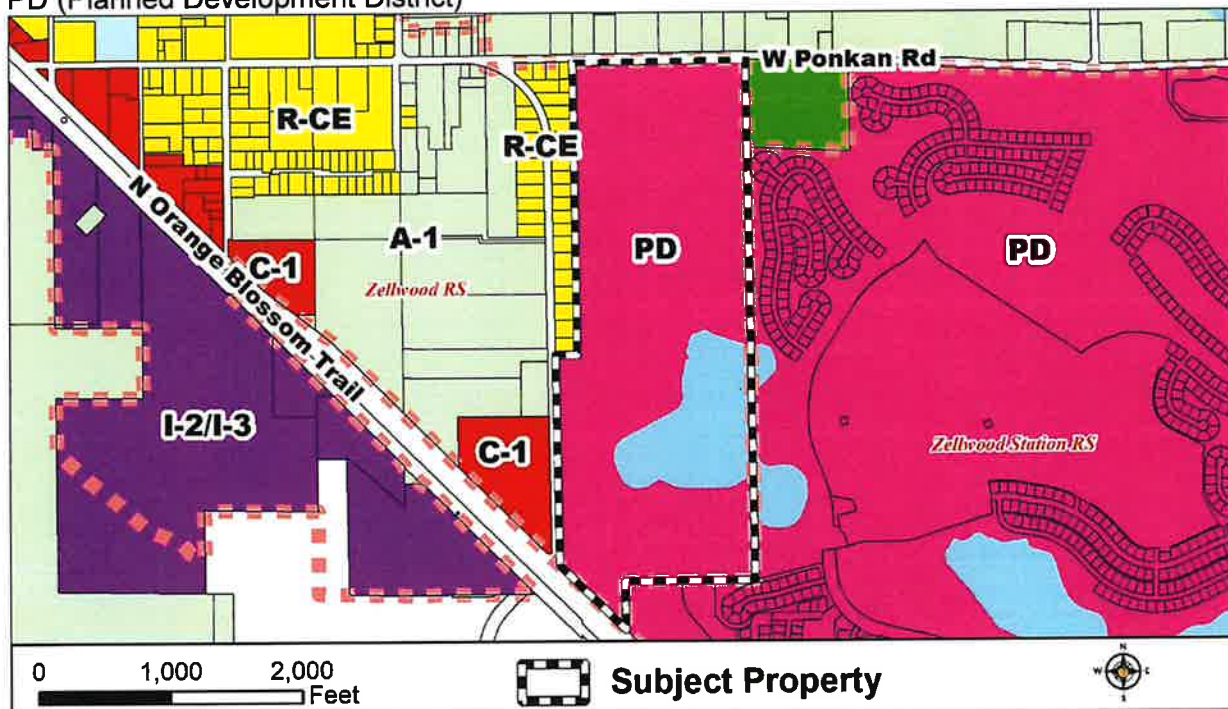
FUTURE LAND USE MAP

RS 1/1 (Rural Settlement 1/1) and C-RS (Commercial – Rural Settlement)



ZONING MAP

PD (Planned Development District)



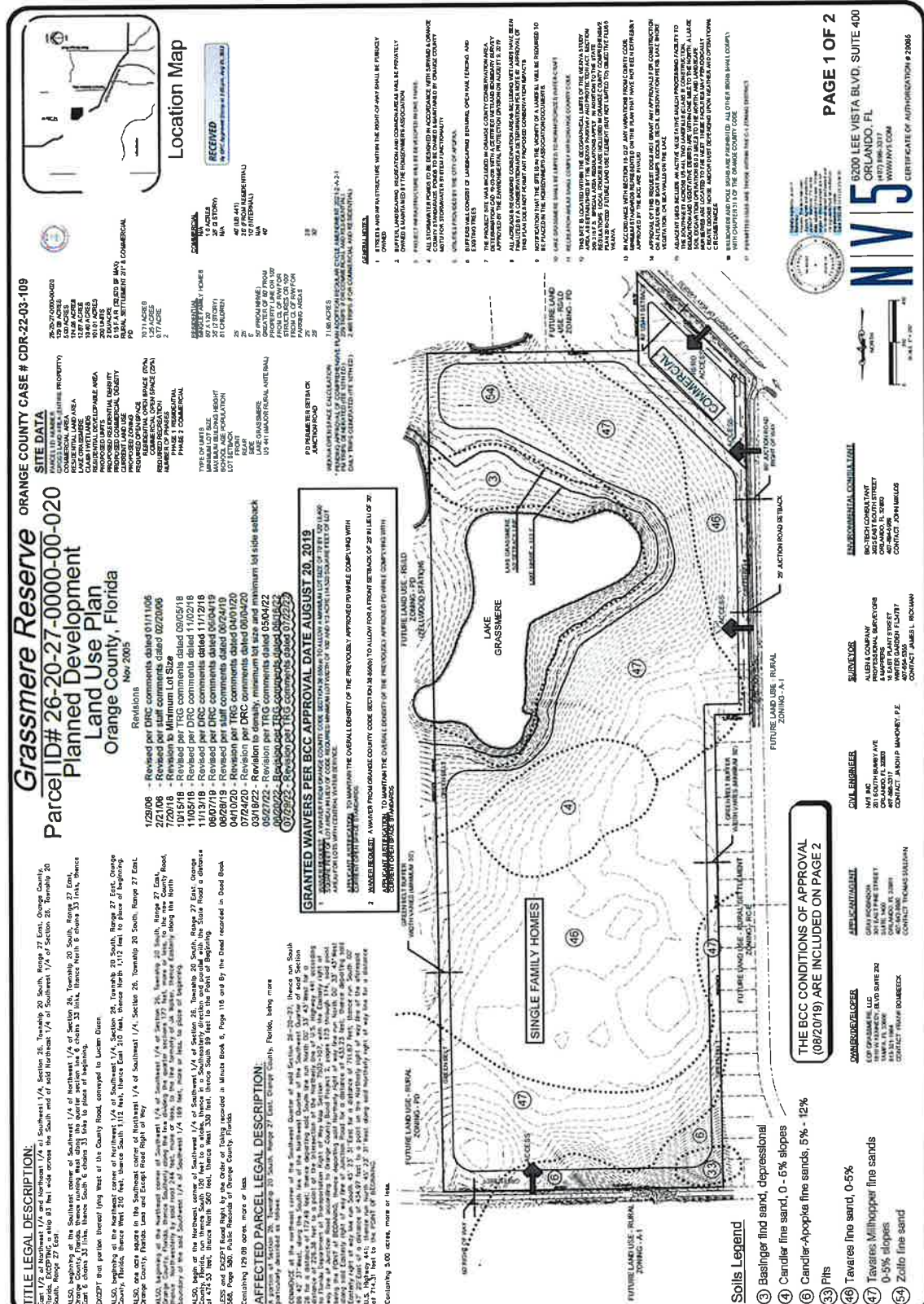


 Subject Property



1 inch = 850 feet

Grassmere Reserve PD / LUP



Notification Map

