



Interoffice Memorandum

DATE: December 15, 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: January 10, 2023 – Public Hearing
Jenny Baez, Bowman Consulting Group
S.R. 535 - Meadow Creek Walgreens Planned Development
Case # CDR-22-08-289 / District 1

The S.R. 535 - Meadow Creek Walgreens Planned Development (PD) is located north of Vistana Center Drive and west of State Road 535. The existing PD development program allows for 139, 268 square feet of retail commercial uses.

Through this PD substantial change, the applicant is requesting one waiver from Orange County Code Section 38-1287(2) to allow a ten (10) foot side setback from the south and north property line in lieu of a thirty (30) foot minimum side setback for Lot 2 of the PD. The request is to accommodate drive-thru canopies for the proposed restaurant.

On November 16, 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 S.R. 535 - Meadow Creek Walgreens Planned Development / Land Use Plan (PD/LUP) dated “Received October 13, 2022”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1**

Attachments
JVW/NT

CASE # CDR-22-08-289

Commission District: # 1

GENERAL INFORMATION

APPLICANT	Jenny Baez, Bowman Consulting Group
OWNER	585 Associates, LLC
PROJECT NAME	S.R. 535 - Meadow Creek Walgreens Planned Development
PARCEL ID NUMBERS	27-24-28-0000-00-038 27-24-28-0000-00-039 (affected parcel)
TRACT SIZE	3.20 gross acres (overall PD) 1.44 gross acres (affected parcel)
LOCATION	North of Vistana Center Drive / West of State Road 535
REQUEST	A PD substantial change to request the following waiver from Orange County Code:

A waiver from Orange County Code Section 38-1287(2) to allow a ten (10) feet side setback from the south and north property line in lieu of a thirty (30) feet minimum side setback for Lot 2 of the PD.

Applicant Justification: The building proposed in this parcel meets all the setback standards for principal structures. the request is to reduce the side setback requirement from 30 feet to 10 feet to accommodate accessory structures to the principal building. The proposed accessory structures consist of canopies to protect customers and employees from the elements during the restaurant's operations. The project proposes two canopies, one at the north side of the site and one on the south side of the site. Both locations coincide with the points of service where there will be the most interaction between customers and restaurant staff.

PUBLIC NOTIFICATION A notification area extending beyond seven hundred (700) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Three hundred fourteen (314) 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 S.R. 535 - Meadow Creek Walgreens Planned Development was originally approved February 21, 1995. The PD is designated tourist commercial with a total of 139, 268 square feet of commercial entitlements. Lot 2, the affected parcel subject to this request is currently constructed with a 63,140 sq. ft. retail restaurant uses.

Through this PD Substantial Change the applicant is seeking to allow a ten (10) foot side setback from the south and north property line in lieu of a thirty (30) foot minimum side setback as required by Orange County Code Section 38-1287(2).

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 S.R. 535 - Meadow Creek Walgreens PD was approved in 1995 and includes uses such as retail commercial. The proposed Change Determination Request (CDR) is consistent with the 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. Signage for new development must comply with the requirements for signs found in Section 31.5, Division 2 of the County Code.

Rural Settlement

The subject property is not located within a Rural Settlement.

Joint Planning Area (JPA)

The subject property is not located within a Joint Planning Area (JPA).

Environmental

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

Transportation Planning

This PD substantial change request for a setback waiver is exempt from transportation concurrency requirements.

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 Change Determination Request 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 – (November 16, 2022)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the S.R. 535 - Meadow Creek Walgreens Planned Development / Land Use Plan (PD/LUP), dated "October 13, 2022", subject to the following conditions:

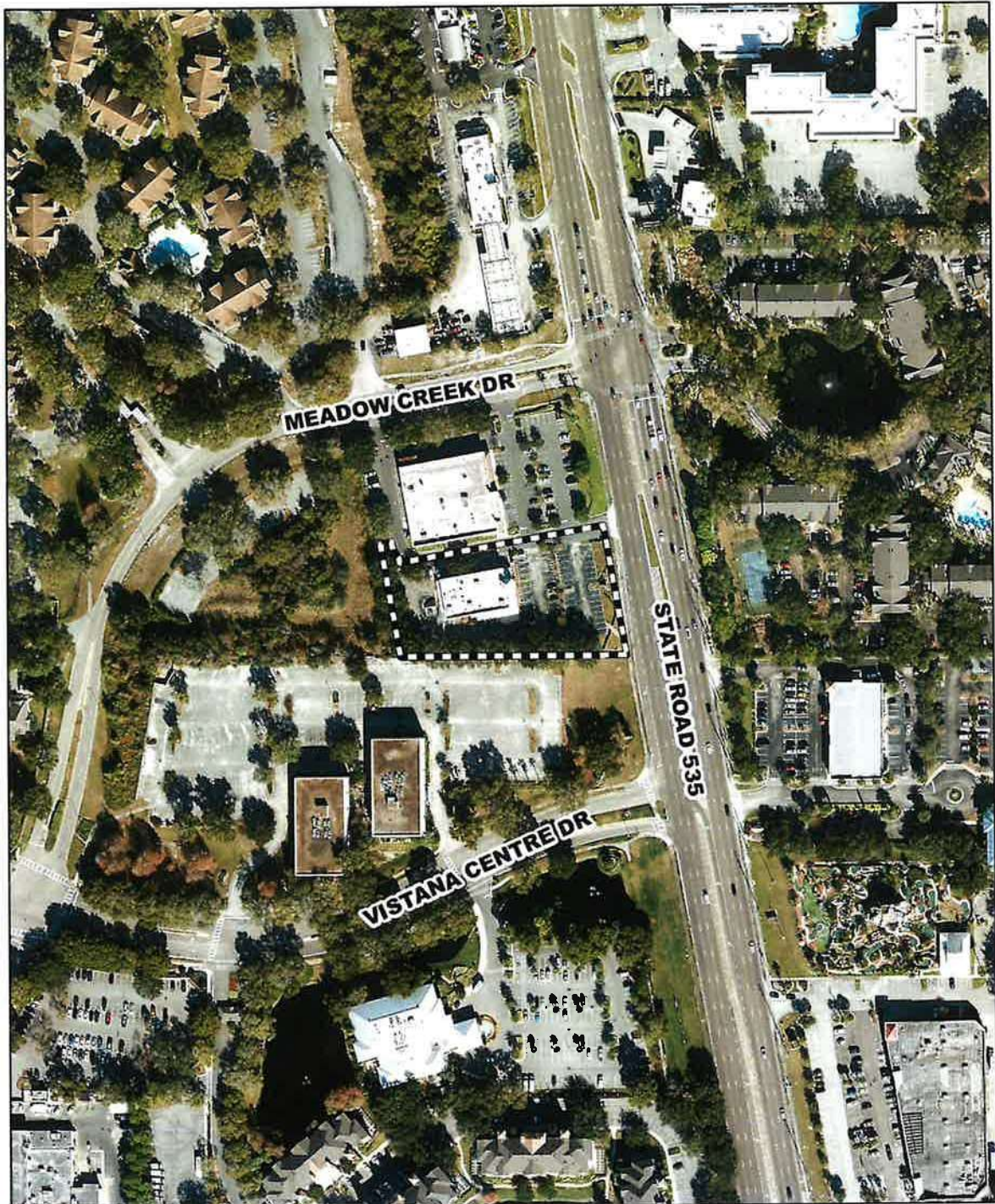
1. Development shall conform to the S.R. 535 - Meadow Creek Walgreens Planned Development dated "Received October 13, 2022," and shall comply with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations 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 October 13, 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. 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, 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. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water, wastewater, and reclaimed water systems have been designed to support all development (including hydraulically dependent development) within the PD.
8. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
9. Pole signs and billboards shall be prohibited. All other signage shall comply with Chapter 31.5 Tourist Commercial of the Orange County Code.

10. A waiver from Orange County Code Section 38-1287(2) is granted to allow a ten (10) foot side setback from the south and north property line in lieu of a thirty (30) foot minimum side setback for Lot 2.
11. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated February 21, 1995 shall apply:
 - a. To the extent required to comply with the consistency provisions of the Growth Management Act, the following additional conditions shall be added to the conditions of approval:
 - 1) 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.
 - 2) If the housing linkage program is in place prior to development plan approval, development of nonresidential development shall be conditioned upon the development of residential units within the area designated as Activity Center Residential on the Future Land Use Map. Past affordable housing efforts shall be recognized in any current linkage program.
 - 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 program, 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. February 21, 1995, Page 38 February 21, 1995, Page 39.
 - 5) Stormwater management facilities shall be designed as an aesthetic feature, except where determined by the County Engineer to be technically unfeasible. Developer must show that it has the capacity.
 - 6) Twenty-foot (20') wide pedestrian/landscape/utility easement plus a 15' wide transit easement along S.R. 535 for a total of 35 feet, (with the transit easement along S.R. 535) shall be included in the development plan. g. Sidewalks shall be a minimum of eight feet (8') along S.R. 535.
 - 7) Participation in a shuttle service connecting area attractions, major transportation centers, and on-site development shall be required.
 - b. Building setbacks from S.R. 535 shall be a minimum of 150 feet from centerline per Section 38, Article XV (Major Streets).

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (February 21, 1995)

Upon a motion by Commissioner Freeman, seconded by Commissioner Butler, and carried by all members present voting AYE by voice vote, the Board approved the request to rezone the subject property to Planned Development.



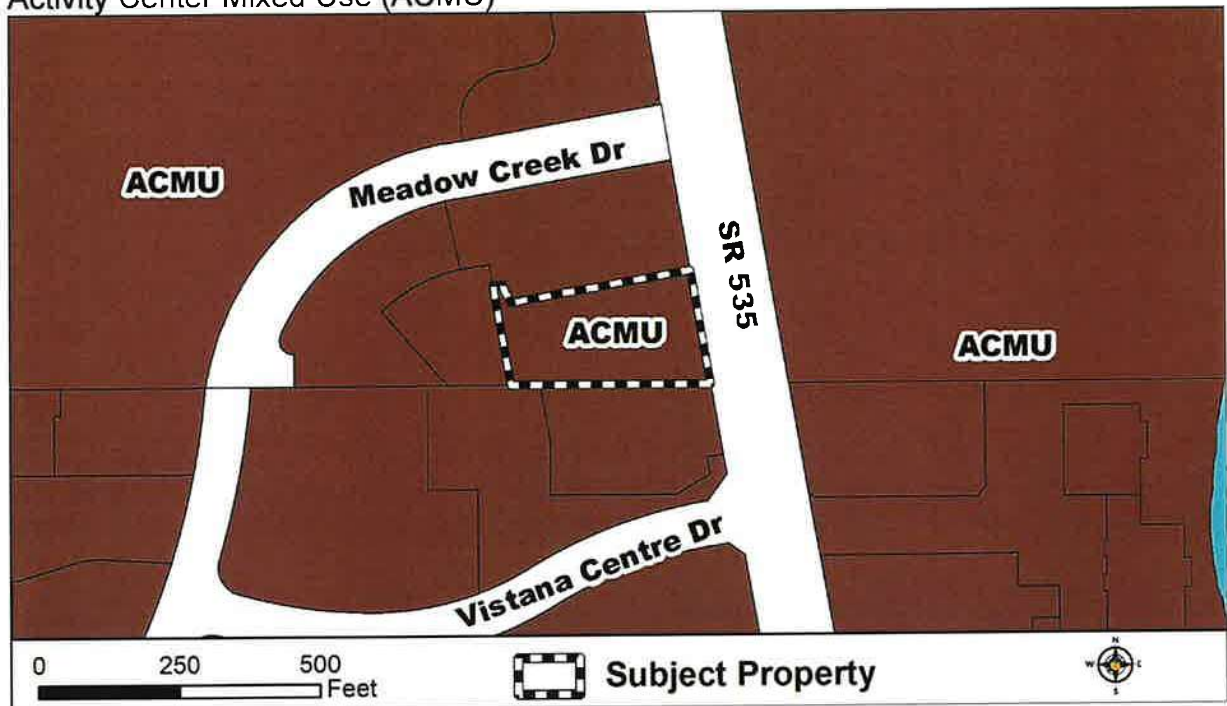
Subject Property



1 inch = 200 feet

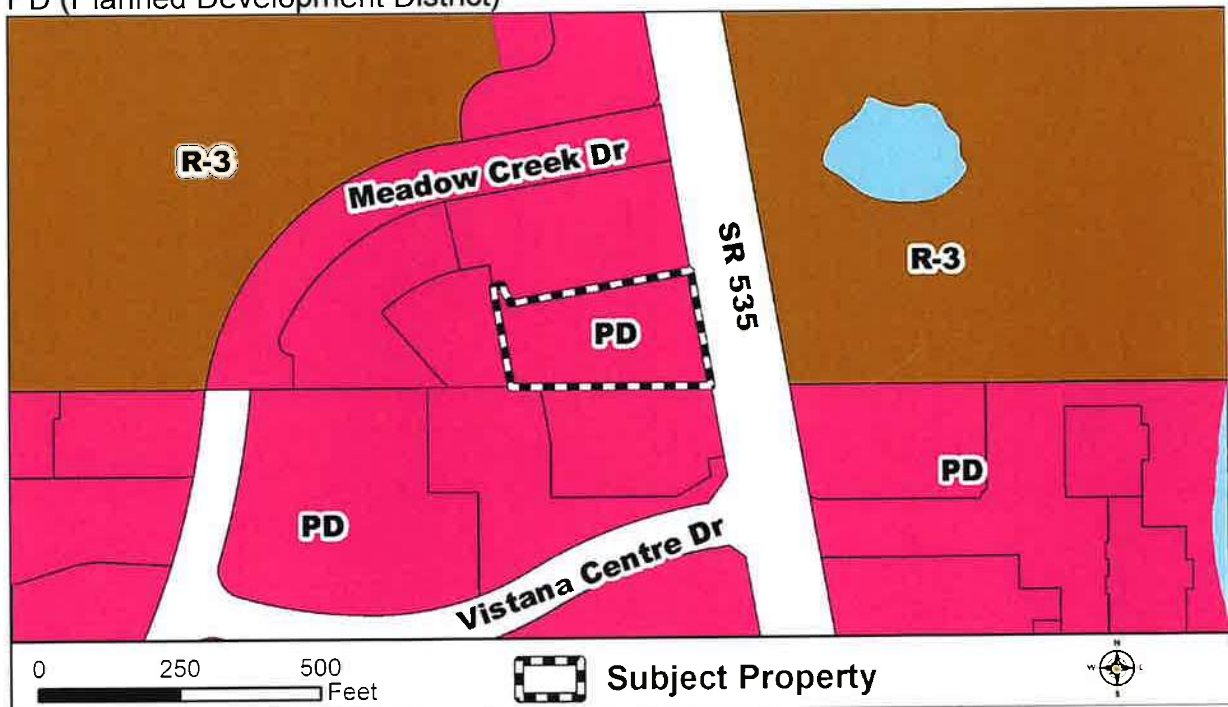
Future Land Use Map

Activity Center Mixed Use (ACMU)



Zoning Map

PD (Planned Development District)



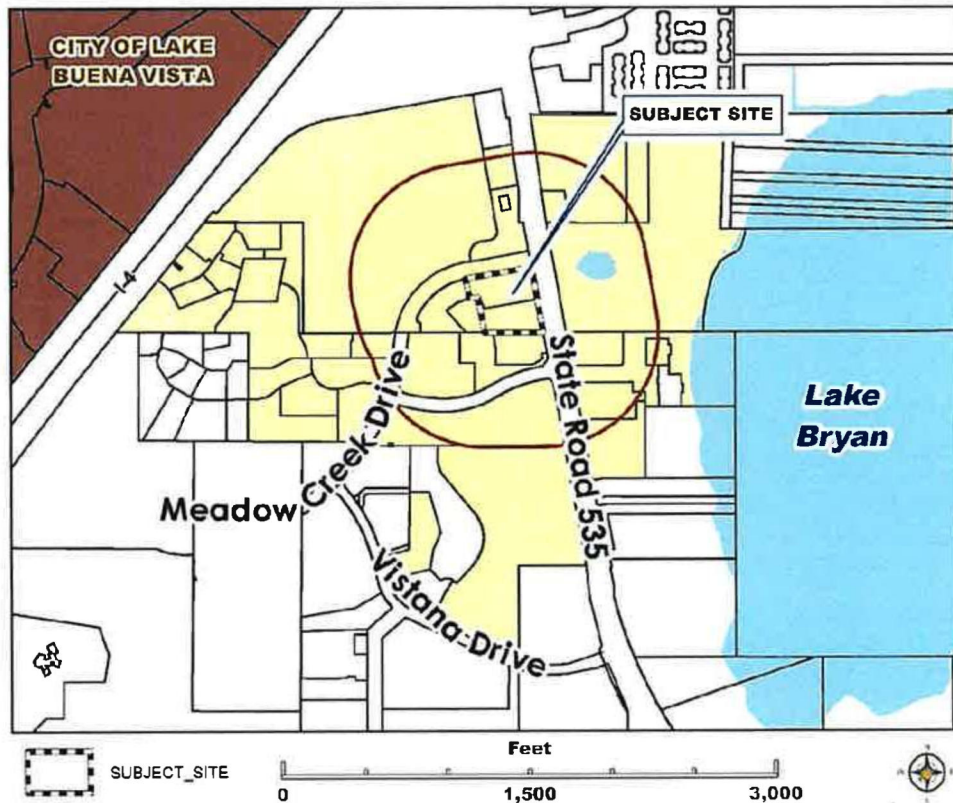
S.R. 535 - Meadow Creek Walgreens PD / LUP

		LAND USE PLAN S.R. 535 / MEADOW CREEK WALGREENS		SHEET NO. 1 OF 1
<div style="display: flex; justify-content: space-between;"> <div> <p>QUANTILE SCALE</p> <p>0 100 FEET</p> </div> <div> <p>RECEIVED</p> <p>BY DRC: 2023-08-28 10:15 AM</p> <p>CDR-22-08-289</p> </div> </div>				
<p align="center">LEGAL DESCRIPTION</p> <p>THE LAND DESCRIBED IN THIS PLAN IS A PART OF THE LANDS OWNED BY THE STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:</p> <p>THE LAND DESCRIBED IN THIS PLAN IS A PART OF THE LANDS OWNED BY THE STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:</p>	<p align="center">AERIAL</p>	<p align="center">SOILS</p>	<p align="center">NOTES</p> <p>1. THE LAND DESCRIBED IN THIS PLAN IS A PART OF THE LANDS OWNED BY THE STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:</p> <p>2. THE LAND DESCRIBED IN THIS PLAN IS A PART OF THE LANDS OWNED BY THE STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:</p> <p>3. THE LAND DESCRIBED IN THIS PLAN IS A PART OF THE LANDS OWNED BY THE STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:</p>	

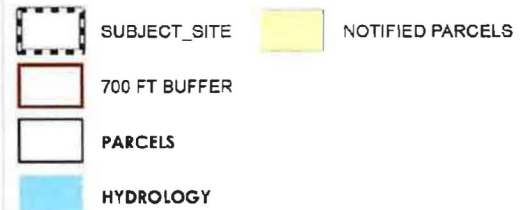


Public Notification Map

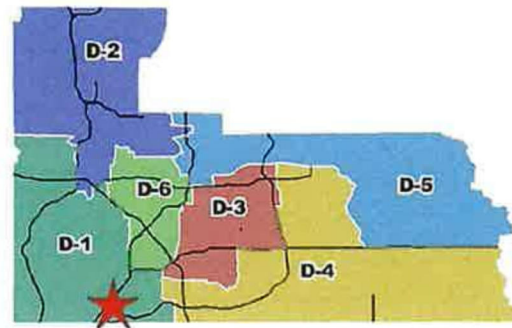
CDR-22-08-289



MAP LEGEND



BUFFER DISTANCE: 700
OF NOTICES: 314



Notification Map

DRC Staff Report
Orange County Planning Division
BCC Hearing Date: January 10, 2023

S:\Business Systems\Board Administration\5_SUBSTANTIAL_CHANGE\2022\DRCS.R. 535 - Meadow Creek Wetlands PD_CDR-22-08-289\CDR