



## Interoffice Memorandum

DATE: October 29, 2018

TO: Mayor Teresa Jacobs  
-AND-  
Board of County Commissioners

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

CONTACT PERSON: **Eric Raasch, Interim DRC Chairman**  
**Development Review Committee**  
**Planning Division**  
**(407) 836-5523**

SUBJECT: November 13, 2018 – Public Hearing  
McCarley Davis, Epoch Properties, LLC  
Hannah Smith Property Planned Development  
Case # CDR-18-05-182 / District 1

The Hannah Smith Property Planned Development (PD) is generally located east of Palm Parkway, west of Interstate 4, and south of Daryl Carter Parkway. The Hannah Smith Property PD contains 82.3 acres and was originally approved on February 20, 2001, and currently includes development entitlements for 282 hotel rooms, 564 timeshare units, 487,765 square feet of tourist commercial uses, and 250 multi-family dwelling units.

Through this PD substantial change, the applicant for a multi-family development on a single parcel is seeking to waive the requirement within the Buena Vista North Overlay (Section 38-1394.1(a)(2)) which requires one canopy tree to be planted along the building base landscape area for each 100 square feet of green space. Instead, the applicant is proposing to comply with Section 24-4(d)(2) which requires one canopy tree for each 25 feet of the lineal building façade, or one understory or palm tree planted for each 15 feet of the lineal building façade.

On September 26, 2018, 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 Hannah Smith Property Planned Development / Land Use Plan (PD/LUP) dated "Received October 1, 2018",**

**subject to the conditions listed under the DRC  
Recommendation in the Staff Report. District 1**

Attachments  
JWW/EPR/STT

**CASE # CDR-18-05-182**

Commission District: # 1

**GENERAL INFORMATION**

<b>APPLICANT</b>	McCarley Davis, Epoch Properties, LLC
<b>OWNER</b>	CRP/Epoch Palm Parkway Owner, LLC
<b>PROJECT NAME</b>	Hannah Smith Property Planned Development (PD)
<b>PARCEL ID NUMBER</b>	14-24-28-0000-00-027 (affected parcel only)
<b>TRACT SIZE</b>	82.30 gross acres (overall PD) 9.98 gross acres (affected parcel only)
<b>LOCATION</b>	Generally located east of Palm Parkway, west of Interstate 4, and south of Daryl Carter Parkway.
<b>REQUEST</b>	A PD substantial change to add a waiver from Orange County Code Section 38-1394.1(a)(2) for Parcel 14-24-28-0000-00-027 to allow for multi-family developments to have tree planting requirements around the building base area per Section 24-4(d)(2), in lieu of one (1) canopy tree for each one hundred (100) square feet of green space. No change to the development program or development standards is proposed with this request.
<b>PUBLIC NOTIFICATION</b>	A notification area extending beyond nine hundred (900) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Eighty-nine (89) notices were mailed to those property owners in the notification buffer area.

**IMPACT ANALYSIS**

**Special Information**

The Hannah Smith Property PD contains 82.3 acres and was originally approved on February 20, 2001, and currently includes development entitlements for 282 hotel rooms, 564 timeshare units, 487,765 square feet of tourist commercial uses, and 250 multi-family dwelling units.

Through this PD substantial change, the applicant is seeking to waive the requirement within the Buena Vista North Overlay District standards (Section 38-1394.1(a)(2)) which require one (1) canopy tree to be planted along the building base landscape area for each one hundred (100) square feet of green space. Instead, the applicant is proposing to comply with Section 24-4(d)(2) of the Orange County Code which requires one (1) canopy tree for each twenty-five (25) feet of the lineal building façade, or one (1) understory or palm tree planted for each fifteen (15) feet of the lineal building façade.

**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 proposed PD substantial change is consistent with this designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

**Overlay District Ordinance**

The subject property is located within the Buena Vista North 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.

**Environmental**

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

**Transportation Concurrency**

Wildwood Area Road Network: The Wildwood Area Road Network Agreement was approved by the BCC on August 27, 2002 and recorded in Official Records Book 6618 Page 2575. The agreement provides for a planned partnership improvement to construct four (4) lanes from International Drive to Palm Parkway crossing over Interstate 4. The Wildwood Area Road Network Agreement requires the conveyance of Right-of-Way for the Wildwood Area Network of Roads and the construction of a bridge to extend over Interstate 4 to provide access to Palm Parkway. The roadway has been constructed.

**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 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 – (September 26, 2018)**

**Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Hannah Smith Property Planned Development / Land Use Plan (PD/LUP) dated "Received October 1, 2018", subject to the following conditions:**

1. Development shall conform to the Hannah Smith PD Land Use Plan (LUP) dated "Received October 1, 2018," 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 1, 2018," 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 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. 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.
7. 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).
8. Approval of this plan does not constitute approval of a permit for the construction 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.

9. Big Sand Lake has an established Municipal Service Taxing Unit (MSTU) or Municipal Service Benefit Unit (MSBU) for the purpose of funding lake management services. To the extent this project is part of the taxing district or benefits from Big Sand Lake, this project shall be required to be a participant.
10. A waiver from Section 38-1394.1(a)(2) is granted for Parcel 14-24-28-0000-00-027 to allow for multi-family developments to have tree planting requirements around the building base area per Section 24-4(d)(2), in lieu of one (1) canopy tree for each one hundred (100) square feet of green space.
11. 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 updated MUP must be approved prior to construction plan approval.
12. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated March 6, 2018 shall apply:
  - a. The project shall comply with the terms and conditions of that certain Palm Parkway to Apopka-Vineland Connector Road Agreement recorded at Official Records Book/Page 8387/3416, Public Records of Orange County, Florida, as may be amended.
  - b. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a Capacity Encumbrance Letter (CEL) prior to construction plan submittal and must apply for and obtain a Capacity Reservation Certificate (CRC) 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 CEL or CRC.
  - c. The following Education Condition of Approval shall apply:
    - 1) Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of October 30, 2017.
    - 2) Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Capacity Enhancement Agreement, the County shall immediately cease issuing building permits for any residential units in excess of the zero (0) residential units allowed under the zoning existing prior to the approval of the PD zoning. The County may 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 Capacity Enhancement Agreement. The developer and its successor(s) and/or assign(s) under the Capacity Enhancement 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.

- 3) Developer, and its successor(s) and/or assign(s) under the Capacity Enhancement 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 rights.
- 4) Orange County shall be held harmless by the developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Capacity Enhancement Agreement.
- 5) 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.
- d. 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.
- e. No motorized watercraft shall be permitted onto Big Sand Lake from this development. (Condition from BCC 2/20/2001).
- f. Per Comprehensive Plan Policy 1.1.4.D, a maximum of 30% of the site in Activity Center Mixed Use may be residential.
- g. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities.
- h. 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. The MUP must be approved prior to Construction Plan approval.
- i. Outside sales, storage, and display shall be prohibited.
- j. Billboards and pole signs shall be prohibited. Ground and fascia signs shall comply with Orange County Code Chapter 31.5 Buena Vista North Standards.
- k. Development shall comply with the Buena Vista North overlay standards unless waivers have been explicitly approved by the BCC.
- 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.

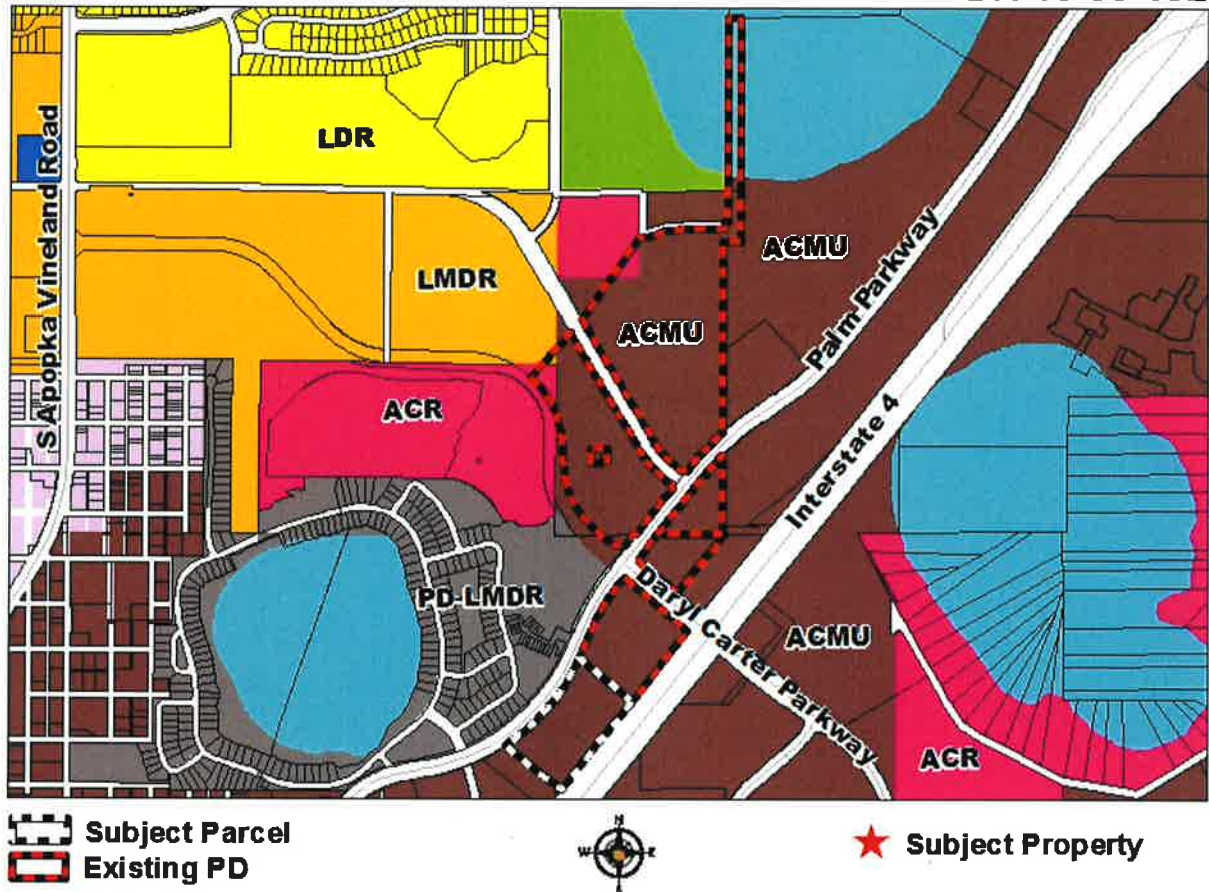


- m. A waiver from Orange County Code Section 38-1393 is granted to allow for a maximum building height of 75 feet (6-stories) for multi-family buildings internal to the PD with a separation of 20 feet from single-family uses, in lieu of the proximity based requirements.
- n. A waiver from Orange County Code Section 38-1258(j) is granted to require a minimum building separation of 20 feet between all multi-family buildings internal to the PD with no increase in proportion to additional structural height; in lieu of a minimum separation of 30 feet for two-story buildings, 40 feet for three-story buildings, and proportionate separation increases for additional building heights.
- o. A waiver from Orange County Code Section 38-1287(1)(b) is granted to allow for a minimum 40-foot building setback for all buildings internal to the PD from an abutting arterial right-of-way, in lieu of a minimum 60-foot building setback from a abutting arterial right-of-way.
- p. A waiver from Orange County Code Section 38-1251(b) is granted to allow the maximum coverage of all buildings to not exceed 75% of the gross land area internal to the PD, in lieu of the maximum coverage of all buildings not exceeding 30% of the gross land area.

**PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (March 6, 2018)**

Upon a motion by Commissioner VanderLey, seconded by Commissioner Nelson, and carried with all present members voting AYE by voice vote; the Board made a finding of consistency with the Comprehensive Plan; and further, approved the Land Use Plan Amendment requested by Jim Hall, VHB, Inc., Hannah Smith Property Planned Development Land Use Plan (PD/LUP), Case # LUPA-17-05-165, to expand the Hannah Smith PD through the aggregation of 23.6 acres and 301,963 square feet of commercial entitlements from the Ruby Lake PD - Lot 10.

CDR-18-05-182



### Future Land Use Map

**FLUM:** ACMU (Activity Center Mixed Use)

**APPLICANT:** McCarley Davis, Epoch Properties, LLC

**LOCATION:** Generally located east of Palm Parkway, west of Interstate 4, and south of Daryl Carter Parkway.

**TRACT SIZE:** 82.30 gross acres (overall PD)  
 9.98 gross acres (affected parcel only)

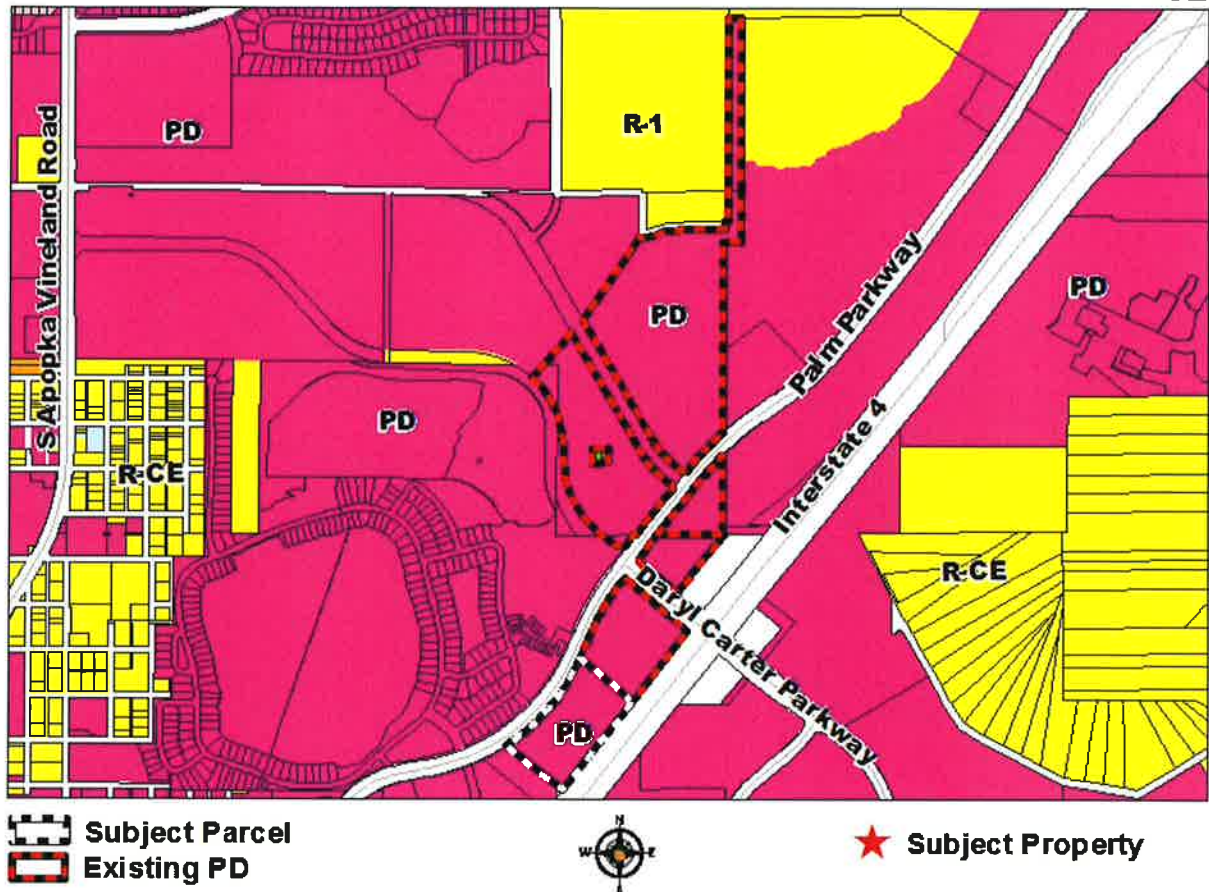
**DISTRICT:** # 1

**S/T/R:** 14/24/28

1 inch = 1,200 feet



CDR-18-05-182



### Zoning Map

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

**APPLICANT:** McCarley Davis, Epoch Properties, LLC

**LOCATION:** Generally located east of Palm Parkway, west of Interstate 4, and south of Daryl Carter Parkway.

**TRACT SIZE:** 82.30 gross acres (overall PD)  
 9.98 gross acres (affected parcel only)

**DISTRICT:** # 1

**S/T/R:** 14/24/28

1 inch = 1,200 feet





# Hannah Smith PD / LUP (Cover Sheet)

## LAND USE PLAN FOR HANNAH SMITH PD



ORANGE COUNTY CASE #CDR-18-05-182

PARCEL ID NO:

- 11-24-28-0000-00-020
- 14-24-28-0000-00-012
- 14-24-28-0000-00-027
- 14-24-28-0000-00-018
- 14-24-28-1242-60-000
- 14-24-28-1242-66-000
- 14-24-28-1242-71-350
- 14-24-28-1242-71-380
- 15-24-28-7774-00-024

ORANGE COUNTY, FLORIDA

EPOCH RESIDENTIAL

359 CAROLINA AVE., STE 200

WINTER PARK, FL 32789

PH (407) 644-9055



431 E. HORATIO AVENUE, SUITE 250  
 MAITLAND, FLORIDA 32751  
 PHONE (407) 629-8330  
 FAX (407) 629-8336

### PROJECT TEAM MEMBERS:

APPLICANT: EPOCH RESIDENTIAL, INC.  
 ENGINEER: MADDEN CIVIL ENGINEERS, INC.  
 PROPERTY OWNER: EPOCH RESIDENTIAL, INC.  
 DRAFTER: MADDEN CIVIL ENGINEERS, INC.

VICINITY MAP



### INDEX OF SHEETS

SHEET	DESCRIPTION
1-2 OF 2	COVER SHEET
EA-1	BOUNDARY SURVEY
LUP-1	SKETCH OF DESCRIPTION, PARCEL, ACREAGE
COA-1	EXISTING CONDITIONS
	LAND USE PLAN
	CONDITIONS OF APPROVAL

RECEIVED  
 IN OFFICE #18010001 (11/13/18)

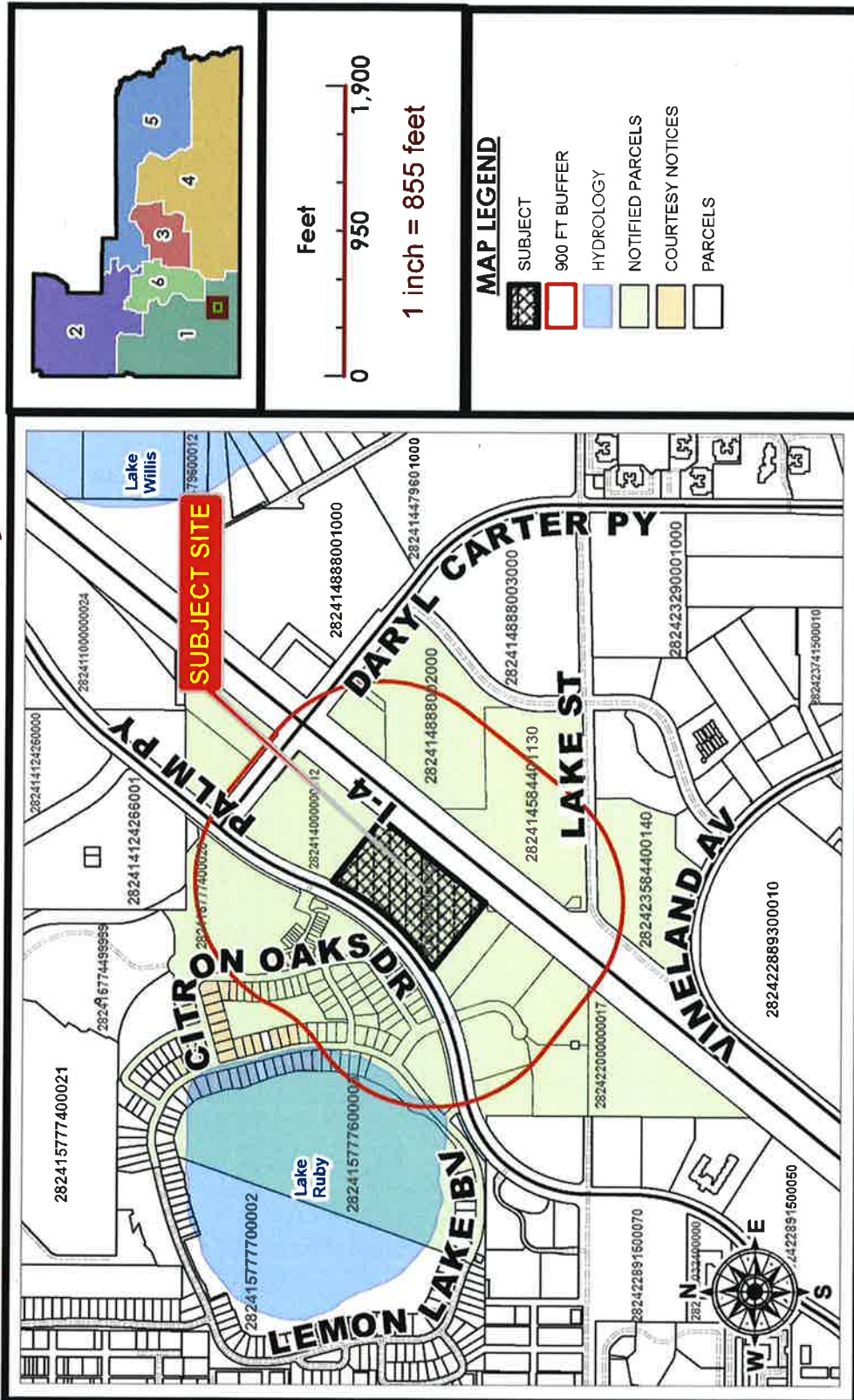




# Public Notification Map

Hannah Smith Property PD\_LUP CDR-18-05-182

900 FT BUFFER, 89 NOTICES



S:\Business Systems\Board Administration\SUBSTANTIAL CHANGE\2018\PLANNING\Hannah Smith Property PD\_LUP CDR-18-05-182\Hannah Smith Property PD\_LUP CDR-18-05-182.mxd