



Interoffice Memorandum

DATE: May 20, 2019

TO: Mayor Jerry L. Demings
-AND-
Board of County Commissioners

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

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

SUBJECT: June 18, 2019 – Public Hearing
Anthony Everett, Pollack Shores Development
University Planned Development
Case # CDR-18-10-337 / District 5

The University Planned Development (PD) was originally approved by the Board in 1988 and currently allows for the development of up to 691 multi-family dwelling residential dwelling units and 120 age-restricted multi-family units or 165 assisted living residential units.

Through this PD Change Determination Request (CDR), the applicant is seeking to combine Tracts B1, B2, and a portion of Tract A, into a new Tract B; and to revise the existing Tract B1 and B2 entitlements from 120 age-restricted multi-family units or 165 assisted living facility units into 228 multi-family units on new Tract B. Additionally, five waivers from Orange County Code are requested to reduce the required PD perimeter setback, reduce the arterial road building setback, to allow multi-family signage to be posted on a separate tract, and to allow for a reduced sign setback from University Boulevard and the property line.

On May 8, 2019, the Development Review Committee (DRC) recommended approval of the request, subject to conditions. A community meeting was held on August 23, 2018, for the associated Comprehensive Plan amendment (2018-2-S-5-3), where one member of the public attended and was in support.

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 and approve the University Planned Development / Land Use Plan (PD/LUP), dated “Received May 3, 2019” subject to the conditions listed under the DRC Recommendation in the Staff Report. District 5

Attachments
JWW/EPR/nt

CASE # CDR-18-10-337

Commission District: # 5

GENERAL INFORMATION

APPLICANT	Anthony Everett, Pollack Shores Development
OWNER(S)	James W. Hickman Revocable Trust, Heron Senior Housing LLC, Dean and Univ. Investments, LLC
PROJECT NAME	University Planned Development (PD)
PARCEL ID NUMBER(S)	08-22-31-0000-00-003, 08-22-31-0000-00-165, 08-22-31-0000-00-195, 08-22-31-0000-00-009 (affected parcels only)
TRACT SIZE	61.97 gross acres (overall PD) 11.40 gross acres (affected parcels only)
LOCATION	Generally located south of University Boulevard, east of Dean Road, and north of Buck Road.
REQUEST	A PD substantial change to combine Tracts B1, B2, and a portion of Tract A, into a new Tract B; and to revise the existing Tract B1 and B2 entitlements from 120 age-restricted multi-family units or 165 assisted living facility units into 228 multi-family units on new Tract B.

In addition, the applicant has requested the following waivers from Orange County Code:

1. A waiver from section 38-1254(1) to allow for a minimum 10' PD perimeter setback along the northwest property line of Tract B, in lieu of the 25' required setback.

Applicant Justification: With the county's request to dedicate 10-feet of ROW along the north property line of Tract B on University Boulevard, reduced setbacks are required to develop a site configuration that allows for appropriate vehicular movements internal to the Tract. Additionally, the commercial property to the west is developed with a drive aisle adjacent to Tract b which provides additional buffering. Only accessory garage structures are proposed within the reduced setback.

2. A waiver from section 38-1254(2) to allow for a 25' building setback along the west boundary of Tract B, in lieu of the 50' building setback required for arterial streets (Dean Road).

Applicant Justification: The proposed setback waiver on Tract B is requested so the Tract b multi-family buildings can be constructed to the same 25' building setback as the existing multi-family buildings on Tract A.

3. A waiver from section 31.5-73(a) to allow for a sign stating the name of the multifamily development on Tract A to be erected outside of the Tract, on Tract B.

Applicant Justification: The existing multifamily development on Tract A of the PD does not front on the PD's main access road, University Boulevard. The main entrance for the multifamily development on Tract A is through an access road that lies adjacent Tract B. the waiver is required to provide appropriate identification signs for the multifamily development on Tract A.

4. A waiver from section 31.5-73(a) to allow for a sign stating the name of the multifamily development on Tract b to be erected outside of the Tract, on Tract A.

Applicant Justification: Tract B has frontage on the main access road of University Boulevard, but must utilize the existing main entrance for the Tract a multifamily development as the primary means of access. The existing multifamily development on Tract a has an existing ground signs located on Tracts A & B immediately on either side of the main entrance drive off of university boulevard, and Tract B has easement rights to locate signage on the existing ground signs. This waiver will allow the Tract B multifamily development to share the Tract A ground sign that is located on Tract A. the existing ground sign on Tract B will be shared by Tract B and does not require a waiver.

5. A waiver from section 31.5-67(g) to allow for a sign setback of 9.7 feet (min) from University Boulevard, in lieu of the required 10 feet setback and a 0.8 feet setback from the internal property line, in lieu of the required 10 feet setback (for Tracts A & B).

Applicant Justification: The existing ground signs for Tract A are located on Tracts A & B at the entrance for Tract a on university boulevard. This waiver will allow the existing signs to remain in place on Tracts A & B.

PUBLIC NOTIFICATION A notification area extending beyond five-hundred hundred (500) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. One hundred thirty (130) notices were mailed to those property owners in the notification buffer area. A community meeting was held on August 23, 2018, for the associated Comprehensive Plan amendment (2018-2-S-5-3) where one (1) member of the public attended and was in support.

IMPACT ANALYSIS

Special Information

The University PD was originally approved by the Board of County Commissioners (BCC) in 1988 and currently allows for the development of up to 691 multi-family dwelling residential dwelling units on Tract A and 120 age-restricted multi-family units or 165 assisted living residential units on Tracts B1 and B2.

Through this PD Change Determination Request (CDR), the applicant is seeking to combine Tracts B1; B2, and a portion of Tract A, into a new Tract B; and to revise the existing Tract B1 and B2 entitlements from 120 age-restricted multi-family units or 165 assisted living facility units into 228 multi-family units on new Tract B. Additionally, waivers from Orange County Code are requested to reduce the required PD perimeter setback, reduce the arterial road building setback, to allow multi-family signage to be posted on a separate tract, and to allow for a reduced sign setback from University Boulevard and the property line.

Land Use Compatibility

The proposed PD Change Determination Request (CDR) 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 Medium Density Residential (MDR). Comprehensive Plan amendment 2018-2-S-5-3, was approved by the BCC on November 13, 2018, and changed the FLUM designation of parcel 08-22-31-0000-00-003 from Commercial (C) to Medium Density Residential (MDR). The proposed Change Determination Request (CDR) is consistent with the designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

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.

Environmental

Conservation Area Determination (CAD) CAD-18-07-109 for Tract B was issued on November 13, 2018. Conservation Impact Permit (CAI) CAI-18-10-056 to impact 3.05 acres of wetland on Tract B was issued on November 20, 2018.

Development of the subject property shall comply with all state and federal regulations regarding endangered, threatened, or species of special concern. The applicant is responsible to determine the presence of listed species and obtain any required habitat permits from the U.S. Fish and Wildlife Service (USFWS) and/or the Florida Fish & Wildlife Conservation Commission (FWC).

Transportation Concurrency

Based on the Concurrency Management System database dated October 31, 2018, there are no failing roadways within a one mile radius of this development. This information is dated and subject to change.

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, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a CEL or a CRC.

Community Meeting Summary

A community meeting was held on August 23, 2018, for the associated Comprehensive Plan amendment (2018-2-S-5-3) where one (1) member of the public attended and was in support.

Schools

A Capacity Enhancement Agreement (CEA) application, #OC-18-033, was approved by the Orange County School Board on April 9, 2019.

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 – (May 8, 2019)

Make a finding of consistency with the Comprehensive Plan and APPROVE the University Planned Development / Land Use Plan (PD/LUP), dated “Received May 3, 2019”, subject to the following conditions:

1. Development shall conform to the University Planned Development (PD) dated "Received May 3, 2019," 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 May 3, 2019," 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. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a capacity encumbrance letter prior to construction plan submittal and must apply for and obtain a capacity reservation certificate prior to approval of the plat. Nothing in this condition, and nothing in the decision to approve this land use plan / preliminary subdivision plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a capacity encumbrance letter or a capacity reservation certificate.
7. The following Education Condition of Approval shall apply:
 - a. Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of April 9, 2019.
 - b. 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.
 - c. 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.

- d. 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.

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.

- 8. The applicant shall dedicate 10-feet of road right-of-way for University Boulevard via Subdivision Plat or Official Public Records instrument.
- 9. Short term/transient rental is prohibited. Within the Tracts designated as residential use, length of stay shall be for a consecutive 180 days or greater within any 12-month period.
- 10. Outside sales, storage, and display shall be prohibited.
- 11. Billboards and pole signs shall be prohibited. Ground and fascia signs shall comply with Orange County Code Chapter 31.5 with the exception of any signage waivers explicitly granted by the Orange County Board of County Commissioners.
- 12. The following waivers from Orange County Code are granted:
 - a. A waiver from section 38-1254(1) to allow for a minimum 10' PD perimeter setback along the northwest property line of Tract B, in lieu of the 25' required setback.
 - b. A waiver from section 38-1254(2) to allow for a 25' building setback along the west boundary of Tract B, in lieu of the 50' building setback required for arterial streets (Dean Road).
 - c. A waiver from section 31.5-73(a) to allow for a sign stating the name of the multifamily development on Tract A to be erected outside of the Tract, on Tract B.
 - d. A waiver from section 31.5-73(a) to allow for a sign stating the name of the multifamily development on Tract b to be erected outside of the Tract, on Tract A.
 - e. A waiver from section 31.5-67(g) to allow for a sign setback of 9.7 feet (min) from University Boulevard, in lieu of the required 10 feet setback and a 0.8 feet setback from the internal property line, in lieu of the required 10 feet setback (for Tracts A & B).
- 13. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated December 20, 2016 shall apply:

- a. A current Level One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review and approval as part of any Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) submittal.
 - b. The necessity for a left turn lane off Dean Road into the project will be evaluated with the review of the DP for this project.
 - 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 construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water and wastewater systems have been designed to support all development within the PD.
 - e. The Developer shall obtain water and wastewater service from Orange County Utilities.
 - f. 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.
14. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated August 21, 1989 and August 22, 1988 shall apply:
- a. Building setbacks for one (1) and two (2) story structures shall be 25 feet from all property boundaries, or from right-of-way lines as established on right-of-way reservation map. Buildings in excess of (2) two stories shall have a minimum 150 foot setback from all property boundaries, except where abutting commercial.
 - b. A six (6) foot masonry wall shall be provided on the eastern, western, and southern property boundaries of the site, except where adjacent to similarly zoned property. Landscape buffer or wall shall be provided along University Boulevard.
 - c. This approval will not preclude Orange County from requesting or requiring that the developer accept phasing of the project as indicated by the Alafaya Trail Traffic Study, authorized by the Orange County Commission on May 2, 1988. Inclusion of this condition will not preclude the developer from objecting to the imposition of any phasing requirement on this project.

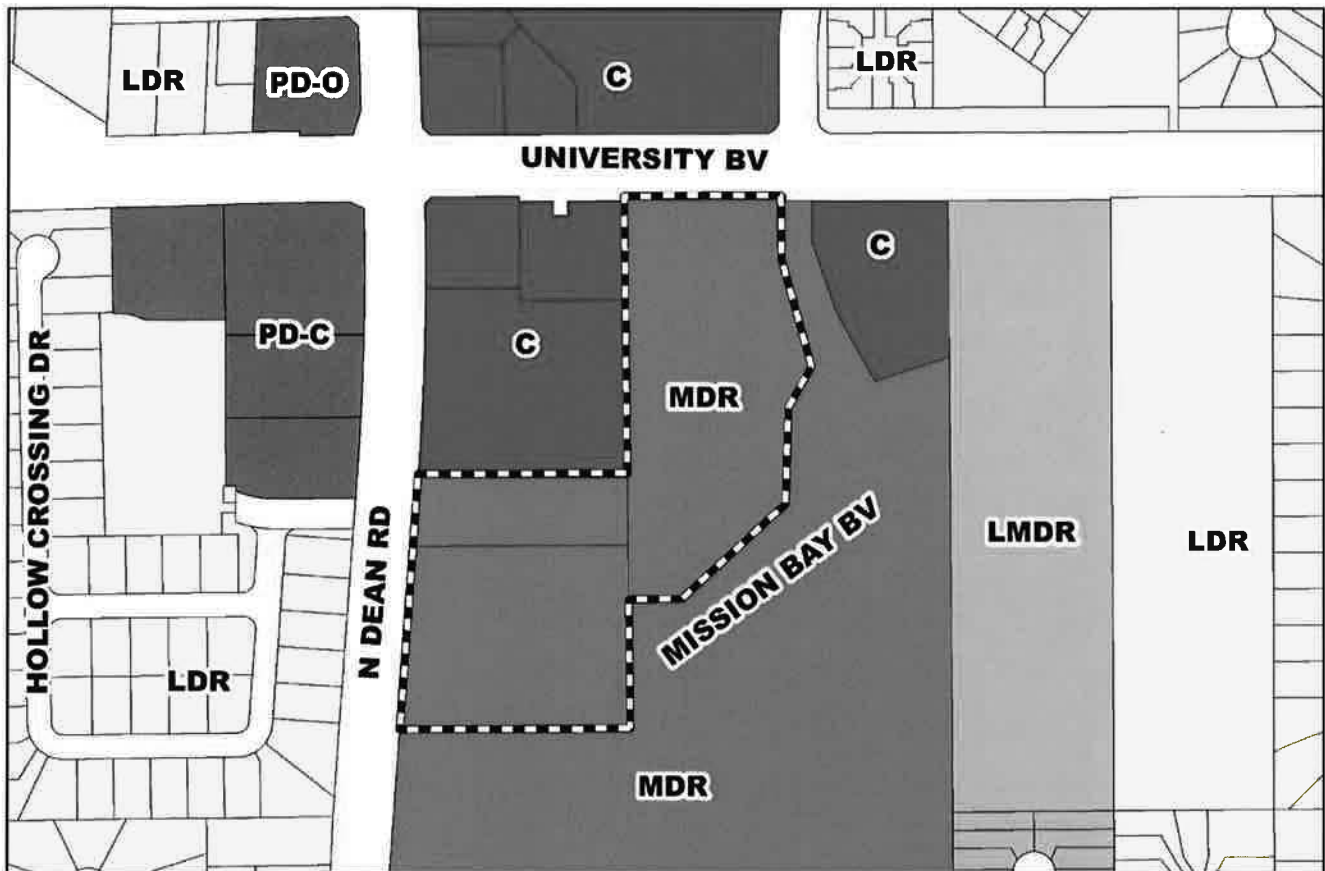
This condition shall not impair the developer or his successors from proceeding with this project prior to a final determination with respect to any phasing requirements.
 - d. The applicant shall preserve the trees in the oak hammock, located in the southwestern portion of the project, to the greatest extent practical.

- e. There shall be no access onto Buck Road. There will be three accesses onto Dean Road and two accesses onto University Boulevard with one of the access points being a joint access with the property to the east.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (December 20, 2016)

Upon a motion by Commissioner Nelson, seconded by Commissioner VanderLey, and carried by all present members voting Aye by voice vote, to approve the request to split PD Tract B into Tracts B1 and B2, and modify its assigned development entitlements for 165 assisted living facility (ALF) residential dwelling units, into 80 age-restricted multi-family residential dwelling units or 120 ALF residential dwelling units within PD Tract B1; and into 30 age-restricted multi-family residential dwelling units or 45 ALF residential dwelling units within PD Tract B2.

CDR-18-10-337



Subject Property



Subject Property

Future Land Use Map

FLUM: Medium Density Residential (MDR)

APPLICANT: Anthony Everett, Pollack Shores Development

OWNER: James W Hickman Revocable Trust, Heron Senior Housing LLC, Dean and Univ. Investments, LLC

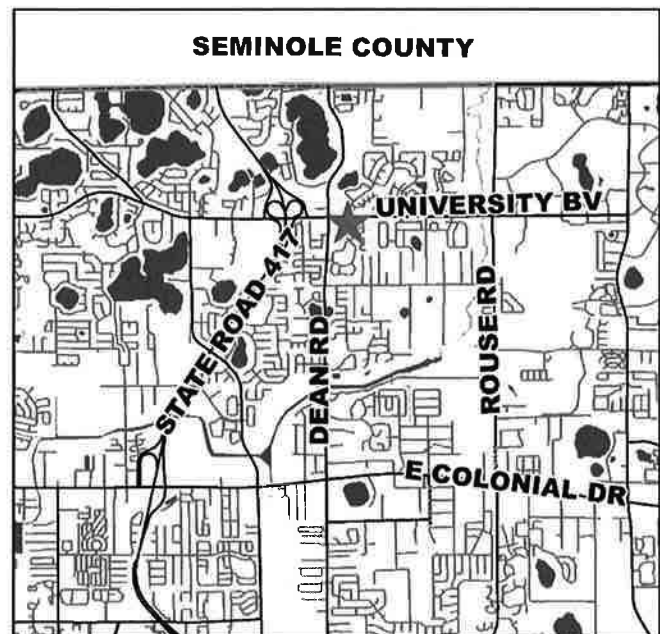
LOCATION: Generally located south of University Boulevard, east of Dean Road, and north of Buck Road.

TRACT SIZE: 11.40 gross acres (affected parcels only)

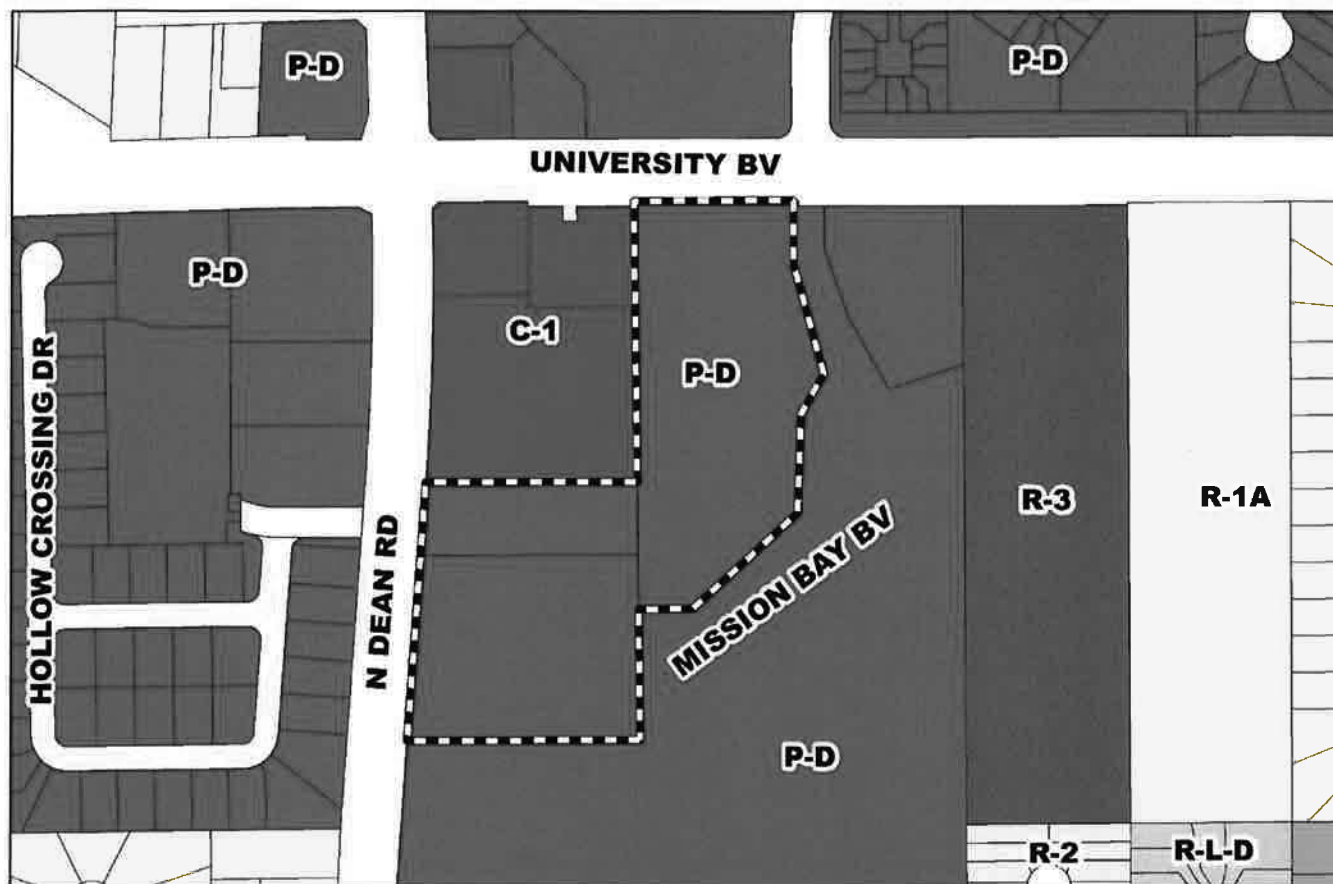
DISTRICT: # 5

S/T/R: 08/22/31

1 inch = 350 feet



CDR-18-10-337



Subject Property



Subject Property

Zoning Map

ZONING: PD (Planned Development District)

APPLICANT: Anthony Everett, Pollack Shores Development

OWNER: James W Hickman Revocable Trust, Heron Senior Housing LLC, Dean and Univ. Investments, LLC

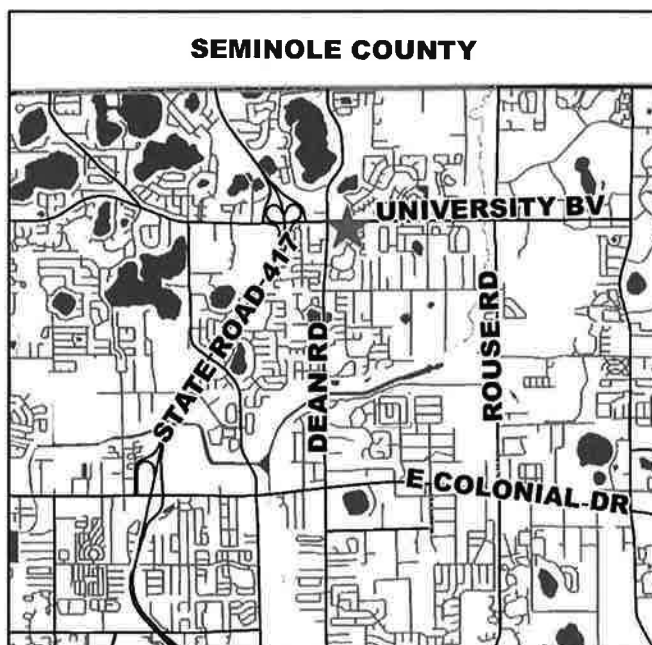
LOCATION: Generally located south of University Boulevard, east of Dean Road, and north of Buck Road.

TRACT SIZE: 11.40 gross acres (affected parcels only)

DISTRICT: # 5

S/T/R: 08/22/31

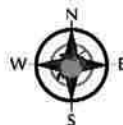
1 inch = 350 feet



CDR-18-10-337



 Subject Property

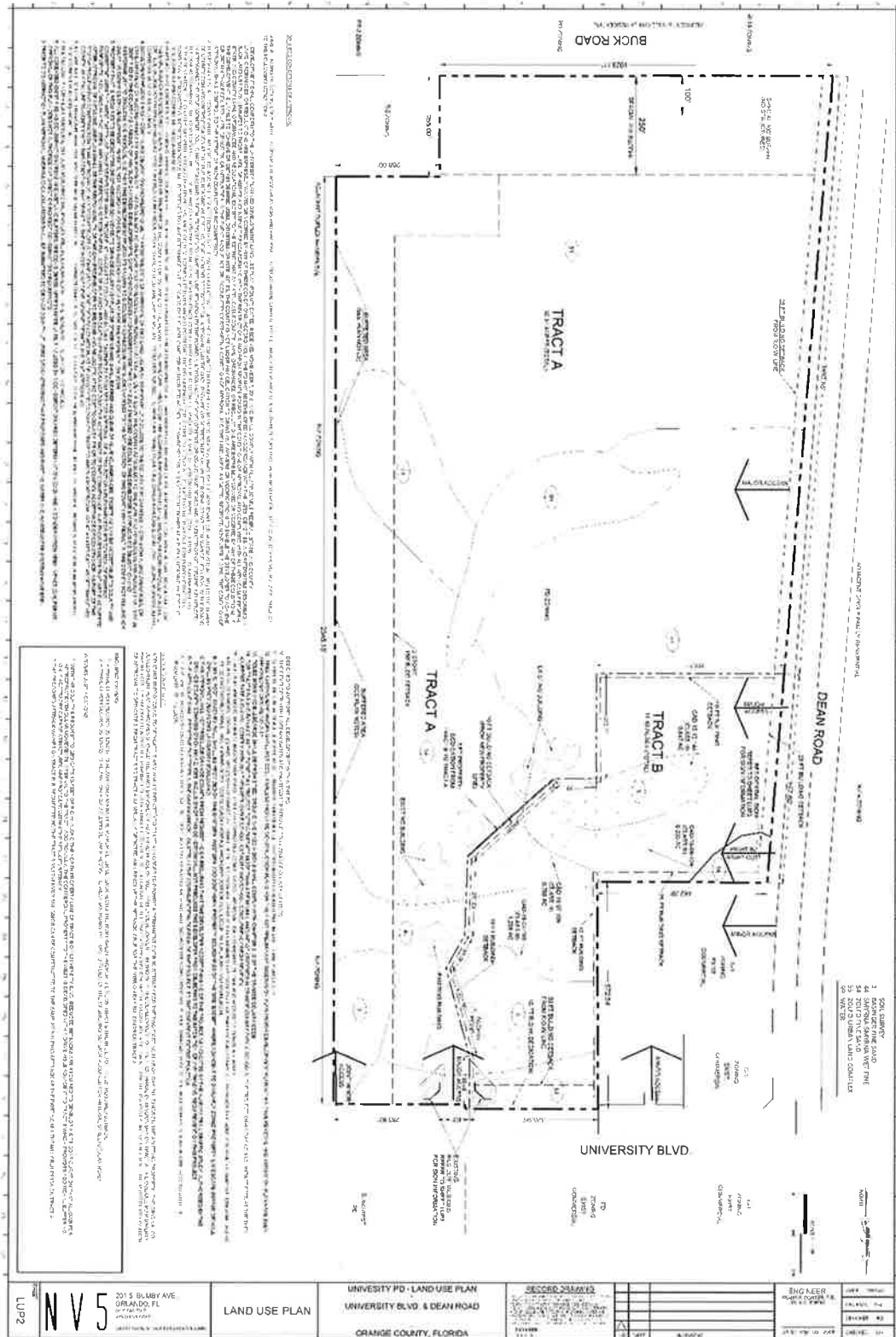


1 inch = 400 feet

University PD / LUP (Cover Sheet)

[illegible]

University PD / LUP

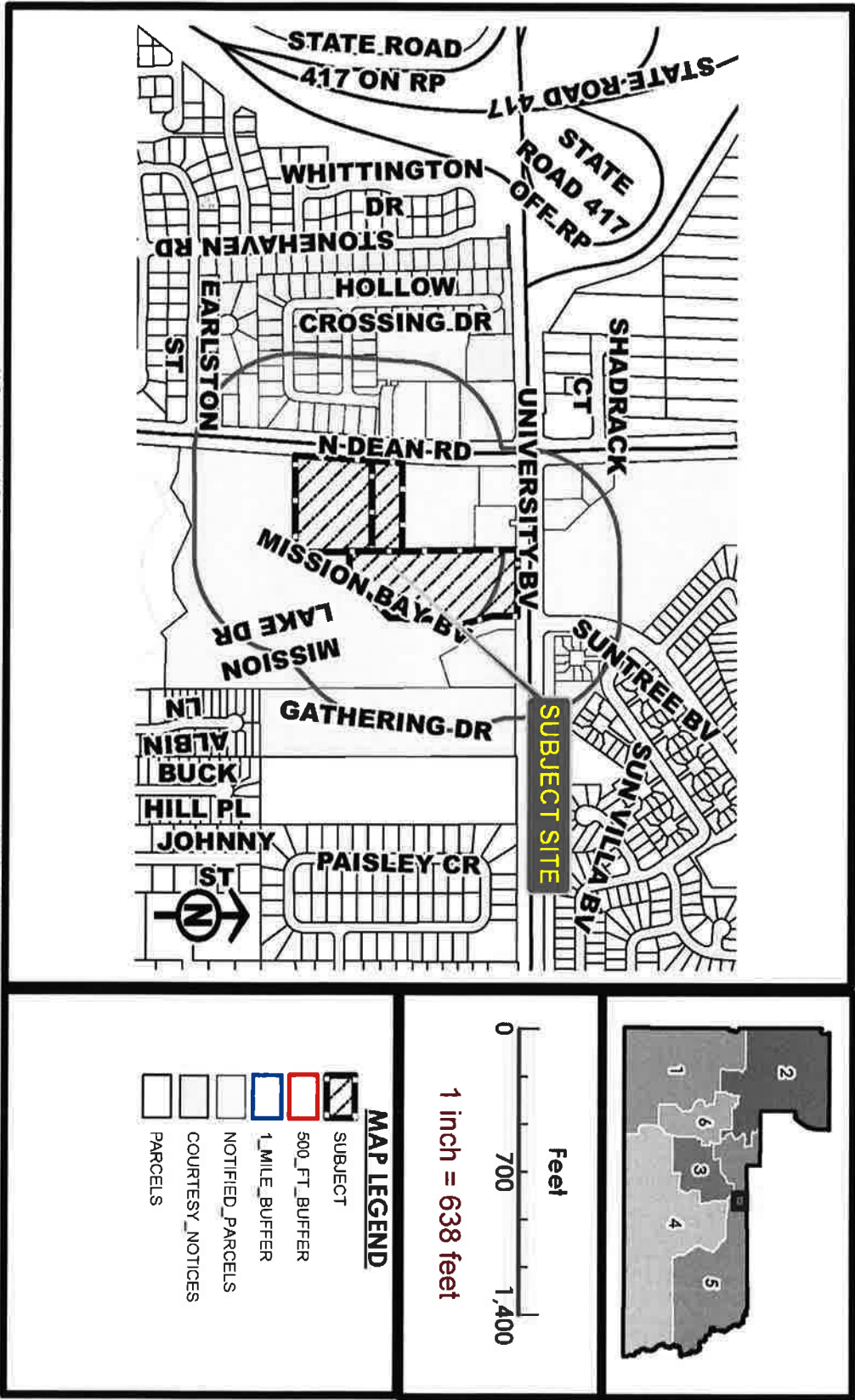


Notification Map



Public Notification Map

University PD_CDR-18-10-337
500 FT BUFFER, 130 NOTICES



\\ocna\gndep\Business Systems\Board Administration\SUBSTANTIAL CHANGE\2019\PLANNING\University PD\CDR-18-10-337\University PD_CDR-18-10-337.mxd