Interoffice Memorandum



DATE:

December 19, 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:

January 14, 2020 - Public Hearing

Robert B. Paymayesh, P.E. Group, LLC Baldwin Park Plaza Planned Development

Case # LUP-19-03-090 / District 5

The Baldwin Park Plaza Planned Development (PD) is located at 1850 North Semoran Boulevard, generally north of Old Cheney Highway, west of Semoran Boulevard, south of Baldwin Park Street, and east of Truman Road.

The applicant is seeking to rezone 1.55 acres from P-O (Professional Office District) to PD (Planned Development District) in order to construct a 6,000 square foot car wash and up to 5,000 square feet of retail commercial uses on the site. No waivers from Orange County Code are requested.

On November 21, 2019, the Planning and Zoning Commission (PZC) recommended approval of the request, subject to conditions. A community meeting was not required for this application. However, a community meeting for the associated Comprehensive Plan Amendment (2019-1-S-5-3) was held on February 28, 2019.

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.

January 14, 2020 – Public Hearing Robert B. Paymayesh, P.E. Group LLC Baldwin Park Plaza PD / Case # LUP-19-03-090 / District 5 Page 2 of 2

ACTION REQUESTED:

Make a finding of consistency with the Comprehensive Plan and approve the Baldwin Park Plaza Planned Development / Land Use Plan (PD/LUP), dated "Received May 15, 2019", to the conditions listed under the PZC Recommendation in the Staff Report. District 5

Attachments JVW/EPR/nt

PZC Recommendation Staff Report Commission District: # 5

GENERAL INFORMATION

APPLICANT

Robert B. Paymayesh, P.E. Group LLC

OWNER

Baldwin Park Professional Plaza LLC

PROJECT NAME

Baldwin Park Plaza Planned Development (PD)

HEARING TYPE

Planned Development / Land Use Plan (PD / LUP)

REQUEST

P-O (Professional Office District) to PD (Planned Development District)

A request to rezone 1.55 acres from P-O (Professional Office District) to PD (Planned Development District) in order to construct a 6,000 square foot car wash and up to 5,000 square feet of retail commercial uses on the site. No waivers

from Orange County Code are requested.

LOCATION

1850 North Semoran Boulevard; Generally located north of Old Cheney Highway, west of Semoran Boulevard, south of Baldwin Park Street, and east of Truman Road

PARCEL ID NUMBERS

16-22-30-0000-00-011

TRACT SIZE

1.55 gross acres

PUBLIC NOTIFICATION

The notification area for this public hearing was 500 feet [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Three hundred twenty-nine (329) notices were mailed to those property owners in the mailing area. A community meeting was held on February 28, 2019, and is

summarized on page 5 of this report.

PROPOSED USE

A 6,000 square foot car wash and up to 5,000 square feet of

retail commercial uses.

STAFF RECOMMENDATION

Development Review Committee – (October 23, 2019)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Baldwin Park Plaza Planned Development / Land Use Plan (PD/LUP), dated "Received May 15, 2019", subject to the following conditions:

- Development shall conform to the Baldwin Park Plaza Land Use Plan (LUP) dated "Received May 15, 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 15, 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. This project is located in the Alternative Mobility Area (AMA) and, therefore, shall be required to provide for alternative mobility strategies related to the development. The applicant must submit a Mobility Analysis to be reviewed and approved by the Transportation Planning Division prior to obtaining a building permit.
- 7. 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.
- 8. 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).
- 9. 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.
- 10. <u>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.</u>
- 11. <u>The developer shall obtain water and wastewater service from Orange County Utilities subject to County rate resolutions and ordinances.</u>
- 12. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
- 13. <u>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.</u>
- 14. Outside sales, storage, and display shall be prohibited.

- 15. Special Exception SE-07-01-018 shall be voided with approval of this PD.
- 16. All access to Moselle Avenue is prohibited.
- 17. The applicant has agreed that the property shall be used for C-1 uses with the exception of gas station and automobile service station, which shall be prohibited.
- 18. Prior to approval of the first development plan or preliminary subdivision plan within this PD, developer shall provide a public utility easement, acceptable to Orange County Utilities, for any public utility infrastructure located within the PD boundary and not within a recorded public utility easement.

IMPACT ANALYSIS

Land Use Compatibility

The applicant is seeking to rezone the subject parcel from P-O (Professional Office District) to PD (Planned Development District) in order to construct a 6,000 square foot car wash and up to 5,000 square feet of retail commercial uses. No waivers from Orange County Code 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 Planned Development-Commercial (PD-C), with a development program of a 6,000 square foot car wash and up to 5,000 square feet of retail commercial uses. The proposed PD zoning district and development program is consistent with the proposed FLUM designation and the following CP provisions:

- **FLU1.4.1** states that Orange County shall promote a range of living environments and employment opportunities in order to achieve a stable and diversified population and community.
- **FLU1.4.4** states that the disruption of residential areas by poorly located and designed commercial activities shall be avoided. Primary access to single-family residential development through a multi-family development shall be avoided.
- **FLU1.4.21** states that Orange County will encourage the use of vacant land within the Urban Service Area for redevelopment to improve existing conditions on-site.
- **OBJ FLU2.1** states that Orange County shall promote and encourage infill development through incentives identified in the Land Development Code for relatively small vacant and underutilized parcels within the County's established core areas in the Urban Service Area.

OBJ FLU8.2 states that compatibility will continue to be the fundamental consideration in all land use and zoning decisions. For purposes of this objective, the following polices shall guide regulatory decisions that involve differing land uses.

FLU8.2.1 states that land use changes shall be required to be compatible with the 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.

FLU8.2.6 states that zoning development approvals shall have conditions attached, when appropriate, to ensure the enforcement of the Future Land Use designations.

FLU8.2.11states 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.

Community Meeting Summary

A community meeting was not required for this application. However a community meeting for the associated Comprehensive Plan Amendment (2019-1-S-5-3) was held on February 28, 2019, which was attended by twelve (12) area residents. At the meeting, residents expressed concern about access from the subject property to the residential neighborhood, citing significant vagrant activity in the area.

SITE DATA

Existing Use	Undeveloped Land	
Adjacent Zoning	N:	R-3 (Multi-Family Dwelling District) (1967)
	E:	P-O (Professional Office District) (1980)
	W:	R-1A (Single-Family Dwelling District (1958)
	S:	PD (Planned Development District) (Stowell Plaza PD) (2001) and R-1A (Single-Family Dwelling District (1958)
Adjacent Land Uses	N:	Residential Development (Duplexes)
	E:	Professional Office
	W:	Orange County Utility Site
	S:	Shopping Plaza and Single-Family Residential Subdivision

APPLICABLE PD DEVELOPMENT STANDARDS

PD Perimeter Setback

25 feet

Maximum Building Height:

35 feet

Minimum Building Setbacks

Front Setback:

40 feet (SR 436)

Rear Setback:

25 feet

Side Setback:

25 feet

SPECIAL INFORMATION

Subject Property Analysis

The subject property is located along a corridor characterized by retail commercial uses along Semoran Boulevard, with single-family residential uses transitioning outward from the roadway. The parcel to the south of the subject property was rezoned from P-O (Professional Office District) to PD (Planned Development District) in 2001 to allow for the development of up to 11,000 square feet of office uses and up to 51,000 square feet of retail commercial uses. This request does not include a 0.02-gross acre, 15' wide, sliver of property, which separates the subject property from the retail shopping center to the south. This sliver prevents connectivity to the south.

Comprehensive Plan (CP) Amendment

The subject property has an underlying Future Land Use Map (FLUM) designation of Planned Development-Commercial (PD-C), with a development program of a 6,000 square foot car wash and up to 5,000 square feet of retail commercial uses. The proposed use is consistent with this designation and all applicable CP provisions.

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.

Overlay District Ordinance

The subject property is not located within an Overlay District.

Airport Noise Zone

The subject property is not located within an Airport Noise Zone.

Environmental

Class III wetlands and surface waters are located on site amounting to 0.24 acre. Orange County Conservation Area Determination CAD-18-11-182 was completed for this project with a certified wetland boundary survey approved by the Environmental Protection Division (EPD) on March 12, 2019. This determination is valid for a period of 5 years.

No construction, clearing, filling, alteration or grading is allowed within or immediately adjacent to a conservation area without first obtaining permission from EPD. Reference

Orange County Code Chapter 15, Article X, Section 15-376. Approval of this plan does not authorize any direct or indirect impacts to conservation areas or protective buffers.

Development of the subject properties shall comply with all state and federal regulations regarding wildlife or plants listed as 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

This project is located within the Alternative Mobility Area (AMA) and is exempt from transportation concurrency. The applicant provided an Alternative Mobility Analysis for review and approval by transportation planning. No further analysis is required. Approval from concurrency management office is required prior to obtaining a building permit.

Water / Wastewater / Reclaim

Existing service or provider

Water: Orange County Utilities

Wastewater: Orange County Utilities

Reclaimed: Not Currently Available

Schools

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

Parks and Recreation

Orange County Parks and Recreation staff has reviewed the request but did not identify any issues or concerns.

Code Enforcement

There are no active Code Enforcement violations on the subject property.

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.

PLANNING AND ZONING COMMISSION (PZC) FINDINGS

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 Balwdin Park Plaza Planned Development (PD) Land Use Plan, subject to eighteen (18) conditions.

Staff indicated that in response to concerns expressed by residents at the community meeting, conditions of approval were recommended by the DRC prohibiting access to the adjacent residential street, and requiring an 8' wall along all property lines adjacent to residential properties. Staff indicated that three hundred twenty-nine (329) notices were

mailed to surrounding property owners within a buffer of 500 feet from the subject property, with one (1) commentary received in support, and two (2) in opposition to the request. Those in opposition cited concerns of impacts to wildlife and traffic in the area. The applicant was present for the hearing and concurred with staff's recommendation. There were no members of the public present to speak on this request.

After a brief discussion regarding the sliver parcel which prohibits cross access to the commercial development to the south of the subject property, a motion was made by Commissioner Spears to find the request to be consistent with the Comprehensive Plan and recommend APPROVAL of the Baldwin Park Plaza PD Land Use Plan, subject to the eighteen (18) conditions listed under the DRC Recommendation. Commissioner Dunn seconded the motion, which then carried on a 7-0 vote.

Voting in Favor

Gordon Spears, Jimmy Dunn, JaJa Wade, Jose Cantero,

Yog Melwani, Diane Velazquez, and Carlos Nazario

Voting in Opposition

None

Absent

Eddie Fernandez

Mohammed Abdallah declared a conflict of interest and

recused himself from the vote.

PZC RECOMMENDED ACTION

Planning and Zoning Commission (PZC) Recommendation – (November 21, 2019)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Baldwin Park Plaza Planned Development / Land Use Plan (PD/LUP), dated "Received May 15, 2019", subject to the following conditions:

 Development shall conform to the Baldwin Park Plaza Land Use Plan (LUP) dated "Received May 15, 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 15, 2019," the condition of approval shall control to the extent of such conflict or inconsistency.

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- 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.
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Any failure to comply with this condition may result in the withholding of development permits and plat approval(s).

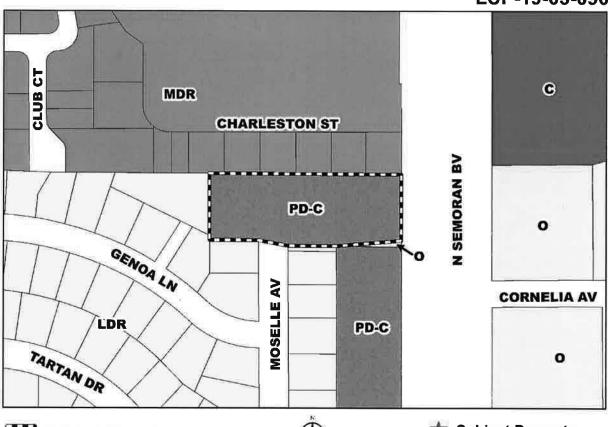
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- 7. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) submittal and must be approved prior 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.
- 8. 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).
- 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.
- 10. 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.
- 11. The developer shall obtain water and wastewater service from Orange County Utilities subject to County rate resolutions and ordinances.
- 12. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
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- 14. Outside sales, storage, and display shall be prohibited.
- 15. Special Exception SE-07-01-018 shall be voided with approval of this PD.
- All access to Moselle Avenue is prohibited.
- 17. The applicant has agreed that the property shall be used for C-1 uses with the exception of gas station and automobile service station, which shall be prohibited.
- 18. Prior to approval of the first development plan or preliminary subdivision plan within this PD, developer shall provide a public utility easement, acceptable to Orange

Rezoning Staff Report Case # LUP-19-03-090

BCC Hearing Date: January 14, 2020

County Utilities, for any public utility infrastructure located within the PD boundary and not within a recorded public utility easement.

LUP-19-03-090









Future Land Use Map

FLUM: Planned Development - Commercial (PD-C)

APPLICANT: Robert B. Paymayesh, PE Group LLC

LOCATION: 1850 North Semoran Boulevard; Generally

1 inch = 175 feet

located north of Old Cheney Hwy, west of Semoran Blvd., south of Baldwin Park St.,

and east of Truman Rd.

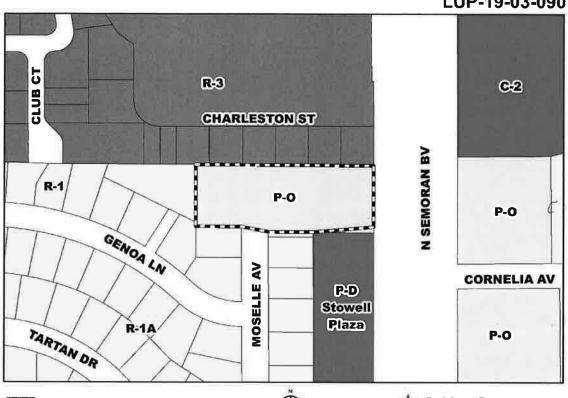
TRACT SIZE: 1.55 gross acres

DISTRICT: #5

S/T/R: 16/22/30

E-COLONIAL DR. SENOD RD. STATE ROAD 408

LUP-19-03-090



Subject Property



* Subject Property

Zoning Map

ZONING: P-O (Professional Office District)

APPLICANT: Robert B. Paymayesh, PE Group LLC

LOCATION: 1850 North Semoran Boulevard; Generally

located north of Old Cheney Hwy, west of Semoran Blvd., south of Baldwin Park St.,

and east of Truman Rd.

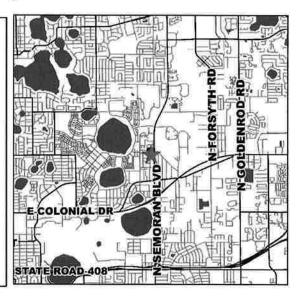
TRACT SIZE: 1.55 gross acres

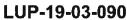
DISTRICT: # 5

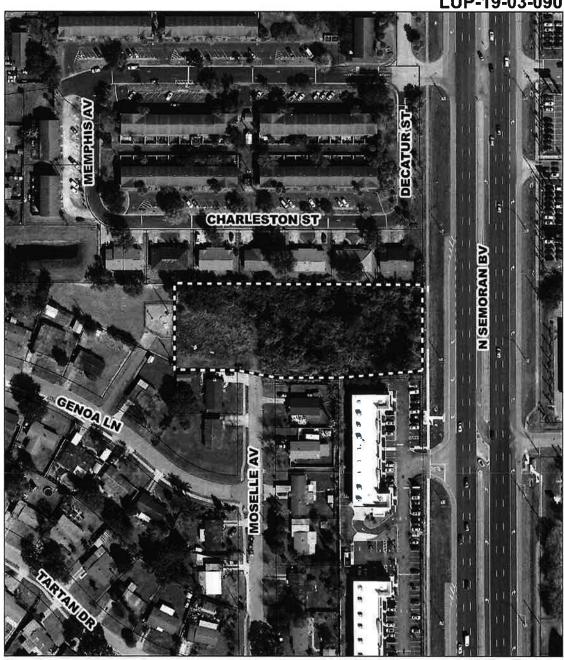
S/T/R:

16/22/30

1 inch = 175 feet





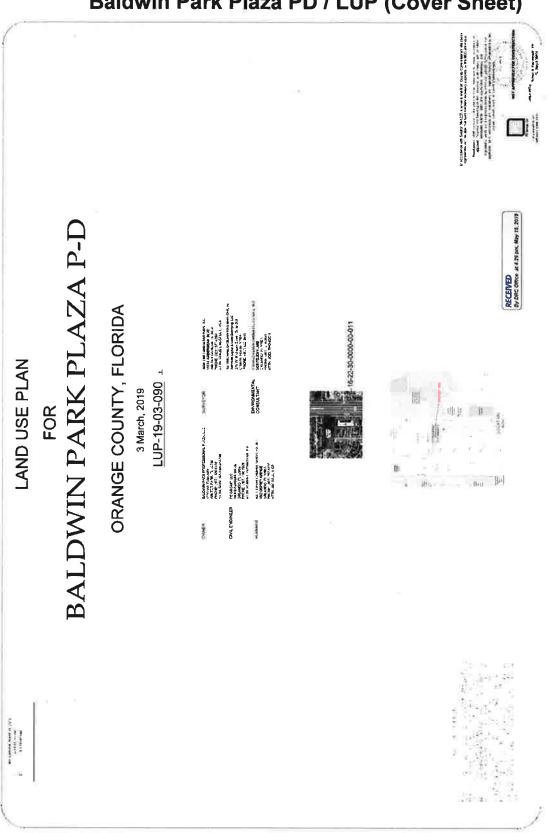




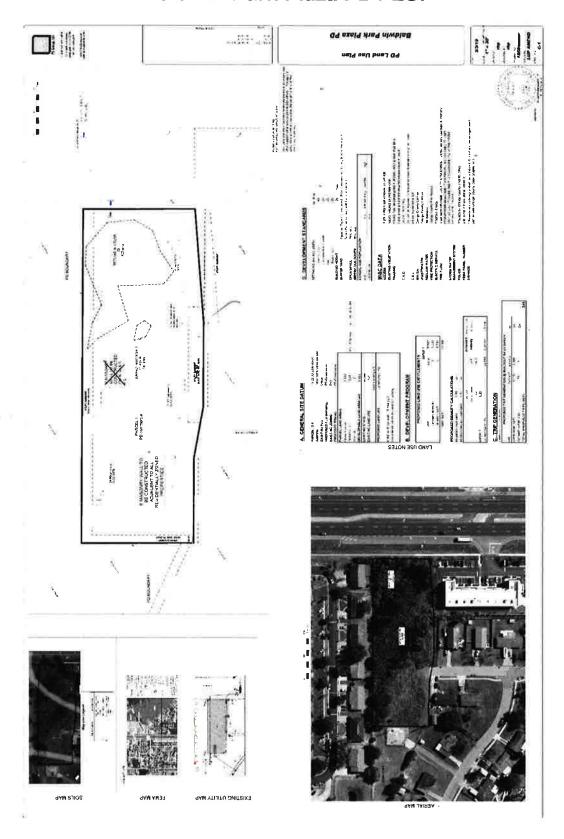


1 inch = 125 feet

Baldwin Park Plaza PD / LUP (Cover Sheet)



Baldwin Park Plaza PD / LUP



Notification Map

