





**Interoffice Memorandum**

**DATE:** July 29, 2021

**TO:** Mayor Jerry L. Demings  
-AND-  
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:** August 10, 2021 – Public Hearing  
Applicant: Hugh Jacobs, Orlando Leased Housing Associates  
XIII, LLLP  
Colonial Greens Planned Development  
Case # CDR-21-03-108 / District 3

The Colonial Greens Planned Development (PD) is generally located south of East Colonial Drive and east of State Road 417. The existing PD development program allows for 340 age-restricted multi-family residential dwelling units.

Through this PD substantial change, the applicant is seeking to amend two waivers to Orange County Code that were approved as part of the PD rezoning. The original waivers allowed a maximum height of four stories, 44 feet, in lieu of the maximum height of three stories, 40 feet. This request would increase the maximum height to four stories, 55 feet.

On April 28, 2021, the Development Review Committee (DRC) recommended approval of the request, subject to conditions. This case was continued from the June 8, 2021 and June 22, 2021 Board meetings.

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 Colonial Greens Planned Development / Land Use Plan (PD/LUP) dated “Received April 2, 2021”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 3

Attachments  
JVW/EPR/nsw

**CASE # CDR-21-03-108**

Commission District: # 3

**GENERAL INFORMATION**

**APPLICANT** Hugh Jacobs, Orlando Leased Housing Associates XIII, LLLP

**OWNER** Beato Holding Co, Inc.; Max W Harris Revocable Trust; Devon D Saunders Mennella; Sloan M Saunders; Jeffrey M Clyman; Sandra Clyman Merrill; Helene Schwartz; Elliot Krauss; Michael Rodriguez; Franco Ferrari; Patricia G Ferrari; Zimmer Poster Service LLP.

**PROJECT NAME** Colonial Greens Planned Development

**PARCEL ID NUMBER(S)** 24-22-30-0000-00-035, 24-22-30-0000-00-051  
24-22-30-0000-00-029, 24-22-30-0000-00-084

**TRACT SIZE** 10.59 gross acres

**LOCATION** Generally located south of East Colonial Drive and east of State Road 417

**REQUEST** A PD substantial change to request the following waivers from Orange County Code:

1. A waiver from Section 38-1258(b) to allow the entire senior affordable housing complex to be a maximum of four (4) stories, fifty-five (55) feet, in lieu of fifty (50) percent of the building being a maximum height of three stories (3), forty (40) feet and the remaining fifty (50) percent being one (1) story or two (2) stories in height.

***Applicant Justification:*** *The increased height allows the units to be clustered in the center of the property instead of in one and two story buildings closer to the single-family residential. This will allow a 100' building setback from the single-family homes. A type "b" opaque buffer will be provided with a 6' opaque fence and an increased height.*

2. A waiver from Section 38-1258(c) to allow the senior affordable housing complex to be a maximum of four (4) stories, fifty-five (55) feet, in lieu of the maximum height of three stories (3), forty (40) feet.

***Applicant Justification:*** *The increased height allows the units to be clustered in the center of the property instead of in one and two story buildings closer to the single-family residential. This will allow a 100' building setback from the*

*single-family homes. A type "b" opaque buffer will be provided with a 6' opaque fence and an increased height.*

**PUBLIC NOTIFICATION** A notification area extending beyond five hundred (500) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Five hundred sixty-seven (567) 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 Colonial Greens PD was originally approved October 13, 2020, for 340 age-restricted multi-family residential dwelling units.

Through this PD Change Determination Request (CDR), the applicant is seeking to amend two waivers to Orange County Code that were approved as part of the PD rezoning. The original waivers allowed a maximum height of four (4) stories, forty-four (44) feet, in lieu of the maximum height of three stories (3), forty (40) feet. This request increases the maximum height to four (4) stories, fifty-five (55) feet.

### **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 Medium High Density Residential (MHDR). The proposed Change Determination Request (CDR) is consistent with the FLUM 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 Joint Planning Area.

### **Environmental**

Environmental Protection Division (EPD) staff has reviewed the request and did not indicate any objection to the height increase.

### **Transportation Concurrency**

Transportation Planning staff has reviewed the proposed request, but did not identify any issues or concerns.

**Community Meeting Summary**

A virtual community meeting was held on July 26, 2021 and an in-person community meeting was held on August 3, 2021. A summary of these community meetings will be provided at the BCC meeting.

**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 this 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 – (April 28, 2021)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Colonial Greens Planned Development / Land Use Plan (PD/LUP), dated “April 2, 2021”, subject to the following conditions:**

1. Development shall conform to the Colonial Greens PD Land Use Plan dated "Received April 2, 2021," 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 April 2, 2021," 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. The following waivers from Orange County Code are granted:
  - a. A waiver from Section 38-1258 (b) to allow the entire senior affordable housing complex to be a maximum of four (4) stories, fifty-five (55) feet, in lieu of fifty (50) percent of the building being a maximum height of three stories

(3), forty (40) feet and the remaining fifty (50) percent being one (1) story or two (2) stories in height.

- b. A waiver from Section 38-1258 (c) to allow the senior affordable housing complex to be a maximum of four (4) stories, fifty-five (55) feet, in lieu of the maximum height of three stories (3), forty (40) feet.

7. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated October 13, 2020 shall apply:

- a. 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).
- b. 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.
- c. 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.
- d. The developer shall obtain water and wastewater service from Orange County Utilities subject to County rate resolutions and ordinances.
- e. 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.
- f. Short term/transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater.
- g. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
- h. 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.
- i. This multi-family project is limited to a senior housing community intended and operated for occupancy by persons fifty-five (55) years or older, as set forth in Section 22.55 of the Orange County Code, as may be amended.
- j. The following waivers from Orange County Code are granted:

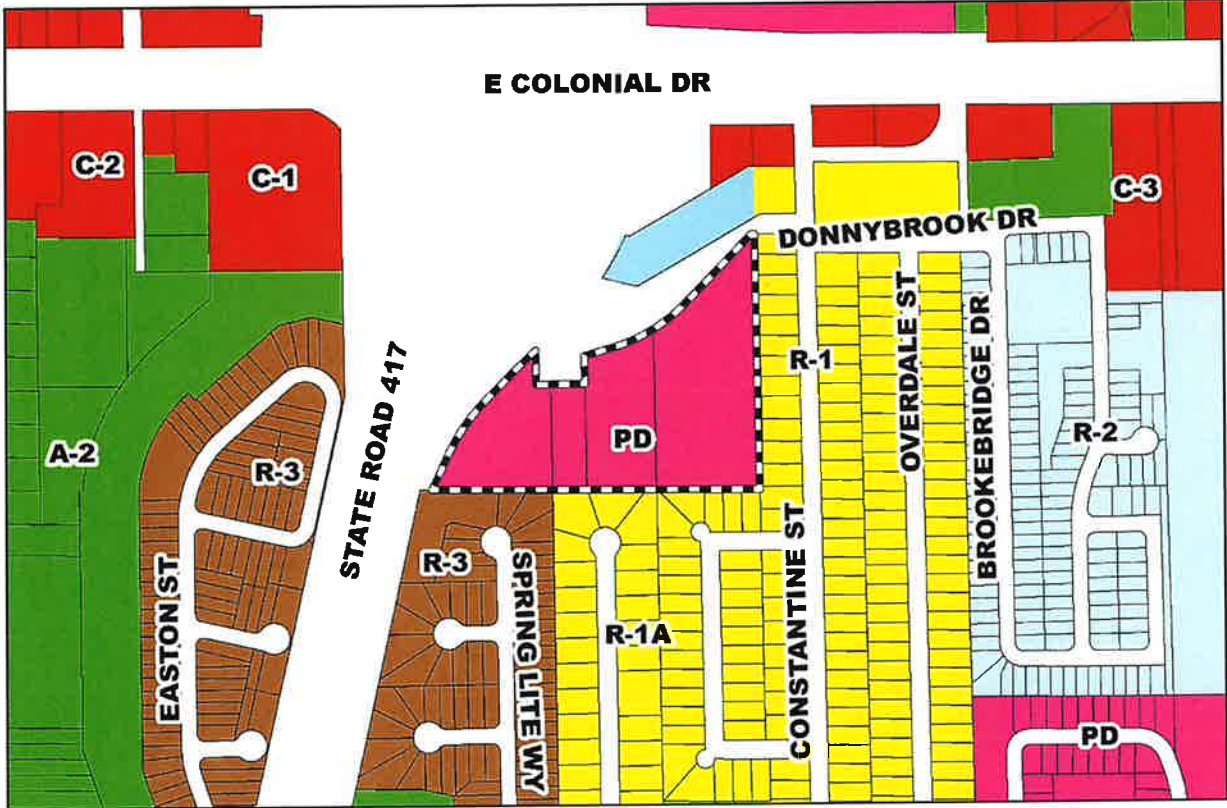
- 1) A waiver from Section 38-1254 (2) to allow a right-of-way setback of eight (8) feet for no more than 50% of the linear right-of-way frontage in lieu of a twenty (20) foot setback from the entire right-of-way.
- 2) A waiver from Section 38-1258 (f) to allow a six (6) foot composite screening wall or a precast concrete wall system in lieu of a six-foot high masonry, brick, or block wall.
- 3) A waiver from Section 38-1255 to allow shade trees at a ratio of one (1) shade tree per two (2) units in lieu of the required one (1) shade tree per unit.
- 4) A waiver from Section 38-1476 to allow 1.4 parking spaces per unit in lieu of the required two (2) parking spaces per unit.
- 5) A waiver from Section 38-1258 (g) to access a multifamily site from a right-of-way serving a platted single family residential.

**PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (October 13, 2021)**

Upon a motion by Commissioner Bonilla, seconded by Commissioner Moore, and carried by a vote of 5-2, with Commissioner Uribe and Commissioner Gomez Cordero voting NAY, the Board made a finding of consistency with the Comprehensive Plan (see Future Land Use Element Goal FLU 1 and Future Land Use Element Objectives FLU1.1, and Policies FLU1.1.1, 1.1.2, FLU1.4.1, FLU1.4.2, FLU8.2.1, FLU8.2.2, and FLU8.2.11; Housing Element Goal H 1. and Housing Element Objective H 1.1, Housing Element Policies H 1.3.11 and H.1.3.15); further, determined that the proposed amendment was in compliance; further, adopted Amendment 2020-1-A-3-1 Commercial to Medium-High Density Residential (MHDR) (Senior Housing), and further, approved rezoning Case LUP-20-01-004, Colonial Greens Planned Development/Land Use Plan (PD/LUP), subject to the fifteen (15) conditions listed in the staff report.



CDR-21-03-108



 Subject Property



 Subject Property

**Zoning Map**

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

**APPLICANT:** Hugh Jacobs, Orlando Leased Housing Associates XIII, LLLP

**LOCATION:** South of East Colonial Drive and west of State Road 417

**TRACT SIZE:** 10.59 acres

**DISTRICT:** # 3

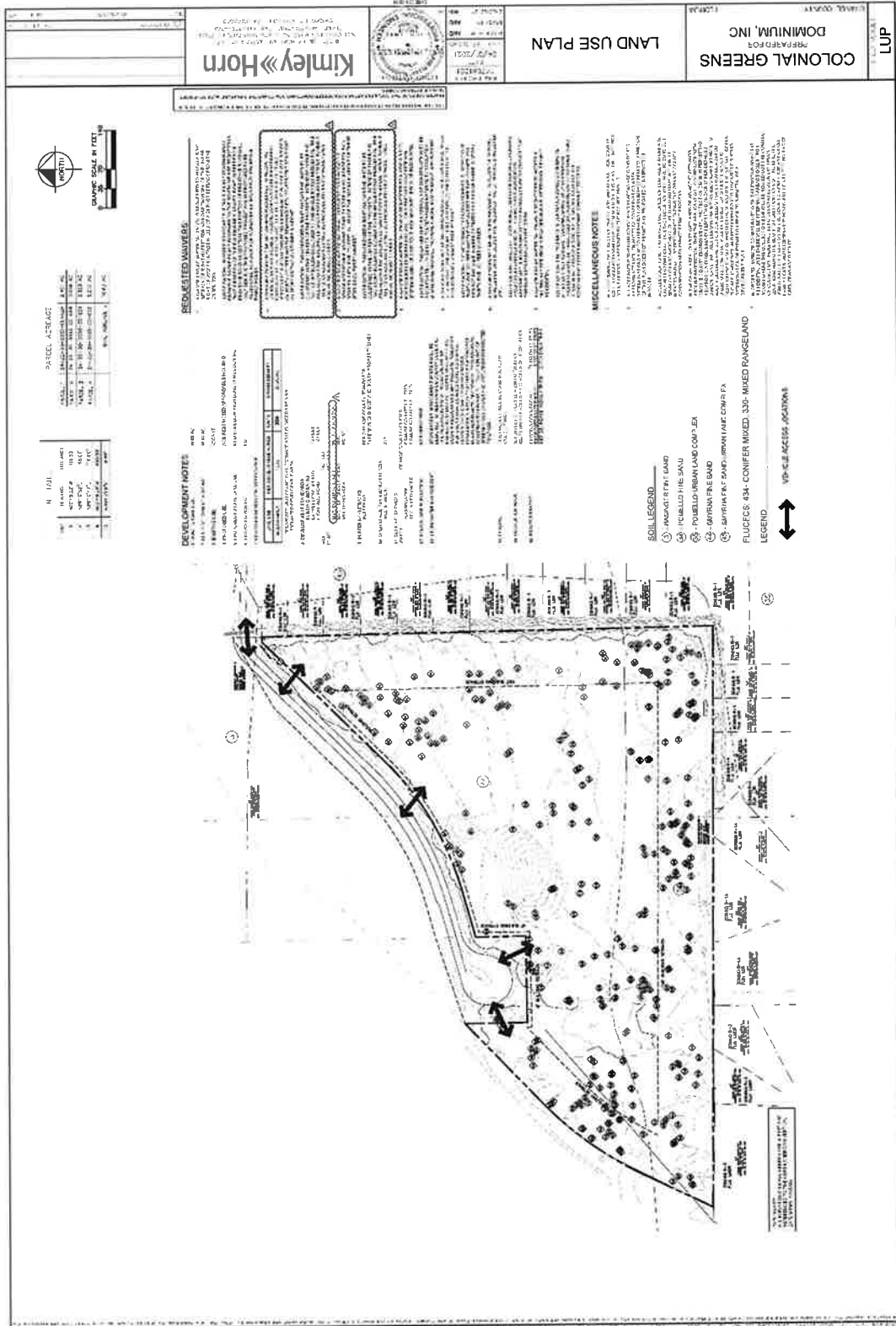
**S/T/R:** 24/22/30

1 inch = 500 feet



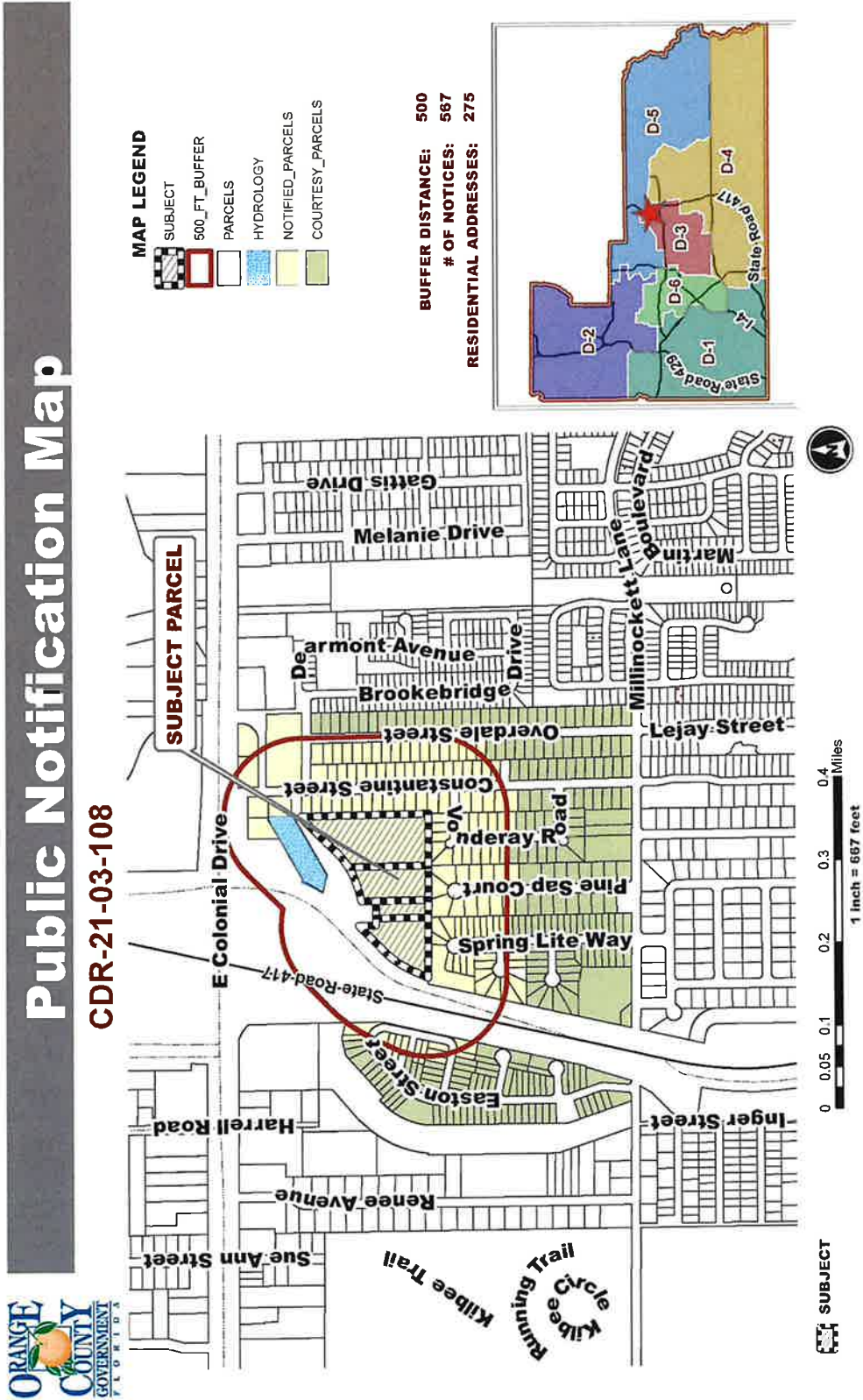


# Colonial Greens PD / LUP



# Notification Map

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## Public Notification Map

CDR-21-03-108

