




## Interoffice Memorandum

October 12, 2021

TO: Mayor Jerry L. Demings  
-AND-  
County Commissioners (BCC)

FROM: Alberto A. Vargas, MArch., Manager, Planning Division 

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

SUBJECT: 2021-2 Regular Cycle Comprehensive Plan  
Amendments 2021-2-A-4-1 (fka 2021-1-A-4-3) and 2021-2-B-FLUE-1  
(Fieldstream Village)  
Board of County Commissioners (BCC) Transmittal Public Hearing

The 2021-2 Regular Cycle Comprehensive Plan Amendments 2021-2-A-4-1 (fka 2021-1-A-4-3) and 2021-2-B-FLUE-1 are scheduled for a BCC transmittal public hearing on August 24, 2021. These amendments were heard by the Planning and Zoning Commission (PZC)/Local Planning Agency (LPA) at a transmittal public hearing on September 16, 2021.

The report is also available under the Amendment Cycle section of the County's Comprehensive Planning webpage. See:

<http://www.orangecountyfl.net/PlanningDevelopment/ComprehensivePlanning.aspx>.

The above-referenced 2021-2 Regular Cycle Amendments scheduled for consideration on October 12 include a privately-initiated Future Land Use Map Amendment located in District 4 and one associated staff-initiated text amendment. The privately-initiated map amendment involves a change to the Future Land Use Map (FLUM) for a property over 10 acres in size. The staff-initiated text amendment entails changes to the Goals, Objectives, and/or Policies of the Comprehensive Plan.

Following the BCC transmittal public hearing, the proposed amendments will be transmitted to the Florida Department of Economic Opportunity (DEO) and other State agencies for review and comment. Staff expects to receive comments from DEO and/or the other State agencies in November 2021. Pursuant to 163.3184, Florida Statutes, the proposed amendments must be adopted within 180 days of receipt of the comment letter. The adoption hearings are tentatively scheduled before the LPA on December 16, 2021, and before the BCC on January 11, 2022.

Any questions concerning this document should be directed to Alberto A. Vargas, MArch, Manager, Planning Division, at (407) 836-5802 or [Alberto.Vargas@ocfl.net](mailto:Alberto.Vargas@ocfl.net) or Greg Golgowski, AICP, Chief Planner, Comprehensive Planning Section, at (407) 836-5624 or [Gregory.Golgowski@ocfl.net](mailto:Gregory.Golgowski@ocfl.net).

AAV/sw

2021-2 Regular Cycle Amendments 2021-2-A-4-1 (fka 2021-1-A-4-3) and 2021-2-B-FLUE-1  
BCC Transmittal Public Hearing  
October 12, 2021  
Page 2

Enc: 2021-2 Regular Cycle Amendments 2021-2-A-4-1 (fka 2021-1-A-4-3) and 2021-2-B-FLUE-1

BCC Transmittal Staff Report

c: Christopher R. Testerman, AICP, Deputy County Administrator  
Joel Prinsell, Deputy County Attorney  
Whitney Evers, Assistant County Attorney  
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Gregory Golgowski, AICP, Chief Planner, Planning Division  
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Eric P. Raasch, AICP, Planning Administrator, Planning Division  
Read File



# **ORANGE COUNTY**

**PLANNING DIVISION**

## **2021-2 REGULAR CYCLE AMENDMENTS**

### **2021-2-A-4-1**

### **(FKA 2021-1-A-4-3)&**

### **2021-2-B-FLUE-1**

### **(FIELDSTREAM VILLAGE)**

2010 - 2030 COMPREHENSIVE PLAN

## **BOARD OF COUNTY COMMISSIONERS**

**OCTOBER 12, 2021**

**TRANSMITTAL PUBLIC HEARING**

**PREPARED BY:**

ORANGE COUNTY COMMUNITY, ENVIRONMENTAL  
AND DEVELOPMENT SERVICES

PLANNING DIVISION  
COMPREHENSIVE PLANNING SECTION



# TABLE OF CONTENTS

**INTRODUCTION ..... Tab 1**

**REGULAR CYCLE AMENDMENTS ..... Tab 2**

***Privately-Initiated Regular Cycle Future Land Use Map (FLUM) Amendment and Associated Staff-Initiated Text Amendment***

Amendment		Page
2.	2021-2-A-4-1 (fka 2021-1-A-4-3) Fieldstream Village	1
	-and-	
	2021-2-B-FLUE-1 PD Density and Intensity	
	Planned Development-Office/Commercial/Institutional/Industrial/ Conservation (PD-O/C/INST/IND/CONS) and Industrial (IND) to Planned Development-Commercial/Office/High Density Residential/Parks and Recreation/Open Space/Conservation (PD-C/O/HDR/PR/OS/CONS)	
	Text amendment to Future Land Use Element Policy FLU8.1.4 establishing the maximum densities and intensities for proposed Planned Developments within Orange County associated with Amendment 2021-2-A-4-1 (fka 2021-1-A-4-3)	

***Community Meeting Summary\* ..... Tab 3***

***Facilities Analyses\* ..... Tab 4***

***Transportation Analysis\* ..... Tab 5***

***Environmental Analysis\* ..... Tab 6***

# **2021 SECOND REGULAR CYCLE AMENDMENT TO THE 2010-2030 COMPREHENSIVE PLAN TRANSMITTAL PUBLIC HEARING**

## **INTRODUCTION**

This is the Board of County Commissioners (BCC) transmittal staff report for the Second Regular Cycle Amendments (2021-2) to the Future Land Use Map (FLUM) and Comprehensive Plan (CP). These amendments were heard by the Local Planning Agency (LPA) during a transmittal public hearing held on September 16, 2021, and will go before the BCC for a transmittal public hearing on October 12, 2021.

The 2021-2 Regular Cycle Amendments include one privately-initiated map amendment located in District 4 and one staff-initiated text amendment. Since this is the transmittal stage for these amendments, there will be a second round of public hearings for adoption after the Florida Department of Economic Opportunity (DEO) and other State agencies complete their review of the proposed amendments and provide comments, expected in November 2021. Adoption public hearings are tentatively scheduled before the LPA on December 16, 2021 and the BCC on January 11, 2022.

If the amendments are adopted by the BCC, they will become effective 31 days after DEO notifies the County that the plan amendment package is complete. These amendments are expected to become effective in February 2022, provided no challenges are brought forth for any of the amendments.

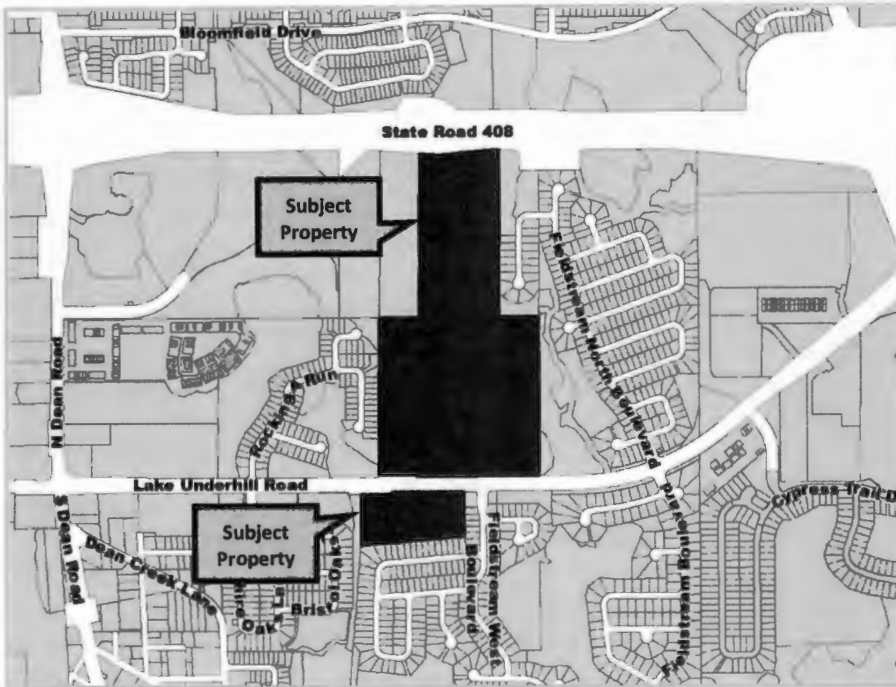
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Amendment Number	Concurrent Rezoning or Substantial Change	Owner	ning Map gnation TO:	Acreage	Project Planner	Staff Rec	LPA Rec
District 4							
2021-2-A-4-1 (fka 2021-1-A-4-3) Fieldstream Village	The submittal of a CDR application is pending.	Bent Tree Holding	)(Planned Development t) (Fieldstream PD/LUP)	65.76 gross ac./36.09 net developable ac.	Jennifer DuBois	Transmit	Transmit (8-0)

Amendment Number	Sponsor	Project Planner	Staff Rec	LPA Rec
2021-2-B-FLUE-1 (FLU8.1.4)	Planning Division-2-A-4-1 (fka 2021-1-A-4-3)	Jennifer DuBois	Transmit	Transmit (8-0)

ABBREVIATIONS INDEX:

gh Density Residential; PD-Planned Development; V-Fixed Use; ACR-Activity Center Residential; GC-Growth Objectives, and Policies; OBJ-Objective; LUP-Land Use



**Applicant/Owner:** Jason Searl, GrayRobinson, P.A./ Bent Tree Holdings, LLC

**Location:** Generally located north and south of Lake Underhill Road, south of SR 408, west of Fieldstream North Boulevard and Fieldstream West Boulevard, and east of N. Dean Road and S. Dean Road.

**Existing Use:** Cattle pasture (former Cloyd's Dairy Landfill)

**Parcel ID Numbers:**  
29-22-31-0000-00-032/050  
and 32-22-31-0000-00-034

**Tract Size:** 65.76 gross/36.09 net developable acres

The following meetings and hearings have been held:		
Report/Public Hearing		Outcome
✓	A virtual community meeting was held May 20, 2021, with 53 members of the public in attendance.	<b>Negative:</b> Participants discussed potential contamination issues related to the presence of buried waste on the site, compatibility with neighboring single-family homes, traffic, access management, and safety.
✓	Staff Report	Recommend Transmittal
✓	LPA Transmittal September 16, 2021	Recommend Transmittal (8-0)
	BCC Transmittal	October 12, 2021
	State Agency Comments	November 2021
	LPA Adoption	December 16, 2021
	BCC Adoption	January 11, 2022

Project Information
Planned Development-Office/Commercial/Institutional/Industrial/Conservation (PD-O/C/INST/IND/CONS) and Industrial (IND) to Planned Development-Commercial/Office/High Density Residential/Parks and Recreation/Open Space/Conservation (PD-C/O/HDR/PR/OS/CONS) and associated staff-initiated text amendment to Policy FLU8.1.4
<b>Proposed Development Program:</b> Up to 1,500 multi-family dwelling units, 100,000 square feet of commercial and office space (20,000 to 25,000 square feet of which is proposed for the operation of a private K-8 STEM school), and community recreational amenities and gathering areas on the north side of Lake Underhill Road. The portion of the site located south of Lake Underhill Road is expected to be utilized for stormwater retention and drainage.
<b>Public Facilities and Services:</b> Please see the Public Facilities & Services Appendix for specific analyses of each public facility. <b>Environmental:</b> A developer's agreement shall be established between Orange County and the Applicant to guide development on this site due to special considerations made necessary by the presence of buried waste. All earthwork, grading, site clearing, and development on former waste disposal sites shall comply with the most recent edition of procedures/guidelines established in <i>Guidance for Disturbance and Use of Old Closed Landfills or Waste Disposal Areas in Florida</i> , published by FDEP.
<b>Concurrent LUP Substantial Change:</b> The concurrent consideration of a Change Determination Review (CDR) application to amend the currently-approved Fieldstream PD Land Use Plan to incorporate the requested development program and establish design and development standards for the mixed-use project is expected at the BCC adoption stage.

## AERIAL





[illegible]

**Airport Noise Zone:** N/A

[illegible]

**Planned Development-  
Commercial/Office/High  
Density Residential/Parks  
and Recreation/Open  
Space/Conservation (PD-  
C/O/HDR/PR/OS/CONS)**

This aerial map illustrates the Fieldstream area, highlighting the Fieldstream PD Boundary. The map shows various zoning districts and surrounding roads. Key features include:

- Roads:** State Road 408, Dean Road, Lake Underhill Road, Dean Creek Lane, and Cypress Trail Drive.
- Zoning Districts:** R-2, R-3, P-D High Point, P-D Fieldstream, P-D Eastmar Commons, P-D Dean Woods, P-D Eastpoint Center, P-D Woodland Lakes, R-1, R-2, R-CE, and R-3.
- Fieldstream PD Boundary:** Indicated by a dashed line and a callout box.
- Other Labels:** Bloomfield Drive, Fieldstream, Dean Woods, Twin Acres at Lake Underhill, and Woodland Lakes.

PD (Planned Development District) (Fieldstream PD/LUP)

N: State Road 408

**S: Fieldstream West  
(single-family residential  
subdivision)**

**E: Fieldstream North and Fieldstream West (single-family residential subdivisions)**

**W:** Dean Woods and Heritage Oaks (single-family residential subdivisions) and wetlands

## Staff Recommendations

1. **FUTURE LAND USE MAP AMENDMENT 2021-2-A-4-1 (fka 2021-1-A-4-3):** Make a finding that the proposed amendment has the potential to be found “in compliance,” as defined by Section 163.3184(1)(b), Florida Statutes; and recommend to the Board of County Commissioners that the amendment, 2021-2-A-4-1 (fka 2021-1-A-4-3), be **TRANSMITTED** to the state reviewing agencies.
2. **FUTURE LAND USE ELEMENT TEXT AMENDMENT 2021-2-B-FLUE-1:** Make a finding the proposed amendment has the potential to be found “in compliance,” as defined by Section 163.3184(1)(b), Florida Statutes, and recommend to the Local Planning Agency that Amendment 2021-2-B-FLUE-1 be **TRANSMITTED** to the state reviewing agencies.

## Analysis

### 1. Background and Development Program

The applicant, Jason Searl of GrayRobinson, P.A., is seeking to change the Future Land Use Map (FLUM) designation of the 65.76-acre subject property from Planned Development-Office/Commercial/Institutional/Industrial/Conservation (PD-O/C/INST/IND/CONS) and Industrial (IND) to Planned Development-Commercial/Office/High Density Residential/Parks and Recreation/Open Space/Conservation (PD-C/O/HDR/PR/OS/CONS). As depicted on the aerial photo, the site is a portion of the 268-acre Fieldstream PD, characterized by single-family residential development surrounded by forested wetlands, and consists of 58.12 acres located north of Lake Underhill Road and 7.64 acres situated south of Lake Underhill. The prospective developer, MMI Development, is proposing a mixed-use project known as Fieldstream Village.

The north tract, comprised of two individual parcels (Parcels 29-22-31-0000-00-032 and 29-22-31-0000-00-050) and currently used as grazing land for cattle, is intended to feature up to 1,500 multi-family dwelling units, 100,000 square feet of neighborhood-serving commercial and office space (20,000 to 25,000 square feet of which is expected to be allocated to a private K-8 STEM school with an anticipated enrollment of 250 students), and community recreational amenities and gathering areas. The north tract’s 29 acres of Class I wetlands and surface water, delineated via Conservation Area Determination CAD-20-09-164—are proposed to remain undisturbed.

The prospective developer plans to utilize the south tract (Parcel 32-22-31-0000-00-034), presently an open field, for drainage and stormwater retention for their planned improvements to the abutting stretch of Lake Underhill Road extending from Dean Road to the west to Rouse Road to the east. These proposed improvements include widening the road from two to four lanes, lowering the road profile, installing new sidewalks, and constructing two roundabouts (one at Lake Underhill’s intersection with Fieldstream West Boulevard, the other at its intersection with Fieldstream North Boulevard and Fieldstream Boulevard) for traffic control purposes. The applicant and the prospective developer are currently exploring a range of potential funding options—including the establishment of a Tax Increment Financing (TIF) district or a direct contribution to the County if it opts to undertake the Lake Underhill Road widening project—to cover the cost of these improvements. Staff emphasizes that the financing mechanism must be definitively established before this requested Future Land Use Map Amendment can move forward to its final adoption public hearing before the Board of County Commissioners (BCC).

Although no alteration is proposed for the north tract’s 29 acres of Class I wetlands and surface water, the applicant has submitted a Conservation Area Impact Permit application, CAI-21-02-009, involving both the north and south tracts and entailing 0.26 acre of direct and 0.34 acre of secondary impacts

to isolated Class III wetlands and 0.26 acre of direct and 0.08 acre of secondary surface water areas. The Uniform Mitigation Assessment Method (UMAM) summary proposes the loss of 0.22 functional units, to be offset with the purchase of mitigation bank credits from a TM Econ mitigation bank servicing the Econlockhatchee River nested hydrologic basin. This application is currently undergoing EPD review and is expected to be considered in conjunction with the proposed Future Land Use Map Amendment during the adoption public hearing stage. If the requested wetland and surface water impacts are approved, this acreage would be added to the subject property's 36.1 developable acres and could be included in the prospective developer's residential density and/or non-residential intensity calculations.

### **Property History**

The subject property is the site of the former Cloyd's Dairy Landfill, which operated from 1964 to 1980. On March 23, 1964, J.S. and Agnes Cloyd signed an agreement with Orange County granting the County the right to use a portion of their dairy farm for the purpose of a "sanitary landfill" for disposal of garbage collected throughout the County. The site was utilized by the County as a sanitary landfill from approximately 1964 to 1972. The northwest portion of the landfill was also used by the County for surface disposal of construction and demolition debris from 1974 until 1980. The landfill activity ceased in 1980, and the buried waste remains onsite. On September 21, 1982, John and Vincent Cloyd signed an Agreement with Orange County to donate road right-of-way and drainage easements for the easterly extension of Lake Underhill Road. The buried waste beneath the donated land was never excavated, though, and the road was subsequently constructed over it.

MMI Development presently has the subject property under contract, with the intent to purchase the site from the current owner, Bent Tree Holdings, LLC (which acquired the three constituent parcels on January 31, 2006), if the proposed amendment and related applications are approved. As discussed in the "Former Cloyd's Dairy Landfill Property" Excavation and Disposal Plan, dated October 16, 2020, and submitted in the application package, Orange County has been monitoring the quality of the groundwater within and around the former Cloyd's Dairy Landfill since 1983, with the County's Risk Management Division overseeing all site work. Per the Excavation and Disposal Plan, prepared for the prospective developer by American Environmental Consulting, 31 groundwater monitoring wells—subject to annual sampling—are located both within the boundary of the former Cloyd's Dairy Landfill and offsite within the neighboring Heritage Oaks (southwest), Dean Woods Reserve (west), Fieldstream North (east), and Fieldstream West (south) residential subdivisions. The prospective developer has informed staff that the most recent groundwater monitoring event occurred in December 2020. Groundwater has been measured at depths of approximately 1 to 9 feet below land surface, and groundwater flow has been reported toward the southwest. Per the Excavation and Disposal Plan, the contaminants of concern (COCs) are benzene, toluene, ethylbenzene, total xylenes (BTEX), vinyl chloride, and ammonia in the groundwater.

As the prospective developer proposes a mixed-use project featuring residential and educational components—both currently prohibited on the property—the applicant team is proposing to excavate and properly dispose of all buried waste on the premises (including the material underneath the abutting segment of Lake Underhill Road), remediate the site, redesign and reconstruct the neighboring section of Lake Underhill Road as previously discussed, and continue to engage with the County in its groundwater monitoring activities.

Staff notes that while the Florida Department of Environmental Protection (FDEP) has approved the Excavation and Disposal Plan, the Orange County Environmental Protection Division (EPD) has requested additional details, as stated in their April 8, 2021, Request for Additional Information (RAI

1). As written in the RAI, EPD is asking that additional details, including completion of delineation of waste areas, proposed excavated waste characterization and disposition, landfill gas monitoring and water quality sampling, and contingency plans, be included in the Excavation and Disposal Plan at this time. EPD has provided additional specific comments in the RAI and appears to be awaiting a response from the applicant team.

### **Fieldstream PD**

As discussed above, the subject property is a portion of the Fieldstream PD, approved on March 29, 1994, through the merging of the Chartered Corporate Centre and Lake Underhill Industrial Park PDs. Per the current Fieldstream PD Land Use Plan, the 58.12-acre north parcel is approved for up to 290,000 square feet of mixed-use development, with an established maximum development program of up to 72,500 square feet of commercial/retail, 77,500 square feet of office over commercial/retail, 28,000 square feet of office, and 112,000 square feet of warehouse/light industrial, with the 28.54 acres of wetlands designated as conservation area. A list of restricted uses is also established on the PD Land Use Plan. The Land Use Plan further stipulates that unless otherwise specifically allowed per the lists of permitted uses and use restrictions, or unless otherwise identified as either a Permitted (P) or Special Exception (S) use under the C-1 (Retail Commercial) or P-O (Professional Office) uses in Section 38-77, Use Table, of the Orange County Code, industrial uses are prohibited. This development program and the use restrictions were established via the June 10, 2008, adoption of Future Land Use Map Amendment 2008-1-A-4-2, which changed the future land use designation of Parcels 29-22-31-0000-00-032 and 29-22-31-0000-00-050 from Office (O) and Medium Density Residential (MDR) to Planned Development-Office/Commercial/Institutional/Industrial/Conservation (PD-O/C/INST/IND/CONS). In conjunction with the adoption of Amendment 2008-1-A-4-2, the Board of County Commissioners (BCC) adopted the PD development program into Future Land Use Element Policy 1.1.12.1.1 of the Comprehensive Plan, now renumbered as Policy FLU8.1.4, and approved the developer's agreement that currently governs activity on the site, the Agreement Concerning Development of Cloyd Landfill, entered into between Orange County and Bent Tree Holding Company, LLC and recorded in Book 9719 Page 0723 of the Public Records of Orange County (Document #20080377856).

On April 28, 2009, the BCC approved a substantial change to the Fieldstream PD Land Use Plan, consistent with the adoption of Amendment 2008-1-A-4-2 added several Conditions of Approval to the Fieldstream PD/LUP to address concerns related to the presence of the onsite buried waste, including:

- Condition #11 requiring the issuance of a FDEP No Further Action letter or documentation prior to the approval of plans including earthwork or construction on sites where any soil or groundwater contamination is found in excess of state clean-up target levels as the result of existing or prior potential contamination-generating sources or activities, and
- Condition #13 prohibiting: a.) Adult/child care centers, b.) Churches, mosques, temples, and other religious use organizations with attendant educational buildings and recreational activities where contaminants in excess of state clean-up levels have been detected in samples collected from the site.

As stated in the detailed comments provided by EPD in the Public Facilities and Services section of this report, EPD does not presently support any residential use (see exception below, but no single-family residential due to potential for ground disturbance), or any other uses that may be perceived as having the potential to increase the future risks to susceptible populations such as children, the elderly, or

the infirm, on top of former landfills and waste disposal areas. This reflects a belief that the level of engineering controls that would be required to address those concerns, possibly including removal of all of the waste in a controlled manner, would be cost-prohibitive. However, if any owner/developer determines that it is financially feasible, following due diligence including consideration of site geophysical challenges, potential of uneven settlement, development of an excavation and disposal plan to be approved by the FDEP and agreed to by EPD, gas vapor barriers under the buildings, long-term gas monitoring and groundwater monitoring to be determined in coordination with FDEP, stormwater management (removal of waste or lined ponds), utility distribution systems, and the unique structural design features necessitated by construction on former landfill areas, then development on former waste disposal sites will be considered through the County development review processes.

The 7.64-acre south tract (Parcel 32-22-31-0000-00-034)—not included in Amendment 2008-1-A-4-2 and presently classified as Industrial on the Future Land Use Map—is designated as an open space/recreation tract on the current Fieldstream PD Land Use Plan. The PD Land Use Plan was last amended on October 21, 2015, on which date the Orange County Development Review Committee (DRC) approved a non-substantial change to the LUP (Case CDR-14-12-367) to extract five parcels totaling 38.14 acres and their associated industrial entitlements and to reconfigure the boundary of the PD, now 299.36 acres in size. The extracted acreage was subsequently rezoned to create the freestanding Twin Acres on Lake Underhill PD (aka Heritage Oaks), approved via the BCC's November 17, 2015, adoption of Future Land Use Map Amendment 2015-1-A-4-2 and approval of Rezoning Case LUP-14-12-368.

In conjunction with this requested amendment, a substantial change to the currently-approved Fieldstream PD Land Use Plan shall be required to incorporate the new mixed-use development program proposed for the subject property, establish design and development standards for the project, and set the conditions for addressing the site's environmental issues and the terms of the planned improvements to Lake Underhill Road. Staff expects that if the BCC votes to transmit this amendment to the Florida Department of Economic Opportunity, it will return for concurrent consideration with a substantial change application during the subsequent adoption public hearing stage.

### **Site Cleanup and Remediation**

It is staff's belief that the proposed mixed-use project has the potential to yield significant public benefits. As discussed above, the prospective developer, MMI Development, intends to excavate and dispose of the buried waste on the north and south parcels and beneath Lake Underhill Road, in accordance with the Excavation and Disposal Plan approved by FDEP and presently undergoing EPD review. The development team roughly estimates a proposed excavation volume of 350,000 to 400,000 cubic yards. MMI's intent is to remove 100 percent of the buried debris. In addition, the applicant intends to significantly improve the abutting two-lane stretch of Lake Underhill Road--extending from Dean Road to the west to Rouse Road to the east—following the removal of the underlying waste. The prospective developer has communicated that the northern parcel's hazardous materials will be excavated and backfilled with clean structural fill to create an area where a temporary Lake Underhill Road will be constructed. Upon completion of the temporary road, the existing Lake Underhill Road will be demolished, and all underlying hazardous materials will be removed. Lake Underhill Road can then be reconstructed at its approximate current location and at a proper elevation. The prospective developer intends to rebuild Lake Underhill Road as a four-lane roadway, with two roundabouts proposed for traffic control and sidewalks installed on both sides of

the road to help ensure pedestrian safety. The southern parcel will be the final excavation area. The 7.64 acres on the south side is also contaminated and will be remediated as well. To fund these improvements, the applicant proposes to create a Tax Increment Financing (TIF) district. Under a TIF formula, future tax revenues derived from increases in the property's value as it is developed are dedicated toward repaying the loans taken out to undertake the infrastructure work. As noted previously, the applicant and development team are presently evaluating a variety of funding mechanisms, with the identification of the financing strategy required before the application may move forward for its adoption public hearing before the BCC. Staff notes that the applicant has begun partnering with the County Attorney's Office to draft the Amended and Restated Developer's Agreement Regarding Cloyd's Landfill (N/K/A Fieldstream Village), which will be expanded upon and refined as this proposed project moves forward through the public hearing process.

### **Application for Brownfield Designation**

On August 4, 2020, the prospective developer submitted an Application for Brownfield Designation: Fieldstream Village, encompassing the entire subject property, to EPD, which is presently conducting its review of the petition. The project team is seeking to obtain the Brownfield designation to take advantage of state incentives for the voluntary cleanup of the former landfill. It is the potential developer's preference that the Brownfield review and designation process run concurrently with the requested Future Land Use Map Amendment and the associated substantial change to the current Fieldstream PD Land Use Plan to the extent feasible. However, EPD notes that s. 376.80(2)(c)3, F.S. requires that the rehabilitation and redevelopment of the proposed Brownfield site must be consistent with the local Comprehensive Plan. EPD emphasizes that the property cannot attain the Brownfield designation unless this requested Future Land Use Map Amendment is adopted.

## **2. Project Analysis**

### **Consistency**

The requested FLUM amendment has the potential to be judged to be **consistent** with the applicable Goals, Objectives, and Policies of the Comprehensive Plan. The subject property is located within the County's Urban Service Area Boundary and is situated in an area characterized by single-family residential development surrounded by forested wetlands. It is staff's belief that this property meets the definition of an underutilized infill site, albeit one that must adhere to a stringent set of environmental regulations due its prior landfill use. Staff finds this proposed amendment and the applicant's intent to subsequently develop up to 1,500 multi-family residential units and 100,000 square feet of commercial/office space—including a K-8 STEM school—consistent with **Future Land Use Element Goal FLU2**, which states that Orange County will encourage urban strategies such as infill development, coordinated land use and transportation planning, and mixed-use development, which promote efficient use of infrastructure, compact development, and an urban experience with a range of choices and living options. In the same vein, staff finds the requested amendment and desired development program consistent with **Future Land Use Element Policy FLU1.1.5**, which encourages mixed-use development, infill development, and transit-oriented development to promote compact urban form and efficiently use land and infrastructure in the Urban Service Area.

In addition, the proposed FLUM amendment and the residential component of the desired development program are consistent with Orange County's commitment to ensuring that sufficient land is available to meet the identified housing needs of its present and future residents. The applicant's intent to develop up to 1,500 multi-family units is consistent with **Housing Element GOAL H1** and **Objective H1.1**, which state that the County will promote and assist in the provision of an

ample housing supply, within a broad range of types and price levels, and will support private sector housing production capacity sufficient to meet current and anticipated housing needs. Similarly, **Policy FLU8.2.2** directs that continuous stretches of similar housing types and density of units shall be avoided. It is staff's belief that the proposed project will contribute to the mix of available housing options in an area of the County deemed appropriate for urban uses, as set forth in **Policy FLU1.1.1**. While the construction of the requested multi-family units would add to the mix of housing options in the community, there is currently no indication that any units meeting the County's affordable certification criteria would be offered and therefore would not contribute to the fulfillment of the County-identified housing needs for that economic category.

Staff further finds the proposed mixed-use project consistent with **Future Land Use Policy FLU1.4.1**, which mandates that the County shall promote a range of living environments and employment opportunities in order to achieve a stable and diversified population and community. Staff views the desired 100,000-square-foot commercial, office, and educational components of this request as potentially complementary to the residential development in the neighboring area. **Future Land Use Element Policy FLU1.4.2** establishes that Orange County shall ensure that land use changes are compatible with and serve existing neighborhoods. To ensure land use compatibility with nearby residentially-zoned areas and protection of the residential character of those communities, office and commercial uses within residential neighborhoods shall be subject to strict performance standards, as specified in **Future Land Use Element Policy FLU8.2.10**. These performance standards include, but are not limited to, building height restrictions; requirements for architectural design compatible with the residential units nearby; floor area ratio (FAR) limitations; lighting type and location requirements; tree protection and landscaping requirements, including those for infill development; and parking design. The establishment of necessary non-residential performance standards will be addressed during the subsequent substantial change and Development Plan (DP) stages of the project.

With respect to the site's significant environmental issues, the applicant is aware that the project must comply with all applicable federal, state, and local regulations governing the redevelopment of the subject property. As established in **Conservation Element Policy C1.5.8**, development on any soils in which buried waste is found shall comply with the guidelines established in the most recent version of the *Guidance for Disturbance and Use of Old Closed Landfills or Waste Disposal Areas in Florida*, published by the Florida Department of Environmental Protection. In addition, the property owner shall be required to enter into a developer's agreement with the County, as required by **Future Land Use Element Policy FLU1.4.19**, which mandates that redevelopment of former landfills as defined by the State and "brownfield development" standards shall comply with the County's Planned Development process, as set forth in Section 38-1201 of the Orange County Code. The proponent for redevelopment shall enter into a developer's agreement with the County delineating specific procedures and/or conditions to deal with any environmental issues prior to redevelopment. As discussed previously, such matters as the formal delineation of waste disposal areas, the development of a long-term sampling/monitoring plan, and—if necessary—the formulation of a remediation plan will be addressed as this project moves through the development review and approval process.

#### **Staff-Initiated Text Amendment**

**Future Land Use Element Policy FLU8.1.4** establishes the development programs for Planned Development (PD) and Lake Pickett (LP) FLUM designations adopted since January 1, 2007. The development program for this requested amendment is proposed for incorporation into Policy FLU8.1.4 via a corresponding staff-initiated text amendment, Amendment 2021-2-B-FLUE-1. If adopted, the maximum development program for Amendment 2021-2-A-4-1 will be as follows:



Amendment Number	Adopted FLUM Designation	Maximum Density/Intensity	Ordinance Number
<u>2021-2-A-4-1</u> (fka 2021-1-A-4-3) <u>Fieldstream Village</u>	<u>Planned Development-Commercial/Office/High Density Residential/Parks and Recreation/Open Space/Conservation</u> (PD-C/O/HDR/PR/OS/CONS)	<u>Commercial/Office: Up to 100,000 square feet</u> <u>Residential: Up to 1,500 multi-family dwelling units</u> <u>Conservation: 29 acres</u>	<u>2022-</u>

### Compatibility

The proposed FLUM amendment appears to be potentially compatible with the development pattern of the surrounding area. **Future Land Use Element Objective FLU8.2** states that compatibility will continue to be the fundamental consideration in all land use and zoning decisions, while **Policy FLU8.2.1** requires land use changes to be compatible with the existing development pattern and development trends in the area. As discussed above, the subject property is located in an area characterized by suburban single-family residential development surrounded by forested wetlands. It is staff's belief that the requested amendment and the applicant's intent to develop a mix of residential, commercial, office, educational, and recreational uses in accordance with a "town center" concept, rather than one that is highway-oriented, would result in a project that is more compatible with neighboring residential homesites than the office park uses—including limited industrial and quasi-industrial uses—currently permitted on the site. As mentioned previously, the applicant is proposing to leave the 29 acres of forested Class I wetlands undisturbed to serve as a natural buffer between the considerably more dense and intense Fieldstream Village development and the existing single-family residential subdivisions.

Staff again notes that in conjunction with this requested amendment, a substantial change to the currently-approved Fieldstream PD Land Use Plan shall be required to incorporate the revised development program for the subject site and establish the conditions for addressing the property's environmental issues. Staff expects that if the BCC votes to transmit this amendment to the Florida Department of Economic Opportunity, it will return for concurrent consideration with a substantial change application during the subsequent adoption public hearing stage.

Staff recognizes the complexity of this proposed project and believes that this requested amendment could benefit from the input received from state and regional reviewing agencies if the BCC elects to transmit it to the Department of Economic Opportunity (DEO). Staff feels that the application's currently-unresolved issues could be sufficiently addressed between the transmittal and adoption stages and so concludes that a recommendation of transmittal is warranted, as the project has the potential to yield significant public benefits, including the excavation and disposal of all buried waste on the site, the remediation of the property, and the concurrent improvements to Lake Underhill Road. It is staff's position that each successive staff report and public hearing will serve as a "progress report" as this case moves forward, with the applicant team and staff required to meet established benchmarks before the project can move on to the next stage. It is staff's expectation that the proposed Future Land Use Map Amendment, the associated staff-initiated amendment of Policy FLU8.1.4, the Developer's Agreement, the CAI Permit, and the Road Agreement will be considered by the BCC at the final adoption public hearing, with the Board's consideration of the Application for

Brownfield Designation: Fieldstream Village to follow at a later date. Staff recommends transmittal of this application.

***Public Facilities and Services***

***Environmental.***

**Note:** Following staff's receipt of the Environmental Protection Division's (EPD's) comments, the applicant submitted a Conservation Area Impact Permit application, CAI-21-02-009, currently undergoing EPD review. The applicant is proposing 0.26 acre of direct and 0.34 acre of secondary impacts to isolated Class III wetlands and 0.26 acre of direct and 0.08 acre of secondary surface water areas. The Uniform Mitigation Assessment Method (UMAM) summary proposes the loss of 0.22 functional units, to be offset with the purchase of mitigation bank credits from a TM Econ mitigation bank servicing the Econlockhatchee River nested hydrologic basin.

EPD has informed staff that Class I and III wetlands and surface waters are located onsite totaling 29.66 acres. Orange County Conservation Area Determination CAD-20-09-164 was completed for these properties on November 16, 2020. This determination is valid for a period of five years.

The net developable land area is 36.1 acres, defined as the gross land area less the wetlands and surface waters. The buildable area is the net developable acreage less protective buffer areas required to prevent adverse secondary impacts. The applicant is advised not to make financial decisions based upon development within the wetland or the upland protective buffer areas. Any plan showing development in such areas without Orange County and other jurisdictional governmental agency wetland permits is speculative and may not be approved.

Density and Floor Area Ratio (FAR) calculations are determined by dividing the total number of units and the square footage by the net developable area. In order to include Class I, II, and III conservation areas in the density and FAR calculations, the parcels shall have an approved Conservation Area Determination (CAD) and an approved Conservation Area Impact (CAI) Permit from the Orange County EPD. Please refer to Comprehensive Plan Policy FLU1.1.2 C. Approval of this request does not authorize any direct or indirect impacts to conservation areas or protective buffers.

The removal, alteration, or encroachment within a Class I conservation area shall only be allowed in cases where no other feasible or practical alternatives exist, impacts are unavoidable to allow a reasonable use of the land, or where there is an overriding public benefit, as determined before the Orange County Board of County Commissioners (BCC).

Development of the subject property shall comply with all state and federal regulations regarding wildlife and plants listed as imperiled (endangered, threatened, or species of special concern). The applicant is responsible for determining the presence of imperiled species and obtaining any required habitat permits from the U.S. Fish and Wildlife Service (USFWS) and the Florida Fish and Wildlife Conservation Commission (FWC).

All development on this site shall comply with the guidelines established in the most recent edition of *Guidance for Disturbance and Use of Old Closed Landfills or Waste Disposal Areas in Florida*, published by the Florida Department of Environmental Protection (FDEP).

The applicant shall proceed to develop an up-to-date Developer's Agreement. Until an updated site Developer's Agreement is completed, this site shall comply with the "Agreement Concerning Development of Cloyd Landfill", as approved by the Orange County Board of County Commissioners on June 10, 2008. Orange County Legal will determine if this document is still valid and in effect, considering this proposed project entails a change determination to the previously-approved plan.

Per Comprehensive Plan Policy FLU1.4.22, redevelopment of former landfills, as defined by the State, and “brownfield development” standards shall comply with the County’s Planned Development process, as established in Section 38-1201, of the Orange County Code. The proponent for redevelopment shall enter into a developer’s agreement with the County delineating specific procedures and/or conditions to deal with any environmental issues before redevelopment. A developer’s agreement will clarify development responsibilities on this property including, but not limited to, contamination monitoring and compliance with the FDEP guidelines for disturbance of former landfills or waste disposal areas, noticing that will run with the land about the buried waste that may render the property unsuitable for conventional development, waste removal procedures, hazard mitigation during waste disturbance, stormwater management, vapor management for future construction, management of combustible gas migration, control of leachate from the waste, and control of odors and dust.

At this time, EPD does not support any residential use (see exception below, but no single-family residential due to potential for ground disturbance), or any other uses that may be perceived as having the potential to increase the future risks to susceptible populations such as children, the elderly, or the infirm, on top of former landfills and waste disposal areas. This reflects a belief that the level of engineering controls that would be required to address those concerns, possibly including removal of all of the waste in a controlled manner, would be cost-prohibitive. However, if any owner/developer determines that it is financially feasible, following due diligence including consideration of site geophysical challenges, potential of uneven settlement, development of an excavation and disposal plan to be approved by FDEP and agreed to by EPD, gas vapor barriers under the buildings, long-term gas monitoring and groundwater monitoring to be determined in coordination with FDEP, stormwater management (removal of waste or lined ponds), utility distribution systems, and the unique structural design features necessitated by construction on former landfill areas, then development on former waste disposal sites will be considered through the County development review processes.

Pursuant to Orange County Comprehensive Plan Policy C1.5.7, development in, on, or near contaminated soils shall properly address the contamination prior to any approvals allowing disturbance of the contaminated soils with land clearing, mass grading, and/or construction. Therefore, if the existing FDEP reviews do not satisfy this concern, then due to the site’s prior land use, a Phase I Environmental Site Assessment is required prior to approvals that include alteration of the land’s surface. Depending on the results of the Phase I, limited sampling or a full Phase II Environmental Site Assessment will be required. In order to allow other elements of the project to move forward, a protective activity setback buffer may be established around any found sources of contamination, including consideration of groundwater flow, to allow simultaneous remediation and other adjacent site development activity in a phased manner to proceed on a case-by-case basis. The goal of remediation shall be compliance with FDEP Regulation 62-777, Contaminant Cleanup Target Levels. The remediation process will be deemed complete with either a state determination of No Further Action or a Site Rehabilitation Completion Order—with or without conditions or compliance with a remedial action plan to determine when vertical construction can proceed, while considering health, safety, and welfare (Orange County Code Chapter 15, Environmental Control, Section 15-27, Declaration of Legislative Intent).

The applicant is directed to note that in *Guidance for Disturbance and Use of Old Closed Landfills or Waste Disposal Areas in Florida*, published by FDEP, there is specific mention of landfill gas concerns including, but not limited to, 6.0 Construction Over Waste-Filled Areas; 6.1 Cautions for Construction; 6.1(a) The Department strongly discourages the construction of residential structures over old waste-filled areas (if landfill gases are currently present or caused by disturbance activities); and 6.1(b)

Construction projects should consider potential impacts from combustible gas inside structures unless designed against gas intrusion.

The covenants, conditions, and restrictions (CC&Rs) shall include notification to potential purchasers, builders, tenants, and Property Owner Associations of this development that neither potable wells nor irrigation wells using local groundwater will be allowed to be constructed on this site.

The applicant/owner has an affirmative obligation to expressly notify potential purchasers, builders, and/or tenants of this development, through an appropriate mechanism, including a conspicuous note on the plat and/or a recorded restrictive covenant, as applicable of the former use of this land for solid waste disposal and that portions of this property have been identified with soil and groundwater contamination.

Prior to any dewatering activities occurring onsite, the applicant shall provide EPD copies of the St. John's River Water Management District- and the Florida Department of Environmental Protection- approved dewatering plans.

No activity will be permitted on the site that may disturb, influence, or otherwise interfere with areas of soil or groundwater contamination, any remediation activities, or areas within the hydrological zone of influence of any contaminated area, unless prior approval has been obtained through the FDEP, and such approval has been provided to the EPD 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 of section 376.308, F.S.

On April 28, 2009, the BCC imposed several conditions on the Fieldstream Village LUP as a result of concern due to the buried waste, including some of the findings outlined above. Condition #11 states that an FDEP (Florida Department of Environmental Protection) No Further Action letter or documentation of specific permission (SRCO) shall be submitted prior to earthwork or construction plan approvals on individual sites, if any soil or groundwater contamination is found in excess of state clean-up targets due to existing or prior potential contaminating generating sources or activities. Condition #13 mandates that the following shall be prohibited: a.) Adult/child care centers, b.) Churches, mosques, temples, and other religious use organizations with attendant educational buildings and recreational activities. Condition #15.i. requires a notice in the public record for property within 700 feet (see BCC minutes).

Roads will be established in private ownership and shall not be dedicated to Orange County.

Due to known contamination on this property, the applicant should consider this site for designation as a Brownfield redevelopment area. For information regarding financial incentives and regulatory benefits, please contact the EPD and the FDEP Central District.

**Transportation.** On September 2, 2021, the prospective developer's traffic engineer submitted an updated traffic analysis titled "Lake Underhill Road Widening between Econ Trail and Rouse: Traffic Analysis for Fieldstream Village Development in Support of Roundabouts". The Transportation Planning Division has reviewed this revised analysis and has requested additional information regarding the proposed roundabouts. Upon receipt and evaluation of this information, Transportation Planning will issue their comments on this petition, which staff expects to provide to the Board under separate cover prior to the October 12, 2021, transmittal hearing.

**Utilities.** The subject property lies within Orange County Utilities' (OCU's) potable water and wastewater service areas. Per OCU, a 20-inch potable water main is located within the Lake Underhill Road right-of-way. With respect to wastewater, an 8-inch forcemain is in place within the Lake

Underhill Road right-of-way, and a 16-inch forcemain exists within the Dean Road right-of-way. Reclaimed water service, however, is presently unavailable. OCU has informed staff that no facility improvements to maintain current level of service (LOS) standards are needed at this time.

**Schools.** Per the September 7, 2021, School Capacity Determination Letter issued by Orange County Public Schools (OCPS), the proposed development of 1,500 multi-family units on the subject site is projected to result in two public schools expected to serve the mixed-use project, Lawton Chiles Elementary and University High, operating over capacity by 0.5 and 105 student seats, respectively. OCPS notes that this determination expires on March 6, 2022, adding that unless otherwise vested, the Development is still required to submit for concurrency review and, if necessary, enter into a Concurrency Mitigation Agreement.

### 3. Policy References

**GOAL H1** – Orange County's goal is to promote and assist in the provision of an ample housing supply, within a broad range of types and price levels, to meet current and anticipated housing needs so that all our residents have the opportunity to purchase or rent standard housing.

**OBJ H1.1** – The County will continue to support private sector housing production capacity sufficient to meet the housing needs of existing and future residents.

**Goal FLU2 – URBAN STRATEGIES.** Orange County will encourage urban strategies such as infill development, coordinated land use and transportation planning, and mixed-use development, which promote efficient use of infrastructure, compact development and an urban experience with a range of choices and living options.

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

**FLU1.1.1** – Urban uses shall be concentrated within the Urban Service Area, except as specified for the Horizon West Village and Innovation Way Overlay (Scenario 5), Growth Centers, and to a limited extent, Rural Settlements.

**FLU1.1.5** – Orange County shall encourage mixed-use development, infill development and transit-oriented development to promote compact urban form and efficiently use land and infrastructure in the Urban Service Area. The County may require minimum FARs and densities in its Land Development Code to achieve the County's desired urban framework. Infill is defined as development consistent with the *Infill Master Plan* (2008).

**FLU1.4.2** – Orange County shall ensure that land use changes are compatible with and serve existing neighborhoods.

**FLU1.4.22** – Redevelopment of former landfills as defined by the State and "brownfield development" standards shall comply with the County's Planned Development process, S38-1201, OCC. The proponent for redevelopment shall enter into a developer's agreement with the County delineating specific procedures and/or conditions to deal with any environmental issues before redevelopment.

**FLU8.2.1** – 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.

**FLU8.2.2**– Continuous stretches of similar housing types and density of units shall be avoided. A diverse mix of uses and housing types shall be promoted.

**FLU8.2.10** – To ensure land use compatibility with nearby residential-zoned areas and protection of the residential character of those areas, office and commercial uses within residential neighborhoods shall be subject to strict performance standards, including but not limited to the following:





- A. Building height restrictions;
- B. Requirements for architectural design compatible with the residential units nearby;
- C. Floor area ratio (FAR) limitations;
- D. Lighting type and location requirements;
- E. Tree protection and landscaping requirements including those for infill development; and
- F. Parking design.

**C1.5.8** – Development on any soils in which buried waste is found shall comply with the guidelines established in the most recent version of the “Guidance for Disturbance and Use of Old Closed Landfills or Waste Disposal Areas in Florida,” published by the Florida Department of Environmental Protection.

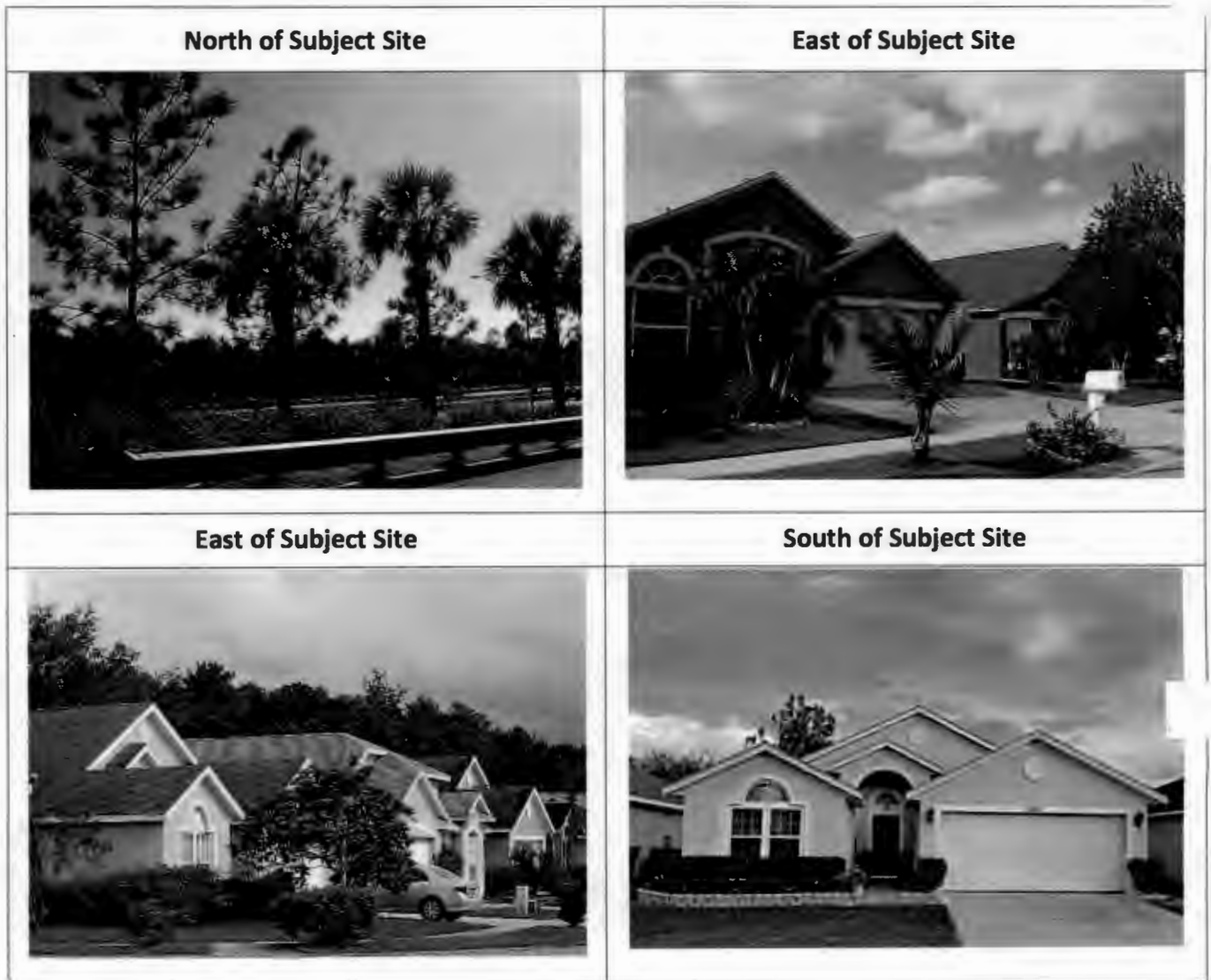
**C3.2.12** – The County shall encourage redevelopment of properties through the State Brownfield Program.

**C3.2.13** – Redevelopment of former solid waste disposal facilities (landfills), including any property where regulated solid waste remains onsite, shall comply with Orange County’s Planned Development process. The proponent for redevelopment of a former landfill shall enter into a developer’s agreement with the County delineating specific procedures and/or conditions to deal with any environmental issues before redevelopment. (Added 6/10, Ord. 10-07)

**Site Visit Photos**

<b>Subject Site (North Parcel)</b>	<b>Subject Site (North Parcel)</b>
	
<b>Subject Site (North Parcel)</b>	<b>Subject Site (South Parcel)</b>
	
<b>West of Subject Site</b>	<b>West of Subject Site</b>
	

**Site Visit Photos**











ORANGE  
COUNTY  
GOVERNMENT  
FLORIDA

# Public Notification Map

2021-2-A-4-1


## MAP LEGEND

-  SUBJECT
-  1 MILE BUFFER
-  PARCELS
-  HYDROLOGY
-  NOTIFIED PARCELS
-  COURTESY PARCELS

**BUFFER DISTANCE: 1 MILE**

**# OF NOTICES: 6830**

**RESIDENTIAL ADDRESSES: 4941**

 SUBJECT

- One mile plus neighborhood and homeowners' associations within a one-mile radius of the subject site
- 6,830 notices sent

