

Item # 47

**SEMINOLE COUNTY GOVERNMENT
LAND PLANNING AGENCY / PLANNING AND ZONING COMMISSION
AGENDA MEMORANDUM**

SUBJECT: Foxwood PUD Major Amendment

DEPARTMENT: Planning & Development **DIVISION:** Planning

AUTHORIZED BY: Donald S. Fisher **CONTACT:** Tina Deater **EXT.** 7440

Agenda Date <u>08/10/04</u> Regular <input type="checkbox"/> Consent <input type="checkbox"/> Work Session <input type="checkbox"/> Briefing <input type="checkbox"/> Public Hearing – 1:30 <input checked="" type="checkbox"/> Public Hearing – 7:00 <input type="checkbox"/>
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MOTION/RECOMMENDATION:

1. APPROVE the request for a major amendment to the approximately 139.9 acre Foxwood PUD (rezone from PUD to PUD), approximately bounded by SR 436, Sand Lake Road, North Line Drive, and Hunt Club Boulevard, subject to the attached Addendum #3 to the Developer's Commitment Agreement, and authorize the Chairman to execute the abovementioned documents (Unicorp National Developments, applicant); or
2. DENY the request for a major amendment to the approximately 139.9 acre Foxwood PUD (rezone from PUD to PUD), approximately bounded by SR 436, Sand Lake Road, North Line Drive, and Hunt Club Boulevard, subject to the attached Addendum #3 to the Developer's Commitment Agreement (Unicorp National Developments, applicant); or
3. CONTINUE the public hearing until a time and date certain.

District 3 – Commissioner Van Der Weide

Tina Deater, Senior Planner

BACKGROUND:

The applicant, Unicorp National Developments, requests a major amendment to the existing Foxwood PUD agreement, consisting of converting 1.44 acres of a tract approved for office use to commercial use, and reducing the required buffer on the east side of the 1.44 acres from 40 feet to 20 feet. The subject property has a PUD (Planned Unit Development) zoning classification and a PD (Planned Development) future land use designation.

Reviewed by: Co Atty: <u>KJC</u> DFS: _____ OTHER: <u>JD</u> DCM: <u>AD</u> CM: <u>TD</u> File No. <u>ph130pdp03</u>

STAFF RECOMMENDATION:

Staff recommends APPROVAL of the requested major PUD amendment, subject to the attached Addendum #3 to the Developer's Commitment Agreement.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

At their July 7, 2004 meeting, the Planning and Zoning Commission determined that the proposed PUD amendment, including the range of uses permitted in the corresponding C-1 zoning district and the proposed buffer reduction, would be incompatible with the adjacent cemetery to the east. As a result, the Commission voted 7-0 to recommend DENIAL of the requested PUD major amendment.

FOXWOOD PUD MAJOR AMENDMENT

APPLICANT:	Unicorp National Developments			
PROPERTY OWNER:	Shoppes of Hunt Club LLC			
REQUEST:	Major PUD Amendment			
HEARING DATES(S):	P&Z:	7/7/2004	BCC:	8/10/2004
PARCEL ID NO.:	Parcel to be changed to commercial: 07-21-29-300-016B-0000			
PROJECT LOCATION:	Approximately bounded by SR 436, Sand Lake Road, North Line Drive, and Hunt Club Boulevard			
APPROXIMATE SIZE:	1.44 acre tract to be changed from office use to commercial , 139.9 acres in the entire Foxwood PUD			
FUTURE LAND USE:	PD (Planned Development)			
ZONING:	PUD (Planned Unit Development)			
FILE NUMBER:	Z2004-027			
COMMISSION DISTRICT:	District 3 – Commissioner Van Der Weide			

OVERVIEW

Zoning Request: The applicant, Unicorp National Developments, requests a major amendment to the existing Foxwood PUD agreement, consisting of converting 1.44 acres of a tract approved for office use to commercial use. The applicant is proposing that Tract 10, which was originally designated as general office, be split into Tract 10, containing 1.58 acres, which will remain designated as office, and Tract 11, containing 1.44 acres, which will be designated as commercial and will comply with the regulations of the C-1 zoning district. The other commercial tracts within the PUD must comply with the regulations of the C-1 zoning district.

The original PUD agreement states that a 40-foot buffer is required along the east side of Tract 10. The applicant is also requesting that this 40-foot buffer be reduced to a 20-foot buffer. The C-1 zoning district allows properties adjacent to properties with non-residential zoning and future land uses to reduce the side yard setback to 0-feet. The proposed Tract 11 would be adjacent to property used for a cemetery with A-1 zoning and Public future land use, and therefore staff supports the buffer reduction from 40-feet to 20-feet.

The following table summarizes the existing surrounding zoning and Future Land Uses:

Direction	Zoning	FLU	Current Use
Site	PUD (Planned Unit Development)	PD (Planned Development)	Financial Institution
North	PUD (Planned Unit Development)	PD (Planned Development)	Financial Institution
East	A-1 (Agriculture District)	Public	Cemetery
South	OP (Office Professional District), RP (Residential Professional District)	Office	Offices, Residential
West	PUD (Planned Unit Development)	PD (Planned Development)	Shopping Center

For more detailed information regarding zoning and land use, please refer to the attached map.

SITE ANALYSIS

Facilities and Services:

Adequate facilities and services must be available concurrent with the impacts of development. If required by the concurrency review, additional facilities and services will be identified.

Water and Sewer:

Water and sewer services are provided to the subject property by Seminole County.

Compliance with Environmental Regulations:

Prior to approval of final engineering plans, the developer will be required to comply with the environmental regulations contained within the Seminole County Land Development Code. At this time there are no concerns regarding compliance with environmental regulations.

Compatibility with Surrounding Development:

The existing PUD zoning classification and the PD future land use designation are compatible with the surrounding land use designations. The proposed C-1 uses in Tract 11 are consistent with the shopping center uses to the west, the financial institution to the north, and the office uses to the south.

STAFF RECOMMENDATION:

Staff recommends APPROVAL of the requested major PUD amendment, subject to the attached Addendum #3 to the Developer's Commitment Agreement.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

At their July 7, 2004 meeting, the Planning and Zoning Commission determined that the proposed PUD amendment, including the range of uses permitted in the corresponding C-1 zoning district and the proposed buffer reduction, would be incompatible with the adjacent cemetery to the east. As a result, the Commission voted 7-0 to recommend DENIAL of the requested PUD major amendment.

**Minutes for the Seminole County
Land Planning Agency / Planning & Zoning Commission
July 7, 2004**

Members present: Alan Peltz, Ben Tucker, Chris Dorworth, Beth Hattaway, Richard Harris, Walt Eismann, and Dudley Bates.

Also present: Don Fisher, Director of Planning and Development; Tony Walter, Assistant Planning Manager; Tina Deater, Senior Planner; Karen Consalo, Assistant County Attorney; April Boswell, Senior Planner; Denny Gibbs, Planner; Jim Potter, Development Review Division and Candace Lindlaw - Hudson, Secretary.

C. Foxwood PUD Major Amendment; Unicorp National Development, Inc., applicant; approximately 139.9 acres; Major Amendment to Foxwood PUD; rezone from PUD (Planned Unit Development) to PUD (Planned Unit Development); approximately bounded by SR 436, Sand Lake Road, North Line Drive, and Hunt Club Boulevard. (Z2004-027)

Commissioner Van Der Weide – District 3
Tina Deater, Senior Planner

Ms. Deater stated that the entire Foxwood PUD contains approximately 139.9 acres. The property that is the subject of the proposed amendment contains approximately 1.44 acres and is located on the northeast corner of Hunt Club Boulevard and SR 436.

The applicant is requesting a major amendment to the existing Foxwood PUD agreement, consisting of converting 1.44 acres of a tract approved for office use to commercial use. The applicant is proposing that Tract 10, which was originally designated as general office, be split into Tract 10, containing 1.58 acres, which will remain designated as office, and Tract 11, containing 1.44 acres, which will be designated as commercial and will comply with the regulations of the C-1 zoning district. Currently the other commercial tracts approved within the PUD must comply with the regulations of the C-1 zoning district.

The original PUD agreement states that a 40-foot buffer is required along the east side of Tract 10. The applicant is also requesting that this 40-foot buffer be reduced to a 20-foot buffer. The C-1 zoning district allows properties adjacent to properties with non-residential zoning and future land uses to reduce the side yard setback to 0-feet. The proposed Tract 11 would be adjacent to property used for a cemetery with A-1 zoning and Public future land use, and therefore staff supports the buffer reduction from 40-feet to 20-feet.

In conclusion, Staff recommends approval of the requested major PUD amendment, subject to the Addendum #3 to the Developer's Commitment Agreement that is included in the staff report. Ms. Deater stated that staff recommendation was for approval, subject to the addendum #3 in the Developer's Commitment Agreement.

Commissioner Tucker asked if Ms. Deater had a history of the 40-foot buffer of the PUD.

Ms. Deater stated that based on current code there is no requirement in the buffering.

Tony Walter said that based on the current code requirement of 0 feet, staff thought that 20 feet was appropriate.

Jake Smith of Avid Engineering stated that a 20-foot buffer of native vegetation on the east property line will be kept. He would construct a wall if required.

The building will line up with the existing bank, which has no vegetation as a buffer.

Commissioner Tucker noted for the record the e-mail received in opposition to the lack of buffer sent by Jack Yent of Baldwin-Fairchild.

Commissioner Harris read the e-mail from Mr. Yent opposing the lack of buffer.

There was no public comment from the floor.

Commissioner Tucker stated that the 40-foot buffer was a necessity.

Commissioner Tucker made a motion to recommend denial of the reduction of the 40 foot buffer requirement and to deny the request for C-1 zoning.

Commissioner Hattaway seconded the motion. She stated that she also felt that the 20 foot buffer was insufficient.

The motion passed unanimously (7-0). The request was recommended for denial.

AN ORDINANCE AMENDING, PURSUANT TO THE LAND DEVELOPMENT CODE OF SEMINOLE COUNTY, THE ZONING CLASSIFICATIONS ASSIGNED TO CERTAIN PROPERTY LOCATED IN SEMINOLE COUNTY (LENGTHY LEGAL DESCRIPTION ATTACHED AS EXHIBIT A); ASSIGNING CERTAIN PROPERTY CURRENTLY ASSIGNED THE PUD ZONING CLASSIFICATION THE PUD ZONING CLASSIFICATION; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

Section 1. LEGISLATIVE FINDINGS.

(a) The Board of County Commissioners hereby adopts and incorporates into this Ordinance as legislative findings the contents of the documents titled, "Foxwood PUD Major Amendment."

(b) The Board hereby determines that the economic impact statement referred to by the Seminole County Home Rule Charter is unnecessary and waived as to this Ordinance.

Section 2. REZONINGS. The zoning classification assigned to the following described property is changed from PUD to PUD:

SEE ATTACHED EXHIBIT A

Section 3. CODIFICATION. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall not be codified.

Section 4. SEVERABILITY. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board of County Commissioners that the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 5. EFFECTIVE DATE. A certified copy of this Ordinance shall be provided to the Florida Department of State by the Clerk of the Board of County Commissioners in accordance with Section 125.66, Florida Statutes, and this Ordinance shall be effective upon filing by the Department.

ENACTED this 10th day of August, 2004.

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

By: _____
Daryl G. McLain
Chairman

EXHIBIT A

PARCEL ONE:

The NW 1/4 of the SE 1/4 of Section 7, Township 21 South, Range 29 East; together with Section 3 of HIGHLAND MEMORIAL GARDENS, according to the plat thereof as recorded in Plat Book 9 at pages 58, 59, 60, 61 and 62 of the public records of Seminole County, Florida; less the following: Begin at the NE corner of said Section 3 of HIGHLAND MEMORIAL GARDENS; thence run South 0 deg 33'45" E along the East line of said Section 3 for 1135.38 feet to a point on the North R/W line of State Road No. 436; thence run South 89 deg 04'55" West along the North R/W line of State Road No. 436 for 372.12 feet to a point; thence run North 0 deg 55'17" West for 1140.29 feet to a point on the North line of said Section 3 of HIGHLAND MEMORIAL GARDENS; thence run North 89 deg 49' 38" East along the North line of said Section 3 for 379.26 feet to the point of beginning; also less that portion of said Section 3 of HIGHLAND MEMORIAL GARDENS for road R/W for State Road No. 436, as shown on State Road Department R/W map dated July 7, 1969, Section 77080-2509 sheet 5 of 18 sheets, said tract of land lying and being situated in Seminole County, Florida.

PARCEL TWO: The West 16.50 feet of the SE 1/4 of the NE 1/4, Section 7, Township 21 South, Range 29 East, Seminole County, Florida. The SW 1/4 of the NE 1/4, Section 7 Township 21 South, Range 29 East, Seminole County, Florida. The SE 1/4 of the NW 1/4, less the North 25 feet thereof for Sand Lake Road, Section 7, Township 21 South, Range 29 East, Seminole County, Florida. Further described as approximately 4 1/2 miles West of I-4 on State Road 436; property lies on North side of SR 436 and Extends Northward to Sand Lake Road and Wekiva Hunt Club.

ADDENDUM NUMBER 3
Foxwood Planned Unit Development
Commitments, Classifications, and District Description

The Foxwood Planned Unit Development Commitments, Classification, and District Description, dated October 28, 1976, as amended, is hereby further amended as follows:

II. The following Land Use Table and Tracting Table shall supercede and replace any conflicting such tables:

Land Use Table

<u>LAND USE</u>	<u>ACRES</u>	<u>UNITS</u>	<u>DENSITY</u>
RESIDENTIAL	72.85	228	3.13
COMMUNITY SHOPPING	25.00		
COMMERCIAL	4.08		
GENERAL OFFICE	4.42		
CONDOMINIUM	5.37	64	12.00
PARK & POND	13.21		
DAYCARE CENTER	1.08		
ARTERIAL ROAD	9.50		
POWERLINE	4.39		
TOTAL	139.90	292	3.73

Tracting Table

<u>TRACT</u>	<u>DESCRIPTION</u>	<u>ACRES</u>	<u>UNITS</u>
1	RESIDENTIAL	33.36	80
2	RESIDENTIAL	47.67	148
3	DAY CARE CENTER	1.08	
4	PARK	13.21	
5	CONDOMINIUM	5.37	64
6	ARTERIAL ROAD	5.71	
7	GENERAL OFFICE	1.40	
8	COMMERCIAL	4.08	
9	COMMUNITY SHOPPING	25.00	
10	GENERAL OFFICE	1.58	
11	COMMERCIAL	1.44	
TOTAL		139.90	292

V. The following provision shall be included within the Landscaping and Buffering requirements:

Commercial Area

1. A 20-foot landscape buffer is required along the east side of Tract 11.

SEMINOLE COUNTY BOARD OF
COUNTY COMMISSIONERS

By: _____
Daryl G. McLain, Chairman

ATTEST:

Mary Anne Morse
Clerk to the Board of County Commissioners

OWNER'S CONSENT AND COVENANT

COMES NOW, the owner, Shoppes of Hunt Club LLC, Inc., on behalf of itself and its heirs, successors, assigns or transferees of any nature whatsoever and consents to, agrees with and covenants to perform and fully abide by the provisions, terms, conditions and commitments set forth in this Development Order.

Witness

Tim Keen, Real Estate Manager
of Shoppes of Hunt Club LLC

Print Name

Witness

Print Name

STATE OF FLORIDA)

COUNTY OF SEMINOLE)

I HEREBY CERTIFY The foregoing instrument was acknowledged before me this _____ day of _____, 20___, by Tim Keen, the Real Estate Manager of the Shoppes of Hunt Club LLC, on behalf of the corporation who is personally known to me or has produced _____ as identification and did take an oath.

Notary Public, in and for the County and State
Aforementioned

My Commission Expires:



Matt West/Seminole
07/01/2004 07:48 AM

To: Tina Deater/Seminole@Seminole
cc: Tony Walter/Seminole@Seminole
bcc:
Subject: Fw: Comments on Re-zoning from Highland Memory Gardens

Tina could you contact these folks prior to the July 7, P&Z? Thanks.

----- Forwarded by Matt West/Seminole on 07/01/2004 07:53 AM -----

Don Fisher/Seminole
06/30/2004 02:16 PM

To: Matt West/Seminole@Seminole
cc:
Subject: Fw: Comments on Re-zoning from Highland Memory Gardens

Mr. Tucker suggested we contact this gentlemen to receive his input. Why don't you have your staff do that, since he will bring it up at the meeting.

Don

----- Forwarded by Don Fisher/Seminole on 06/30/2004 02:20 PM -----



Cbentucker@aol.com
06/29/2004 11:24 AM

To: dfisher@co.seminole.fl.us
cc:
Subject: Fwd: FW: Comments on Re-zoning from Highland Memory Gardens

Pleas call me aou another issue.

----- Message from "Ben Tucker" <Ben@bentucker.com> on Tue, 29 Jun 2004 11:21:20 -0400 -----

To: <cbentucker@aol.com>

Subject: FW: Comments on Re-zoning from Highland Memory Gardens

-----Original Message-----

From: Yent, Jack [mailto:jjyent@stei.com]
Sent: Monday, June 28, 2004 9:41 AM
To: 'Ben@BenTucker.com'
Cc: Stephens, Scott; Hause, Joanne; Kramer, Cindy
Subject: Comments on Re-zoning from Highland Memory Gardens

Thank you for contacting us in regard to the re-zoning of the adjacent property.

I do not support reducing the amount of buffer space between the two properties. I believe that the 40' is sufficient and should not be changed due to several reasons.

First of all, the cemetery is a sacred place that deserves a buffer from the high traffic volume of persons visiting this type of establishment. The buffer servers as additional security and respect to the property owners within the cemetery who visit family members buried in this area.

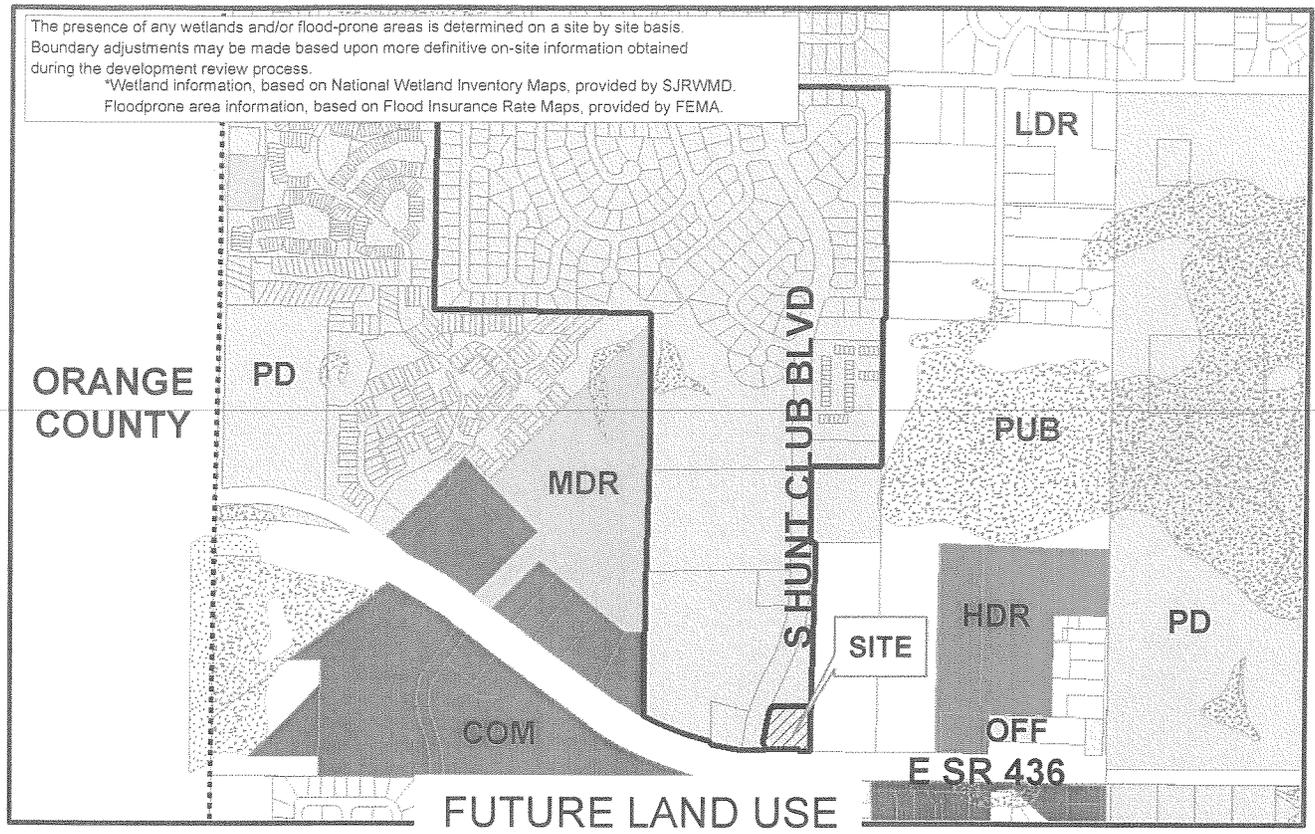
Also, the unknown factor exist as too the elevation exchange between the two properties, if the 40' were reduced.

Please feel free to contact me if we need to discuss further.

Thanks

Jack Yent, President,
Baldwin-Fairchild Cemeteries & Funeral Homes

The presence of any wetlands and/or flood-prone areas is determined on a site by site basis. Boundary adjustments may be made based upon more definitive on-site information obtained during the development review process.
 *Wetland information, based on National Wetland Inventory Maps, provided by SJRWMD.
 Floodprone area information, based on Flood Insurance Rate Maps, provided by FEMA.

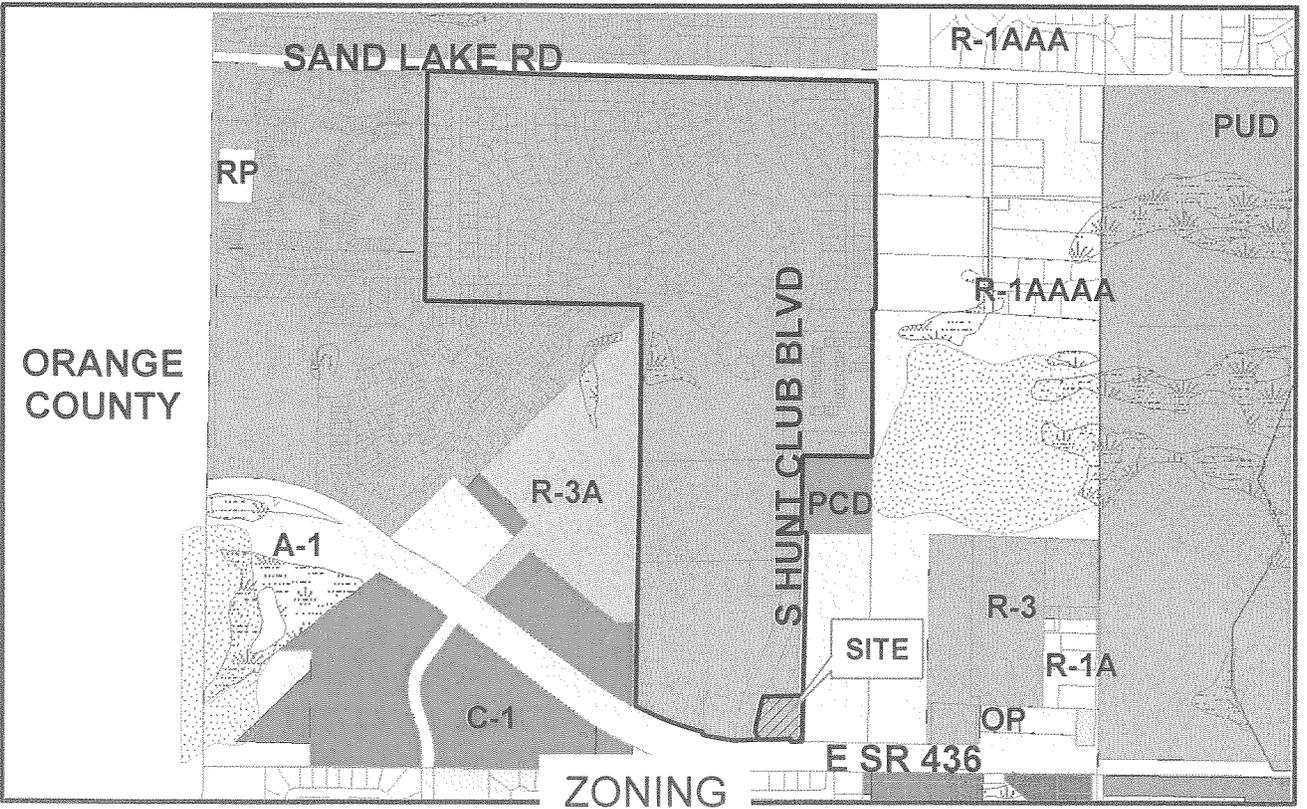


FUTURE LAND USE

- Site
- PUD Site
- PUB
- MDR
- PD
- OFF
- COM
- HDR
- LDR
- CONS

Applicant: Unicorp National Developments, Inc.
 Physical STR: 07-21-29-300-016B-0000
 Gross Acres: 1.44 BCC District: 3
 Existing Use: Office Buildings
 Special Notes: None

	Amend/Rezone#	From	To
FLU	--	--	--
Zoning	Z2004-027	PUD	PUD



ZONING

- Site
- PUD Site
- A-1
- R-1AAAA
- R-1AAA
- R-1A
- R-3A
- R-3
- RP
- OP
- C-1
- PUD
- PCD
- FP-1
- W-1



Rezone No: Z2004-027
From: PUD To: PUD

-  Parcel
-  Subject Property



February 1999 Color Aerials