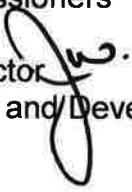





Interoffice Memorandum

DATE: April 6, 2020

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

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

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

SUBJECT: April 21, 2020 – Public Hearing
Jonathan Martin, Kimley-Horn and Associates, Inc.
Waterstar Orlando Planned Development / Land Use Plan
Case # LUP-19-04-119 / District 1

The Waterstar Orlando Planned Development (PD) is located north of Irlo Bronson Memorial Highway and east of East Lake Boulevard. The subject property is currently zoned PD, and encompasses two existing PDs (Samuel Grimes PD and Imported Gifts PD) and a portion of a third PD (Black Lake Parcel PD). The existing development program within these PDs includes 30,600 square feet of commercial, 592 hotel rooms, 150 timeshare units, 67 villas, 40,000 square feet of office, and a gas station. The request is to consolidate the property into the Waterstar Orlando PD with a development program of 250,000 square feet of commercial, 250 hotel units, and 320 residential units.

In addition, the applicant is requesting 10 waivers from Orange County Code to reduce buffers and internal building and paving setbacks, increase building height, increase impervious coverage, allow recreation areas to be located on a separate parcel from the multi-family parcel, and to reduce parking.

On March 11, 2020, the Development Review Committee (DRC) recommended approval of the request, subject to conditions. A community meeting was not required for this request.

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 Waterstar Orlando Planned Development / Land Use Plan (PD/LUP) dated “Received March 13, 2020”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1

Attachments
JVW/EPR/jhs

CASE # LUP-19-04-119

Commission District: # 1

GENERAL INFORMATION

APPLICANT Jonathan Martin, Kimley-Horn and Associates, Inc.

OWNER Walt Disney Parks and Resorts US, Inc.;
Waterstar Orlando, LLC

PROJECT NAME Waterstar Orlando Planned Development (PD)

HEARING TYPE Planned Development / Land Use Plan (PD / LUP)

REQUEST PD (Black Lake Parcel Planned Development District);
PD (Imported Gifts Planned Development District); and
PD (Samuel Grimes Planned Development District) **to**
PD (Waterstar Orlando Planned Development District)

A request to rezone 33.63 gross acres from PD (Black Lake Parcel PD), PD (Imported Gifts PD), and PD (Samuel Grimes PD) to PD in order to create the Waterstar Orlando PD with a development program of 250,000 square feet of commercial uses, 250 hotel rooms, and 320 multi-family dwelling units. The request also includes the following waivers from Orange County Code:

Chapter 24:

1. A waiver is requested from Section 24-4(a)(2), to allow all landscape buffer widths reduced to zero (0) feet between internal parcels of the PD in lieu of a 7' wide landscape buffer for Parcels A and B.

Applicant Justification: *This waiver will allow for the utilization of shared driveways and promote inter-access passage between lots, as well as limit the total impervious area of the project. No harm or undesirable effects will occur to the neighboring properties or general public because of this waiver.*

2. A waiver from Section 24-5(a)(3) is requested to allow for no buffer between internal uses within the PD in lieu of the requirement for a Type C, opaque buffer.

Applicant Justification: *This property is located in a mixed-use development surrounded by commercial uses*

and is seeking to enhance the integration of the residential and commercial activities as required by Orange County FLU Policy FLU8.1.10 "requires integration of the residential component with the non-residential component".

Chapter 38 :

3. A waiver from Section 38-1251(b) is requested to allow a maximum building coverage of all buildings up to thirty five percent (35%) for Parcel A in lieu of thirty percent (30%).

Applicant Justification: This property is located in a mixed-use development surrounded by commercial uses.

4. A waiver from Section 38-1251(d) is requested to allow multi-family buildings within Parcel A a maximum height of sixty (60) feet / four (4) stories in lieu of a maximum height of 35 feet.

Applicant Justification: This property is located in a mixed-use development is intended to be integrated into the overall PD and surrounded by commercial uses.

5. A waiver from Section 38-1253 is requested to allow all of the Parcel B plaza adjacent to Parcel A to be used as a portion of the required Active and Passive recreation facilities for Parcel A in lieu of being located solely on the Multi-Family Parcel A.

Applicant Justification: This property is located in a mixed-use development and is seeking to enhance the integration of the commercial activities with the overall site as required by Orange County FLU Policy FLU8.1.10 "requires integration of the residential component with the non-residential component".

6. A waiver from Section 38-1254 (1) to allow no increase in the twenty-five foot (25') PD boundary building setback for structures in excess of two (2) stories for Parcel A in lieu of increase to reflect additional structural height.

Applicant Justification: This property is located in a mixed-use development surrounded by commercial uses.

7. A waiver from Section 38-1258(j) is requested to allow no increase in building separation for Parcel A in lieu of proportional increase due to increased structural height and allow minimum setbacks between three (3) story buildings be twenty feet (20') for Parcel A in lieu of forty feet (40').

Applicant Justification: *This property is located in a mixed-use development is intended to be integrated into the overall PD and surrounded by commercial uses. The site and architectural plans shall meet Florida Building Code separation requirements.*

8. A waiver from Section 38-1272 (a)(1) is requested to allow eighty (80) percent impervious coverage for Parcel B in lieu of seventy (70) percent.

Applicant Justification: *This property contains unique hardscape areas, carefully designed to integrate the commercial and multi-family parcels that would otherwise be grass. Pervious pavers are also being used in lieu of traditional pavement in multiple locations throughout the development.*

9. A waiver is requested from Section 38-1272 (3), to allow all paving setbacks reduced to zero (0) feet between internal parcels of the PD in lieu of a 10' side and rear setback for commercial abutting commercial and a 25' setback for commercial abutting residential for Parcel B.

Applicant Justification: *This waiver will allow for the utilization of shared driveways and promote inter-access passage between lots, as well as limit the total impervious area of the project. No harm or undesirable effects will occur to the neighboring properties or general public because of this waiver.*

10. A waiver is requested from Section 38-1476 (A) to allow for multi-family parking at a ratio of one and six-tenths (1.6) spaces per multi-family unit regardless of bedroom count, in lieu of one and one-half (1.5) spaces for efficiencies and one-bedroom units and two (2) spaces for two (2) and three (3) bedroom units.

Applicant Justification: *This property is located in a mixed-use development surrounded by commercial uses. The mixed-use nature of the development along with the growing trend of reduced vehicle ownership in the renter market warrant a reduced parking requirement.*

- LOCATION** Generally north of Irlo Bronson Memorial Highway and east of East Orange Lake Boulevard
- PARCEL ID NUMBERS** 33-24-27-0000-00-006; 33-24-27-0000-00-010; 33-24-27-0000-00-011; 33-24-27-0000-00-012; 33-24-27-0000-00-024; and 34-24-27-1000-01-001
- TRACT SIZE** 33.63 acres
- PUBLIC NOTIFICATION** The notification area for this public hearing extended beyond fifteen hundred (1,500) feet [*Chapter 30-40(c)(3)(a) of Orange County Code requires 300 feet*]. Thirty-one (31) notices were mailed to those property owners in the mailing area. A community meeting was not required for this request.
- PROPOSED USE** 250,000 square feet of commercial uses, 250 hotel rooms, and 320 multi-family dwelling units

IMPACT ANALYSIS

Overview

The applicant is seeking to rezone 33.63 gross acres from PD (Black Lake Parcel PD), PD (Imported Gifts PD), and PD (Samuel Grimes PD) to PD in order to create the Waterstar Orlando PD with a development program of 250,000 square feet of commercial uses, 250 hotel rooms, and 320 multi-family dwelling units. Waivers from Orange County Code are requested to reduce buffers and internal building and paving setbacks, increase building height, increase impervious coverage, allow recreation areas to be on a separate parcel from the multi-family parcel, and to reduce parking.

The existing development program for the three existing PDs (Parcel A for Black Lake Parcel PD) is provided as follows:

Existing Entitlement Summary per Approved PDs						
	Commercial (SF)	Hotel	Timeshare	Villas	Office (SF)	Gas Station
Samuel Grimes PD	N/A	274	N/A	67	40,000	1
Imported Gifts PD	5,600	168	N/A	N/A	N/A	N/A
Black Lake Parcel PD - Parcel A	25,000	150	150	N/A	N/A	N/A
Total	30,600	592	150	67	40,000	1

The proposed Waterstar Orlando PD development program is as follows:

DEVELOPMENT PROGRAM			
PARCEL	COMMERCIAL	HOTEL	RESIDENTIAL
A	0 SF	0 SF	320 UNITS
B	250,000 SF	250 UNITS	0 UNITS
TOTAL	250,000 SF	250 UNITS	320 UNITS

Land Use Compatibility

The proposed development program is compatible with existing development in the area, and would not adversely impact adjacent properties.

Comprehensive Plan (CP) Consistency

The subject property has an underlying Future Land Use Map (FLUM) designation of Commercial (C). While multi-family residential development is not typically permitted on property with an underlying FLUM designation of Commercial, County Comprehensive Plan Policy FLU8.1.10 allows for residential development to be considered within non-residential PDs, with specific criteria. Additionally, the request is consistent with the following CP provisions:

FLU1.1.5 states that the 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.

FLU1.4.1 states that Orange County shall promote a range of living environments and employment opportunities in order to achieve a stable and diversified population and community.

FLU8.1.1 states that the zoning and future land use correlation shall be used to determine consistency with the Future Land Use Map. Land use compatibility, the location, availability and capacity of services and facilities, market demand, and environmental features shall also be used in determining which specific zoning district is most appropriate. Density is restricted to the maximum and minimum allowed by the Future Land Use Map designation regardless of zoning.

FLU8.1.5 states that the location of Planned Development (PDs) within the Urban Service Area that have been approved as of the date of adoption of the 1991 CPP shall be considered consistent with the Comprehensive Plan and included as part of the adopted Orange County Future Land Use Map (FLUM).

FLU8.1.10 states that ancillary residential development may be considered in a non-residential Planned Development without a comprehensive plan amendment, provided all the standards listed below are met: A) The residential component shall be limited to a maximum of thirty percent (30%) of the total Planned Development acreage; and; B) The overall residential development shall be a minimum of 10 units per acre and a maximum of 50 units per acre (unless located within an activity center, where the activity center maximum density shall apply); and, C) The residential component shall be

integrated into and compatible with the nonresidential land use by location and/or design; and, D)The PD Plan change shall be processed as required in the Zoning Regulations.

OBJ FLU8.2 states that compatibility will continue to be the fundamental consideration in all land use and zoning decisions.

FLU8.2.1 states that land use changes shall be required to be compatible with 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 states that continuous stretches of similar housing types and density of units shall be avoided. A diverse mix of uses and housing types shall be promoted.

FLU8.2.11 states that compatibility may not necessarily be determined to be a land use that is identical to those uses that surround it. Other factors may be considered, such as the design attributes of the project, its urban form, the physical integration of a project and its function in the broader community, as well its contribution toward the Goals and Objectives in the CP. The CP shall specifically allow for such a balance of considerations to occur.

Community Meeting Summary

A community meeting was not required for this request.

SITE DATA

Existing Use	Undeveloped Land / Retail
Adjacent Zoning	N: PD (Orlando World Resort PD District) (1989) E: PD (Black Lake Parcel PD District) (2008) W: PD (Orlando World Resort PD District) (1989) S: Osceola County
Adjacent Land Uses	N: Undeveloped Land E: Wetland / Commercial Retail W: Undeveloped Land / Commercial Retail S: Irlo Bronson Memorial Highway

SPECIAL INFORMATION

Transportation / Concurrency

Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a Capacity Encumbrance Letter (CEL) prior to construction plan submittal and must apply for and obtain a Capacity Reservation Certificate (CRC) prior to approval of the plat. Nothing in the decision to approve this substantial change shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a CEL or a CRC.

Based on the Concurrency Management System database dated April 17, 2019, there are no failing roadways within a one-mile radius of this development. This information is dated and subject to change. A traffic study will be required prior to obtaining an approved CEL.

Rural Settlement

The subject property is not located within a Rural Settlement.

Joint Planning Area (JPA)

The subject property is not located within a JPA.

Overlay District Ordinance

The subject property is not located within an Overlay District.

Airport Noise Zone

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

Environmental

Habitat Protection Regulations - 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 to determine the presence of listed species and obtain any required habitat permits from the U.S. Fish and Wildlife Service (USFWS) and/or the Florida Fish & Wildlife Conservation Commission (FWC).

Water / Wastewater / Reclaim

	<u>Existing service or provider</u>
Water:	Toho Water Authority (proposed)
Wastewater:	Toho Water Authority (proposed)
Reclaimed:	Toho Water Authority (proposed)

Schools

Orange County Public Schools has determined that capacity for 320 multi-family residential dwelling units exists and has issued a capacity determination letter.

Parks and Recreation

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

Code Enforcement

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

Specific Project Expenditure Report and Relationship Disclosure Forms

The original Specific Project Expenditure Report and Relationship Disclosure Form are currently on file with the Planning Division.

ACTION REQUESTED

Development Review Committee (DRC) Recommendation – (March 11, 2020)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Waterstar Orlando Planned Development / Land Use Plan (PD/LUP), dated “Received March 13, 2020”, subject to the following conditions:

1. Development shall conform to the Waterstar Orlando Land Use Plan (LUP) dated "Received March 13, 2020," 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 March 13, 2020," the condition of approval shall control to the extent of such conflict or inconsistency.

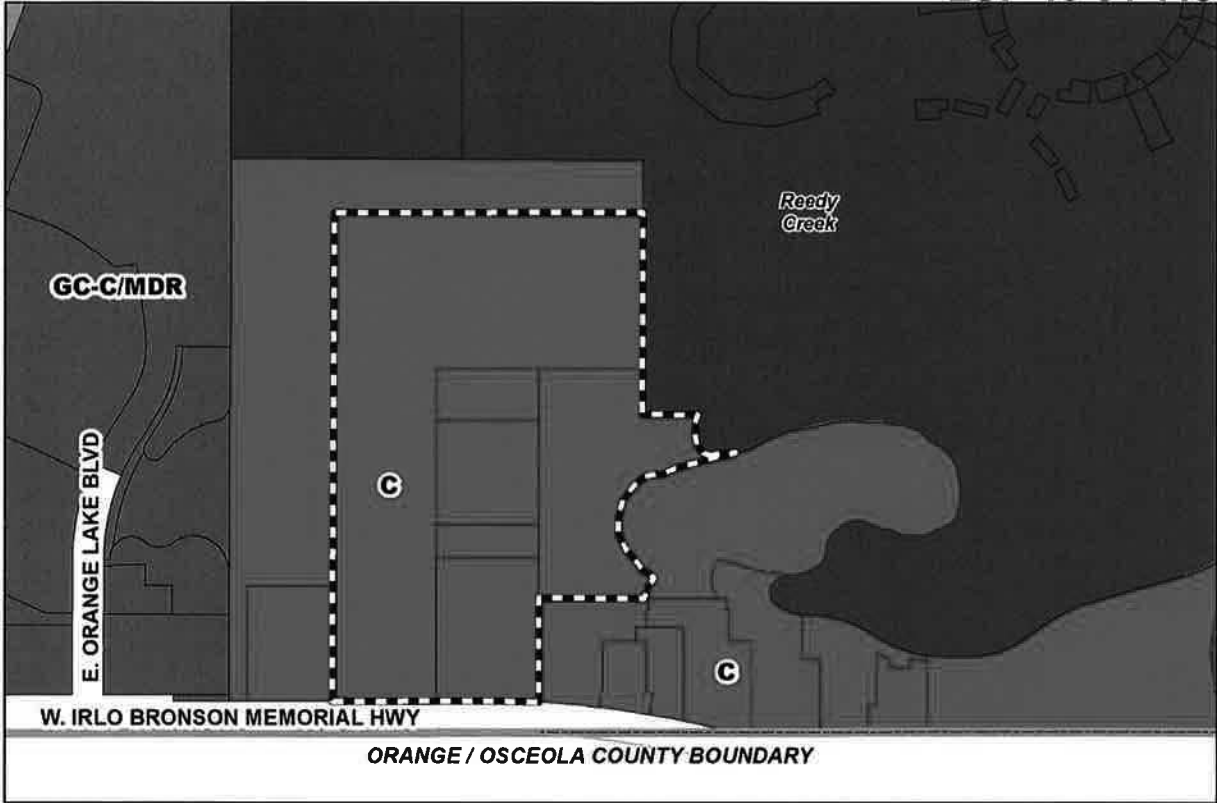
2. This project shall comply with, adhere to, and not deviate from or otherwise conflict with any verbal or written promise or representation made by the applicant (or authorized agent) to the Board of County Commissioners ("Board") at the public hearing where this development received final approval, where such promise or representation, whether oral or written, was relied upon by the Board in approving the development, could have reasonably been expected to have been relied upon by the Board in approving the development, or could have reasonably induced or otherwise influenced the Board to approve the development. In the event any such promise or representation is not complied with or adhered to, or the project deviates from or otherwise conflicts with such promise or representation, the County may withhold (or postpone issuance of) development permits and / or postpone the recording of (or refuse to record) the plat for the project. For purposes of this condition, a "promise" or "representation" shall be deemed to have been made to the Board by the applicant (or authorized agent) if it was expressly made to the Board at a public hearing where the development was considered and approved.

3. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this land use plan to promptly disclose to the County any changes in ownership, encumbrances, or other matters of record affecting the property that is subject to the plan, and to resolve any issues that may be identified by the County as a result of any such changes. Developer / Applicant acknowledges and understands that any such changes are solely the Developer's / Applicant's obligation and responsibility to disclose and resolve, and that the Developer's / Applicant's failure to disclose and resolve any such changes to the satisfaction of the County may result in the County not issuing (or delaying issuance of) development permits, not recording (or delaying recording of) a plat for the property, or both.
5. Property that is required to be dedicated or otherwise conveyed to Orange County (by plat or other means) shall be free and clear of all encumbrances, except as may be acceptable to County and consistent with the anticipated use. Owner / Developer shall provide, at no cost to County, any and all easements required for approval of a project or necessary for relocation of existing easements, including any existing facilities, and shall be responsible for the full costs of any such relocation prior to Orange County's acceptance of the conveyance. Any encumbrances that are discovered after approval of a PD Land Use Plan shall be the responsibility of Owner / Developer to release and relocate, at no cost to County, prior to County's acceptance of conveyance. As part of the review process for construction plan approval(s), any required off-site easements identified by County must be conveyed to County prior to any such approval, or at a later date as determined by County. Any failure to comply with this condition may result in the withholding of development permits and plat approval(s).
6. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a Capacity Encumbrance Letter (CEL) prior to construction plan submittal and must apply for and obtain a Capacity Reservation Certificate (CRC) prior to approval of the plat. Nothing in this condition, and nothing in the decision to approve this land use plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a CEL or a CRC.
7. 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).

8. 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.
9. All acreages identified as conservation areas and wetland buffers are considered approximate until finalized by a Conservation Area Determination (CAD) and a Conservation Area Impact (CAI) Permit. Approval of this plan does not authorize any direct or indirect conservation area impacts.
10. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances for the portions of the PD that are located within Orange County Utilities service areas.
11. For the portions of the PD that are located within Orange County Utilities service areas, Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP). MUP updates shall be submitted to Orange County Utilities at least thirty (30) days prior to the corresponding construction plan submittal. The updated MUP must be approved prior to construction plan approval for the portions of the PD that are located within Orange County Utilities service areas.
12. 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.
13. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5, unless otherwise approved by the BCC.
14. Outside sales, storage, and display shall be prohibited.
15. Length of stay shall not exceed 179 consecutive days within any 12-month period within Parcel B.
16. Short term/transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater within a 12-month period within Parcel A.
17. The territorial agreement between Orange County and Toho Water Authority must be amended and approved by the BCC prior to construction plan approval for lots within the Orange County Utilities Service Area.
18. The following waivers from Orange County Code are granted:
 - a. A waiver is requested from Section 24-4(a)(2), to allow all landscape buffer widths reduced to zero (0) feet between internal parcels of the PD in lieu of a 7' wide landscape buffer for Parcels A and B.

- b. A waiver from Section 24-5(a)(3) to allow for no buffer between internal uses within the PD in lieu of the requirement for a Type C, opaque buffer.
- c. A waiver from Section 38-1251(b) to allow a maximum building coverage of all buildings up to thirty five percent (35%) for Parcel A in lieu of thirty percent (30%).
- d. A waiver from Section 38-1251(d) to allow multi-family buildings within Parcel A a maximum height of sixty (60) feet / four (4) stories in lieu of a maximum height of 35 feet.
- e. A waiver from Section 38-1253 to allow all of the Parcel B plaza adjacent to Parcel A to be used as a portion of the required Active and Passive recreation facilities for Parcel A in lieu of being located solely on the Multi-Family Parcel A.
- f. A waiver from Section 38-1254 (1) to allow no increase in the twenty-five foot (25') PD boundary building setback for structures in excess of two (2) stories for Parcel A in lieu of increase to reflect additional structural height.
- g. A waiver from Section 38-1258(j) to allow no increase in building separation for Parcel A in lieu of proportional increase due to increased structural height and allow minimum setbacks between three (3) story buildings be twenty feet (20') for Parcel A in lieu of forty feet (40').
- h. A waiver from Section 38-1272 (a)(1) to allow eighty (80) percent impervious coverage for Parcel B in lieu of seventy (70) percent.
- i. A waiver is requested from Section 38-1272 (3), to allow all paving setbacks reduced to zero (0) feet between internal parcels of the PD in lieu of a 10' side and rear setback for commercial abutting commercial and a 25' setback for commercial abutting residential for Parcel B.
- j. A waiver is requested from Section 38-1476 (A) to allow for multi-family parking at a ratio of one and six-tenths (1.6) spaces per multi-family unit regardless of bedroom count, in lieu of one and one-half (1.5) spaces for efficiencies and one-bedroom units and two (2) spaces for two (2) and three (3) bedroom units.

LUP-19-04-119



Subject Property



Subject Property

Future Land Use Map

FLUM: Commercial

APPLICANT: Jonathan Martin, Kimley-Horn and Associates, Inc.

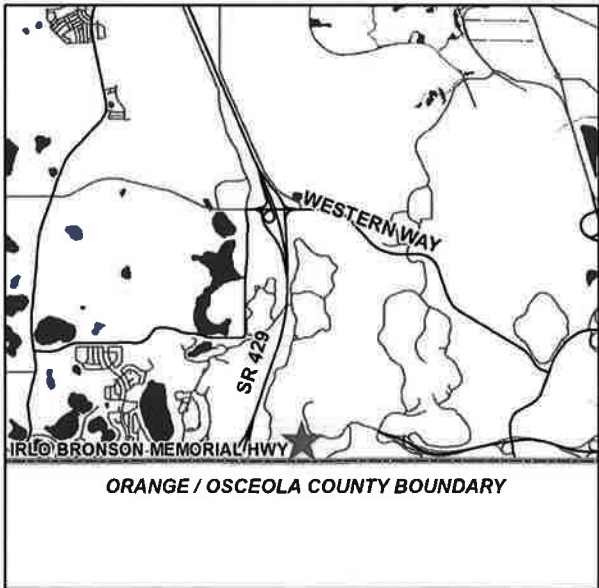
LOCATION: Generally north of Irlo Bronson Memorial Highway and east of East Orange Lake Boulevard

TRACT SIZE: 33.63 gross acres

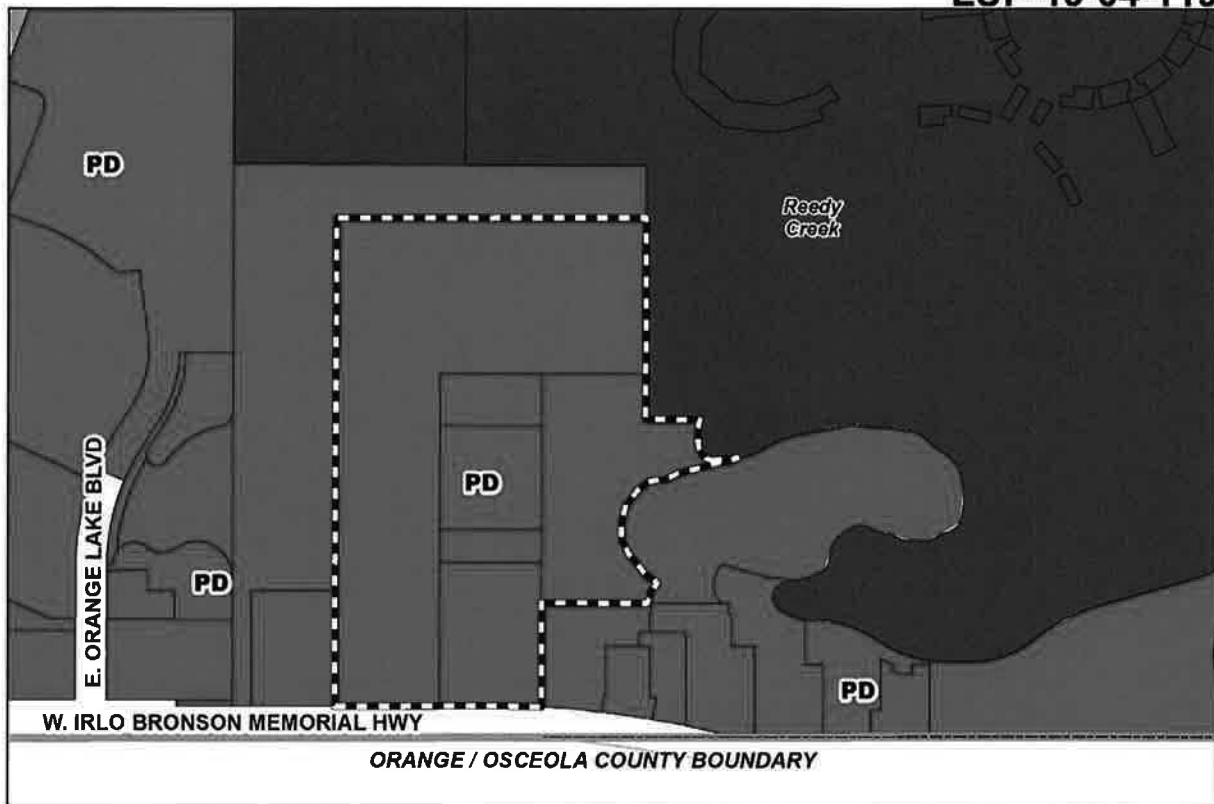
DISTRICT: # 1

S/TIR: 33/24/27

1 inch = 500 feet



LUP-19-04-119



 Subject Property



 Subject Property

Zoning Map

Zoning: Planned Development (PD)

APPLICANT: Jonathan Martin, Kimley-Horn and Associates, Inc.

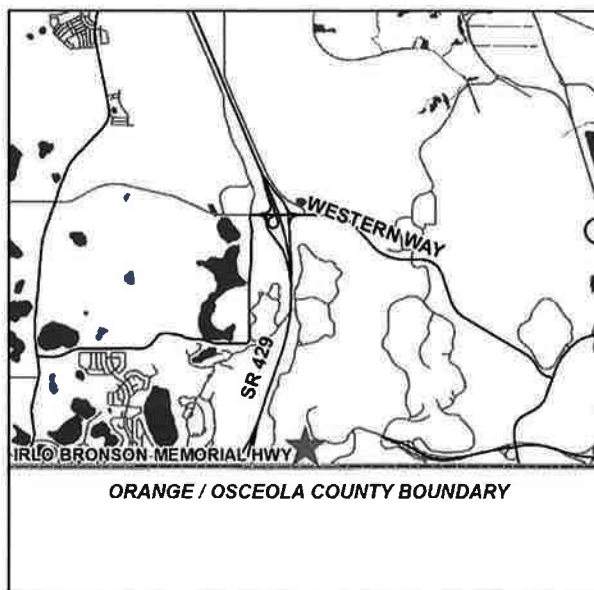
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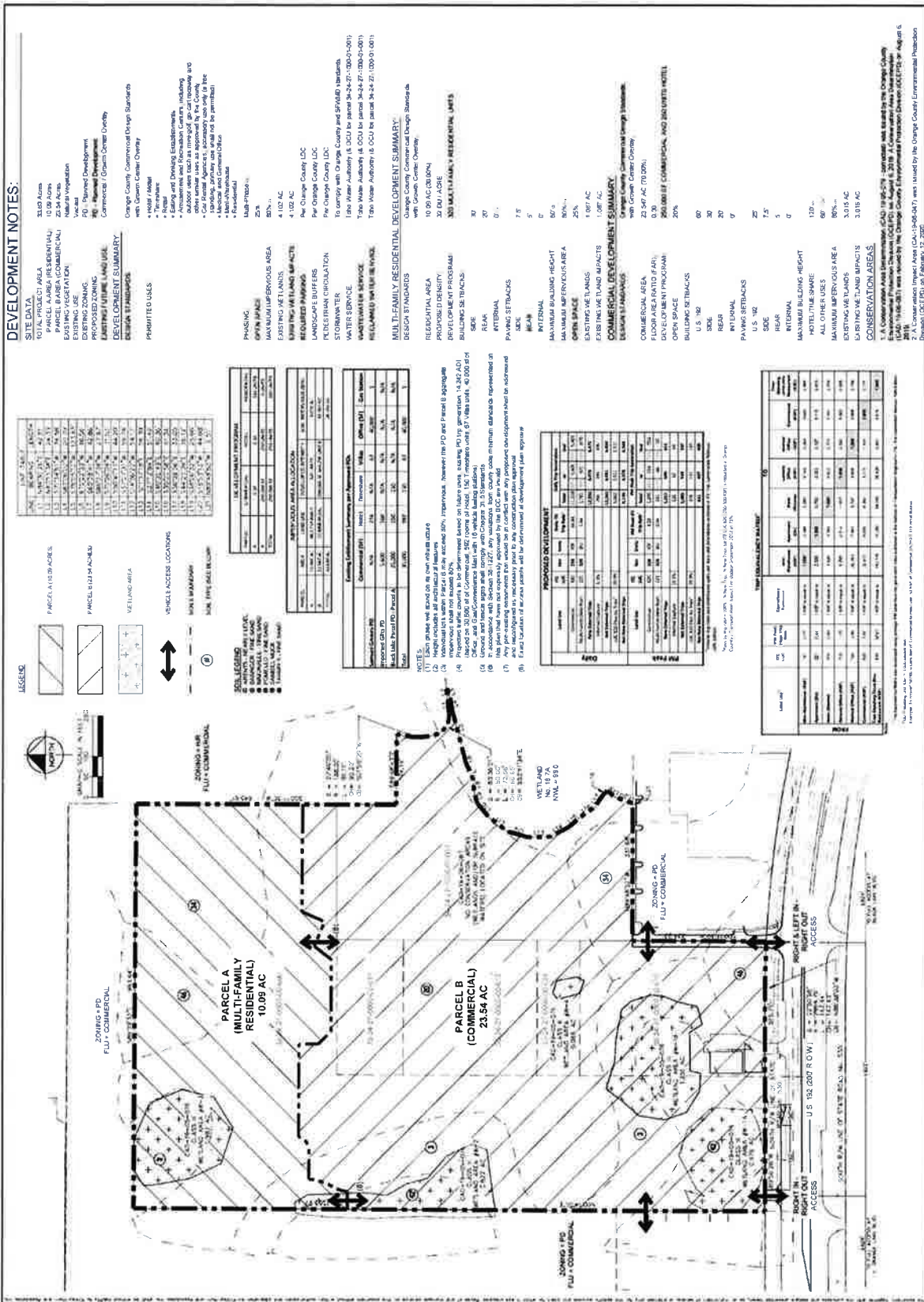
DISTRICT: # 1

S/T/R: 33/24/27

1 inch = 500 feet



Waterstar Orlando PD / LUP



Notification Map

