



## Interoffice Memorandum

DATE: August 1, 2023

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

FROM: Andres Salcedo, P.E., Acting Director  
Planning, Environmental and Development  
Services Department *Andres*

CONTACT PERSON: **Joe Kunkel, P.E., DRC Chairman**  
**Development Review Committee**  
**Public Works Department**  
**(407) 836-7971**

SUBJECT: August 22, 2023 – Public Hearing  
Thomas Daly, Daly Design Group  
Tyson Ranch Planned Development  
Case # LUPA-22-08-278 / District 4

The Tyson Ranch Planned Development (PD) is located west of Boggy Creek Road, south of State Road 417, and north of Simpson Road. The existing PD development program allows for 330 attached single-family (townhouse) units, 350 multi-family units, 250 hotel rooms, 100,000 SF of retail/commercial, 10,000 SF of office, and 77,000 SF of mini-warehouse (self-storage).

The applicant is seeking to rezone 8.49 acres from A-2 (Farmland Rural District) into the existing adjacent Tyson Ranch Planned Development (PD) and add 325 multi-family units to the existing PD entitlements for the subject site, which is PD Parcel 2. In addition, the following two (2) waivers from Orange County Code are being requested:

1. A waiver from Section 38-1258(d) to allow 5-story (93' height) multi-family buildings within PD Parcel 2, in lieu of 3-stories and 40' in height.
2. A waiver from Section 38-1254(2)(c) to allow a minimum 25' building setback from Boggy Creek Road right-of-way in lieu of 50' pursuant to Orange County Code

On June 15, 2023, the Planning and Zoning Commission (PZC) 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 Tyson Ranch Planned Development / Land Use Plan (PD/LUP) dated “Received March 9, 2023”, subject to the conditions listed under the PZC Recommendation in the Staff Report. District 4**

Attachments  
AS/NT/JK

**GENERAL INFORMATION**

**APPLICANT** Thomas Daly, Daly Design Group  
**OWNER** Orlando Airport Property, LLC  
**PROJECT NAME** Tyson Ranch Planned Development (PD)  
**HEARING TYPE** Planned Development / Land Use Plan (PD / LUP)  
**REQUEST** **A-2** (Citrus Rural District) **to**  
**PD** (Planned Development District)

A request to rezone 8.49 acres from A-2 (Farmland Rural District) into the existing adjacent Tyson Ranch Planned Development (PD) and add 325 multi-family units to the existing PD entitlements for the subject site, which is PD Parcel 2

In addition, two (2) waivers are requested from Orange County Code:

1. A waiver from Section 38-1258(d) to allow 5-story (93' height) multi-family buildings within PD Parcel 2, in lieu of 3-stories and 40' in height.

***Applicant Justification:*** The applicant is requesting to expand the existing boundary of the Tyson Ranch PD (to include the Orlando Airport Property, LLC (PIO# 33-24-30-0000-00-035), which is located at the northeast corner of the site. This property has applied for a comprehensive plan amendment (SS-21-05-037) to permit 297 multi-family, 50,000 sf of commercial and 100,000 sf of office uses on 8.49 acres. The public hearing for this request in lieu of 3-story and 45' in height. Is scheduled for July 2022. Since the Tyson Ranch Land Use Plan approval several properties surrounding the subject site have been approved for 4-story and 5-story multi-family development. The applicant seeks development approvals consistent with the evolving development patterns within this area of Orange County.

2. A waiver from Section 38-1254(2)(c) to allow a minimum 25' building setback from Boggy Creek Road right of way in lieu of 50' pursuant to Orange County Code

***Applicant Justification:*** *The applicant is requesting to reduce the minimum building setback from setback from Boggy Creek Road right of way from 40' to 25' (to pull the buildings closer to the right-of-way).*

<b>LOCATION</b>	Generally located west of Boggy Creek Road, south of State Road 417 and north of Simpson Road
<b>PARCEL ID NUMBERS</b>	33-24-30-0000-00-035 (new parcel), 33-24-30-8540-00-001, 33-24-30-8540-01-000, 33-24-30-8540-02-000, 33-24-30-8540-03-000, 33-24-30-8540-04-000
<b>TRACT SIZE</b>	73.81 acres (existing PD) 8.49 acres (addition) 82.31 acres (new total)
<b>PUBLIC NOTIFICATION</b>	The notification area for this public hearing was 1,350 feet [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Three hundred nine (309) notices were mailed to those property owners in the surrounding area. A community meeting was not required for this application.
<b>PROPOSED USE</b>	325 Multi-Family Units

### **STAFF RECOMMENDATION**

#### **Development Review Committee – (May 24, 2023)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Tyson Ranch Planned Development / Land Use Plan (PD/LUP), dated “Received March 9, 2023”, subject to the following conditions:**

1. Development shall conform to the Tyson Ranch Planned Development Land Use Plan Amendment dated “Received March 9, 2023” 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 9, 2023", the condition of approval shall control to the extent of such conflict or inconsistency.

2. This project shall comply with, adhere to, and not deviate from or otherwise conflict with any verbal or written promise or representation made by the applicant (or authorized agent) to the Board of County Commissioners ("Board") at the public hearing where this development received final approval, where such promise or representation, whether oral or written, was relied upon by the Board in approving the development, could have reasonably been expected to have been relied upon by the Board in approving the development, or could have reasonably induced or otherwise influenced the Board to approve the development. In the event any such promise or representation is not complied with or adhered to, or the project deviates from or otherwise conflicts with such promise or representation, the County may withhold (or postpone issuance of) development permits and / or postpone the recording of (or refuse to record) the plat for the project. For purposes of this condition, a "promise" or "representation" shall be deemed to have been made to the Board by the applicant (or authorized agent) if it was expressly made to the Board at a public hearing where the development was considered and approved.
3. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit, or any other development order, if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this land use plan to promptly disclose to the County any changes in ownership, encumbrances, or other matters of record affecting the property that is subject to the plan, and to resolve any issues that may be identified by the County as a result of any such changes. Developer / Applicant acknowledges and understands that any such changes are solely the Developer's / Applicant's obligation and responsibility to disclose and resolve, and that the Developer's / Applicant's failure to disclose and resolve any such changes to the satisfaction of the County may result in the County not issuing (or delaying issuance of) development permits, not recording (or delaying recording of) a plat for the property, or both.

5. Property that is required to be dedicated or otherwise conveyed to Orange County (by plat or other means) shall be free and clear of all encumbrances, except as may be acceptable to County and consistent with the anticipated use. Owner / Developer shall provide, at no cost to County, any and all easements required for approval of a project or necessary for relocation of existing easements, including any existing facilities, and shall be responsible for the full costs of any such relocation prior to Orange County's acceptance of the conveyance. Any encumbrances that are discovered after approval of a PD Land Use Plan shall be the responsibility of Owner / Developer to release and relocate, at no cost to County, prior to County's acceptance of conveyance. As part of the review process for construction plan approval(s), any required off-site easements identified by County must be conveyed to County prior to any such approval, or at a later date as determined by County. Any failure to comply with this condition may result in the withholding of development permits and plat approval(s).
6. If applicable, an Acknowledgement of Contiguous Sustainable Agricultural Land pursuant to Section 163.3163, Florida Statutes, must be executed and recorded in the Public Records of Orange County, Florida, prior to final approval of this plan and a copy of such Acknowledgment shall be submitted with all future permit applications for this project.
7. Pursuant to Article XII, Chapter 30, Orange County Code, unless documentation to the County's satisfaction has been provided proving that a property is exempt or vested, each property must apply for and obtain concurrency. Unless required at a different time (by agreement, condition of approval, etc.), residential, and non-residential properties which are required to plat, must obtain concurrency prior to approval of the plat and non-residential properties that are not required to plat must obtain concurrency prior to obtaining the first building permit. Concurrency may be obtained earlier than plat or building permit, but it is ultimately the responsibility of the applicant to obtain concurrency, including any proportionate share agreement, as applicable, in a timely fashion. Should an applicant wait to obtain concurrency until later in the development process, the County will not be responsible for any delays caused by the applicant's failure to obtain concurrency in a timely fashion.
8. Prior to mass grading, clearing, grubbing or construction, the applicant is hereby noticed that this site must comply with habitat protection regulations of the U.S. Fish and Wildlife Service (USFWS) and the Florida Fish & Wildlife Conservation Commission (FWC).
9. Unless a Conservation Area Impact (CAI) permit is approved by Orange County consistent with Orange County Code Chapter 15, Article X, "Wetland Conservation Areas", prior to Construction Plan approval, no conservation area or buffer encroachments shall be permitted. Approval of this plan does not authorize any direct or indirect conservation area impacts.

10. Concurrent with approval of the first development plan associated with this Land Use Plan Amendment (LUPA) for Parcel 2, the Master Drainage Plan / Report for the entire PD area must be updated to be consistent with Orange County Code Section 30-282 and / or 34-229, as applicable, and as may be amended, and must be submitted and approved as a separate E-Plan.
11. The developers of Parcel 2 will install a driveway connection to the private road within the Ward PD. This connection will align with the access location identified on the Ward PD master construction plans, and shall not be fenced or gated.
12. The following waivers from Orange County Code are granted for Parcel 2 only:
  - a. A waiver from Section 38-1258(d) to allow 5-story (93' height) multi-family buildings within parcel 2, in lieu of 3-stories and 45' in height.
  - b. A waiver from Section 38-1603 to allow a minimum 25' building setback from Boggy Creek Road right of way in lieu of 40'.
13. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated April 13, 2022, shall apply:
  - a. A waiver from Orange County Code Section 38-79(84)(c) is granted to allow a zero (0) foot side setback on screen enclosures, in lieu of 5 (five) feet from the side property lines for the townhome units on PD Parcel 4 only.
14. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated October 26, 2021 shall apply:
  - a. The following waivers from Orange County Code are granted:
    - 1) A waiver from Section 38-1258(d) to allow 4-story (65' height) multi-family buildings within parcel 3, in lieu of 3-story and 45' in height.
    - 2) A waiver from Section 38-1258(a) to allow 3 story (45' height) multi-family buildings to be located 75' from the east property line of Parcel 3, to allow 4 story (65' height) multi-family buildings to be located 90' from the east property line of Parcel 3, and to allow 4 story (65' height) multi-family buildings to be located 100' from single family zoned property west of the site, in lieu of Multi-family buildings located within one hundred (100) feet of single-family zoned property, as measured from the property line of the proposed multi-family development to the nearest property line of the single-family zoned property, shall be restricted to single story in height.
    - 3) A waiver from Section 38-1258(b) to allow 4 story multi-family buildings (65' height) to be located 90' from the east property line of Parcel 3, to allow 3 story (45' height) multi-family buildings to be located 75' from the east property line of Parcel 3, and to allow 4 story (65' height) multi-family buildings to be located 100' from single family zoned property west of the site, in lieu of Multi-

family buildings located between one hundred plus (100+) feet to one hundred and fifty (150) feet of single-family zoned property shall vary in building height with a maximum of fifty (50) percent of the buildings being three (3) stories (not to exceed forty (40) feet) in height with the remaining buildings being one (1) story or two (2) stories in height.

- 4) A waiver from Section 38-1258(c) to allow 4 story multi-family buildings (65' height) to be located 90' from the east property line of Parcel 3, to allow 3 story (45' height) multi-family buildings to be located 75' from the east property line of Parcel 3, and to allow 4 story (65' height) multi-family buildings to be located 100' from single family zoned property west of the site, in lieu of Multi-family buildings located within one hundred and fifty (150) feet of single-family zoned property shall not exceed three (3) stories (40 feet) in height, except as provided in (d) below.
  - 5) A waiver from Section 38-1254(1) to allow 3 story (45' height) multi-family buildings to be located 75' from the east property line of Parcel 3, to allow 4 story (65' height) multi-family buildings to be located 90' from the east property line of Parcel 3, to allow 4 story (65' height) multi-family buildings to be located 20' from the north property line of Parcel 3, and to allow 4 story (65' height) multi-family buildings to be located 20' from the west property line of Parcel 3, in lieu of structures in excess of two (2) stories should increase this setback to reflect the additional structural height.
15. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated April 9, 2019, shall apply:
- a. The following Education Condition of Approval shall apply:
    - 1) Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of November 13, 2018.
    - 2) Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Capacity Enhancement Agreement, the County shall immediately cease issuing building permits for any residential units in excess of the 0 residential units allowed under the zoning existing prior to the approval of the PD zoning. The County may again begin issuing building permits upon Orange County Public Schools' written notice to the County that the developer is no longer in breach or default of the Capacity Enhancement Agreement. The developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, shall indemnify and hold the County harmless from any third party claims, suits, or actions arising as a result of the act of ceasing the County's issuance of residential building permits.

- 3) Developer, and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, agrees that it shall not claim in any future litigation that the County's enforcement of any of these conditions are illegal, improper, unconstitutional, or a violation of developer's rights.
  - 4) Orange County shall be held harmless by the developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Capacity Enhancement Agreement.
  - 5) Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.
- b. All acreages identified as conservation areas and wetland buffers are considered approximate until finalized by a Conservation Area Determination (CAD) and a Conservation Area Impact (CAI) Permit. Approval of this plan does not authorize any direct or indirect conservation area impacts.
  - c. The developer shall obtain wastewater service from Orange County Utilities subject to County rate resolutions and ordinances.
  - d. A Master Utility Plan (MUP) for the PD shall be submitted to Orange County Utilities at least thirty (30) days prior to submittal of the first set of construction plans. The MUP must be approved prior to Construction Plan approval.
  - e. A Utilities Developer Agreement related to the extension of utility mains included in this PD may be required. The need for an agreement and the terms of the agreement will be determined based on the MUP for this PD. Agreements must be approved by the BCC prior to construction plan approval.
  - f. This property is located within Airport Noise Zones 'E'. Development shall comply with Article XV, Chapter 9, Orange County Code (Airport Noise Impact Areas), as may be amended from time to time.
  - g. 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.
  - h. Short term/transient rental is prohibited within residential properties. Length of stay shall be for 180 consecutive days or greater.
  - i. Hotel length of stay shall not exceed 179 consecutive days.
  - j. Outside sales, storage, and display shall be prohibited.



- k. Pole signs and billboards shall be prohibited. Ground signs shall comply with the Master Sign Plan. All other signage shall comply with Chapter 31.5 of the Orange County Code.
- l. A current Phase I 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 PSP and /or DP approval for any streets or tracts anticipated to be dedicated to the County or to the perpetual use of the public.
- m. If the proposed North-South roadway currently shown as a private road on the Boggy Creek Crossings PD/LUP dated "received January 11, 2016," moves forward as a private road then all internal roadways of this development must also be private with a gated entry to the residential portion of this development subject to approval by the Board of County Commissioners.
- n. The following waivers from Orange County Code are granted:
  - 1) A waiver from Section 38-79(20)(j) to allow 40' rear to rear townhome building separations within Parcel 4, in lieu of a 60' rear to rear separation for townhome buildings.
  - 2) A waiver from Section 38-79(20)(f) to allow a maximum 50% of buildings to be (4) four units within Parcel 4 in lieu of a maximum 25% of building to be (4) four-units.
  - 3) A waiver from Section 38-1258(e) to allow parking and other paved areas for multi-family development on parcel 3 to be located ten (10) feet from the east property line adjacent to single-family zoned property line. A (10)-foot landscape buffer shall be provided consistent with Type C landscape buffer requirements, as set forth in Chapter 24 of the Orange County Code, in lieu of parking and other paved areas for multi-family development shall be located at least twenty-five (25) feet from any single-family zoned property. A twenty-five (25)-foot landscape buffer shall be provided consistent with Type C landscape buffer requirements, as set forth in Chapter 24 of the Orange County Code.
  - 4) A waiver from Section 38-1258(f) to allow a 6' high aluminum fence on the east and west property line of Parcel 3, in lieu of a six-foot high masonry, brick, or block wall shall be constructed whenever a multi-family development is located adjacent to single-family zoned property.
  - 5) A waiver from Section 38-1272(5) to allow a 6 story (75' height) hotel within Parcel 1 north of Pond 10, in lieu of a maximum commercial building height of 50' and 35' within 100' of any residential property.



- 6) A waiver from Section 38-1603 to allow a 60' non-residential building setback from the center line of Boggy Creek Rd (minor arterial urban) and 40' from the property line whichever is greater, in lieu of a 120' non-residential building setback from the center line of Boggy Creek Rd (minor arterial rural)
- 7) A waiver from Section 24-5(3) to allow a 10' landscape buffer on the north and west side of Parcel 2, in lieu of a 15' Type "C" landscape buffer.
- o. If the Boggy Creek Crossings PD/LUP develops multi-family development adjacent to the proposed easternmost cross access between PD Parcel 1 and the Boggy Creek Crossings PD/LUP, then the proposed cross access shall not be constructed.

## **IMPACT ANALYSIS**

### **Land Use Compatibility**

The applicant is seeking to rezone 8.49 acres from A-2 (Farmland Rural District) into the existing adjacent Tyson Ranch Planned Development (PD) and add 325 multi-family units to the existing PD entitlements for the subject site, which is PD Parcel 2. In addition, two (2) waivers are requested from Orange County Code for building height and setbacks from Boggy Creek Road right-of-way.

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

### **Comprehensive Plan (CP) Consistency**

The subject property has a Future Land Use Map (FLUM) designation of Planned Development PD- Commercial (C) / Office (O) / Medium High Density Residential (MHDR) on the Future Land Use Map and is currently zoned A-2 (Farmland Rural District) with a request to rezone to PD (Planned Development – Tyson Ranch). The Tyson Ranch PD currently allows 330 attached single-family (townhouse) units, 350 multi-family units, 250 hotel rooms, 100,000 SF of retail/commercial, 10,000 SF of office, and 77,000 SF of mini-warehouse (self-storage). The request appears to be consistent with the Comprehensive Plan. Additionally, the request is consistent with the following CP provisions:

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

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

**FLU1.4.21** Orange County will encourage the use of vacant land within the Urban Service Area for redevelopment to improve existing conditions on-site.

**FLU1.4.4** states that the disruption of residential areas by poorly located and designed commercial activities shall be avoided.

**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.

**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.

**FLU8.2.11** 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.

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

**Community Meeting Summary**

A community meeting was not required for this request.

**SITE DATA**

<b>Existing Use</b>	Single-Family Residential /Undeveloped Land
<b>Adjacent Zoning</b>	N: PD (Planned Development District – Ward Property PD) (2007)
	E: A-2 (Farmland Rural District) (1957)
	W: PD (Planned Development District – Tyson Ranch PD) (2019)
	S: PD (Planned Development District – Tyson Ranch PD) (2019)

<b>Adjacent Land Uses</b>	N:	Undeveloped Land
	E:	Single-Family Residential/ Undeveloped Residential
	W:	Undeveloped Residential
	S:	Undeveloped Residential

#### **APPLICABLE PD DEVELOPMENT STANDARDS**

##### **Multi-Family Residential (Parcels 2&5):**

Minimum Building Separation: 35 feet

##### Minimum PD Boundary Setbacks

North (PD-C/O/MDR/CONS): 20 feet  
South (East/West Private R/W): 20 feet  
East (Boggy Creek Road): 25 feet\*

##### Minimum Building Setbacks (5 Story Building)

North (PD-C/O/MDR/CONS): 20 feet  
East (Boggy Creek Road): 25 feet  
South (East/West Private R/W): 20 feet  
West (East/West Private R/W): 25 feet

##### Accesssory Setbacks

Covered Parking: 10 feet  
Garage Accessory Building: 10 feet

Maximum Building Height: 93 feet / 5 stories\*

#### **SPECIAL INFORMATION**

##### **Subject Property Analysis**

The applicant is seeking to rezone 8.49 acres from A-1 into the existing adjacent Tyson Ranch PD (approved April 2019); add 325 multi-family units to the existing entitlements; and to define the remaining uses within Parcel 1. In addition, two (2) waivers are requested from Orange County Code for building height and setbacks from Boggy Creek Road right-of-way.

The waiver to reduce the building setback along Boggy Creek Road is consistent with development criteria that has been applied to developments on the east side of Boggy Creek Road, which is outlined in the development standards within the transition zone east of Boggy Creek Road to Happy Lane. Although this subject property is not within the transition zone, staff is supportive of development standards within the proposed PD which are consistent with the development standards that were adopted for the transition zone, including that primary facades shall be oriented toward the corridor or primary street with setbacks or build-to-lines that result in a more predictable setting.

**Comprehensive Plan (CP) Amendment**

The subject property has a Future Land Use Map (FLUM) designation of Planned Development PD- Commercial (C) / Office (O) / Medium High Density Residential (MHDR) on the Future Land Use Map (see SS-21-05-037). The proposed use is consistent with this designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

**Rural Settlement**

The property is not located in a Rural Settlement

**Joint Planning Area (JPA)**

The property is not located in a Joint Planning Area

**Overlay District Ordinance**

The property is not located in an Overlay District

**Airport Noise Zone**

The property is not located in an Airport Noise Zone

**Environmental**

Orange County Conservation Area Determinations (CAD-15-09-117 and CAD-21-06-144) were completed with a certified survey of the conservation area boundary approved by the Environmental Protection Division (EPD). Orange County Conservation Area Impact (CAI) permits CAI-16-01-000 and CAI-21-12-076 were approved. This plan will comply with all related permit conditions of approval.

There is one Bald Eagle nest located approximately 377 ft to the east of the project site. The 660 ft nest protection buffer extends over a portion of the project site. Development of the subject property shall comply with all state and federal regulations regarding wildlife and plants listed as imperiled species (endangered, threatened, or species of special concern). The applicant is responsible to determine the presence of these concerns and to verify and obtain, if necessary, any required habitat permitting of the U.S. Fish and Wildlife Service (USFWS) and the Florida Fish & Wildlife Conservation Commission (FWC).

**Transportation Planning**

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.

**Water / Wastewater / Reclaim**

Existing service or provider

Water: Orlando Utilities Commission

Wastewater: Orange County Utilities

Reclaimed: Orange County Utilities

The subject property will be required to connect to water and wastewater utilities.

**Schools**

School capacity determination OC-23-001 was issued for this property on February 6, 2023, showing no available capacity at the middle and high schools. Capacity exists at the elementary school (Stonewyck). The middle school (South Creek) currently has an adjusted utilization rate of 108.9% and if this project is approved, the adjusted utilization rate would increase to 110.3%. The high school (Cypress Creek) currently has an adjusted utilization rate of 133.9% and if this project is approved, the adjusted utilization rate would increase to 134.6%. This determination expires on August 2, 2023.

Unless otherwise vested, the development is still required to submit for concurrency review and, if necessary, enter into a Concurrency Mitigation Agreement. Unless otherwise vested, the Development is required to submit for concurrency review and, if necessary, enter into a Concurrency Mitigation Agreement.

**Parks and Recreation**

Orange County Parks and Recreation staff reviewed the PD substantial change and did not identify any issues or concerns.

**Code Enforcement**

N/A

**Specific Project Expenditure Report and Relationship Disclosure Forms**

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

**PLANNING AND ZONING COMMISSION (PZC) FINDINGS**

The staff report was presented to the PZC with the recommendation that they make a finding of consistency with the Comprehensive Plan and recommend approval of the requested PD (Planned Development District) zoning, subject to fifteen (15) conditions.

Staff indicated that three hundred nine (309) notices were sent to an area extending beyond 1,350 feet from the subject property, with no responses in favor and one (1) in opposition received. Those in opposition expressed concern with increased traffic on Boggy Creek and Simpson Roads. Thomas Daly, the applicant, was present and agreed with the staff recommendation.

Following brief discussion, a motion was made by Commissioner Arrington to find the request to be consistent with the Comprehensive Plan and recommend **APPROVAL** of the Tyson Ranch Planned Development / Land Use Plan (PD/LUP) dated "Received March 9, 2023", subject to the fifteen (15) conditions listed in the staff report. Commissioner Wiggins seconded the motion, which was then carried by all present.

<b>Motion / Second</b>	<i>Arrington / Wiggins</i>
<b>Voting in Favor</b>	<i>Arrington, Wiggins, Evans, Spears, Fernandez, Cardenas</i>
<b>Voting in Opposition</b>	<i>None</i>
<b>Absent</b>	<i>Pavon, Pena, Boers</i>

### **PZC RECOMMENDED ACTION**

#### **Planning and Zoning Commission (PZC) Recommendation – June 15, 2023**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Tyson Ranch Planned Development / Land Use Plan (PD/LUP), dated "Received March 9, 2023", subject to the following conditions:**

1. Development shall conform to the Tyson Ranch Planned Development Land Use Plan Amendment dated "Received March 9, 2023" 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 9, 2023", the condition of approval shall control to the extent of such conflict or inconsistency.



2. This project shall comply with, adhere to, and not deviate from or otherwise conflict with any verbal or written promise or representation made by the applicant (or authorized agent) to the Board of County Commissioners ("Board") at the public hearing where this development received final approval, where such promise or representation, whether oral or written, was relied upon by the Board in approving the development, could have reasonably been expected to have been relied upon by the Board in approving the development, or could have reasonably induced or otherwise influenced the Board to approve the development. In the event any such promise or representation is not complied with or adhered to, or the project deviates from or otherwise conflicts with such promise or representation, the County may withhold (or postpone issuance of) development permits and / or postpone the recording of (or refuse to record) the plat for the project. For purposes of this condition, a "promise" or "representation" shall be deemed to have been made to the Board by the applicant (or authorized agent) if it was expressly made to the Board at a public hearing where the development was considered and approved.
3. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit, or any other development order, if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this land use plan to promptly disclose to the County any changes in ownership, encumbrances, or other matters of record affecting the property that is subject to the plan, and to resolve any issues that may be identified by the County as a result of any such changes. Developer / Applicant acknowledges and understands that any such changes are solely the Developer's / Applicant's obligation and responsibility to disclose and resolve, and that the Developer's / Applicant's failure to disclose and resolve any such changes to the satisfaction of the County may result in the County not issuing (or delaying issuance of) development permits, not recording (or delaying recording of) a plat for the property, or both.
5. Property that is required to be dedicated or otherwise conveyed to Orange County (by plat or other means) shall be free and clear of all encumbrances, except as may be acceptable to County and consistent with the anticipated use. Owner / Developer shall provide, at no cost to County, any and all easements required for approval of a project or necessary for relocation of existing easements, including any existing facilities, and shall be responsible for the full costs of any such relocation prior to Orange County's acceptance of the conveyance. Any encumbrances that are discovered after approval of a PD Land Use Plan shall be the responsibility of Owner / Developer to release and relocate, at no cost to County, prior to County's acceptance of conveyance. As part of the review process for construction plan approval(s), any required off-site easements

identified by County must be conveyed to County prior to any such approval, or at a later date as determined by County. Any failure to comply with this condition may result in the withholding of development permits and plat approval(s).

6. If applicable, an Acknowledgement of Contiguous Sustainable Agricultural Land pursuant to Section 163.3163, Florida Statutes, must be executed and recorded in the Public Records of Orange County, Florida, prior to final approval of this plan and a copy of such Acknowledgment shall be submitted with all future permit applications for this project.
7. Pursuant to Article XII, Chapter 30, Orange County Code, unless documentation to the County's satisfaction has been provided proving that a property is exempt or vested, each property must apply for and obtain concurrency. Unless required at a different time (by agreement, condition of approval, etc.), residential, and non-residential properties which are required to plat, must obtain concurrency prior to approval of the plat and non-residential properties that are not required to plat must obtain concurrency prior to obtaining the first building permit. Concurrency may be obtained earlier than plat or building permit, but it is ultimately the responsibility of the applicant to obtain concurrency, including any proportionate share agreement, as applicable, in a timely fashion. Should an applicant wait to obtain concurrency until later in the development process, the County will not be responsible for any delays caused by the applicant's failure to obtain concurrency in a timely fashion.
8. Prior to mass grading, clearing, grubbing or construction, the applicant is hereby noticed that this site must comply with habitat protection regulations of the U.S. Fish and Wildlife Service (USFWS) and the Florida Fish & Wildlife Conservation Commission (FWC).
9. Unless a Conservation Area Impact (CAI) permit is approved by Orange County consistent with Orange County Code Chapter 15, Article X, "Wetland Conservation Areas", prior to Construction Plan approval, no conservation area or buffer encroachments shall be permitted. Approval of this plan does not authorize any direct or indirect conservation area impacts.
10. Concurrent with approval of the first development plan associated with this Land Use Plan Amendment (LUPA) for Parcel 2, the Master Drainage Plan / Report for the entire PD area must be updated to be consistent with Orange County Code Section 30-282 and / or 34-229, as applicable, and as may be amended, and must be submitted and approved as a separate E-Plan.
11. The developers of Parcel 2 will install a driveway connection to the private road within the Ward PD. This connection will align with the access location identified on the Ward PD master construction plans, and shall not be fenced or gated.

12. The following waivers from Orange County Code are granted for Parcel 2 only:

- a. A waiver from Section 38-1258(d) to allow 5-story (93' height) multi-family buildings within parcel 2, in lieu of 3-stories and 45' in height.
- b. A waiver from Section 38-1603 to allow a minimum 25' building setback from Boggy Creek Road right of way in lieu of 40'.

13. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated April 13, 2022, shall apply:

- b. A waiver from Orange County Code Section 38-79(84)(c) is granted to allow a zero (0) foot side setback on screen enclosures, in lieu of 5 (five) feet from the side property lines for the townhome units on PD Parcel 4 only.

14. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated October 26, 2021 shall apply:

a. The following waivers from Orange County Code are granted:

- 1) A waiver from Section 38-1258(d) to allow 4-story (65' height) multi-family buildings within parcel 3, in lieu of 3-story and 45' in height.
- 2) A waiver from Section 38-1258(a) to allow 3 story (45' height) multi-family buildings to be located 75' from the east property line of Parcel 3, to allow 4 story (65' height) multi-family buildings to be located 90' from the east property line of Parcel 3, and to allow 4 story (65' height) multi-family buildings to be located 100' from single family zoned property west of the site, in lieu of Multi-family buildings located within one hundred (100) feet of single-family zoned property, as measured from the property line of the proposed multi-family development to the nearest property line of the single-family zoned property, shall be restricted to single story in height.
- 3) A waiver from Section 38-1258(b) to allow 4 story multi-family buildings (65' height) to be located 90' from the east property line of Parcel 3, to allow 3 story (45' height) multi-family buildings to be located 75' from the east property line of Parcel 3, and to allow 4 story (65' height) multi-family buildings to be located 100' from single family zoned property west of the site, in lieu of Multi-family buildings located between one hundred plus (100+) feet to one hundred and fifty (150) feet of single-family zoned property shall vary in building height with a maximum of fifty (50) percent of the buildings being three (3) stories (not to exceed forty (40) feet) in height with the remaining buildings being one (1) story or two (2) stories in height.
- 4) A waiver from Section 38-1258(c) to allow 4 story multi-family buildings (65' height) to be located 90' from the east property line of Parcel 3, to allow 3 story (45' height) multi-family buildings to be located 75' from the east property line of Parcel 3, and to allow 4 story (65' height) multi-family buildings to be located

100' from single family zoned property west of the site, in lieu of Multi-family buildings located within one hundred and fifty (150) feet of single-family zoned property shall not exceed three (3) stories (40 feet) in height, except as provided in (d) below.

- 5) A waiver from Section 38-1254(1) to allow 3 story (45' height) multi-family buildings to be located 75' from the east property line of Parcel 3, to allow 4 story (65' height) multi-family buildings to be located 90' from the east property line of Parcel 3, to allow 4 story (65' height) multi-family buildings to be located 20' from the north property line of Parcel 3, and to allow 4 story (65' height) multi-family buildings to be located 20' from the west property line of Parcel 3, in lieu of structures in excess of two (2) stories should increase this setback to reflect the additional structural height.

15. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated April 9, 2019, shall apply:

a. The following Education Condition of Approval shall apply:

- 1) Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of November 13, 2018.
- 2) Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Capacity Enhancement Agreement, the County shall immediately cease issuing building permits for any residential units in excess of the 0 residential units allowed under the zoning existing prior to the approval of the PD zoning. The County may again begin issuing building permits upon Orange County Public Schools' written notice to the County that the developer is no longer in breach or default of the Capacity Enhancement Agreement. The developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, shall indemnify and hold the County harmless from any third party claims, suits, or actions arising as a result of the act of ceasing the County's issuance of residential building permits.
- 3) Developer, and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, agrees that it shall not claim in any future litigation that the County's enforcement of any of these conditions are illegal, improper, unconstitutional, or a violation of developer's rights.
- 4) Orange County shall be held harmless by the developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Capacity Enhancement Agreement.

- 5) Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.
- b. All acreages identified as conservation areas and wetland buffers are considered approximate until finalized by a Conservation Area Determination (CAD) and a Conservation Area Impact (CAI) Permit. Approval of this plan does not authorize any direct or indirect conservation area impacts.
- c. The developer shall obtain wastewater service from Orange County Utilities subject to County rate resolutions and ordinances.
- d. A Master Utility Plan (MUP) for the PD shall be submitted to Orange County Utilities at least thirty (30) days prior to submittal of the first set of construction plans. The MUP must be approved prior to Construction Plan approval.
- e. A Utilities Developer Agreement related to the extension of utility mains included in this PD may be required. The need for an agreement and the terms of the agreement will be determined based on the MUP for this PD. Agreements must be approved by the BCC prior to construction plan approval.
- f. This property is located within Airport Noise Zones 'E'. Development shall comply with Article XV, Chapter 9, Orange County Code (Airport Noise Impact Areas), as may be amended from time to time.
- g. 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.
- h. Short term/transient rental is prohibited within residential properties. Length of stay shall be for 180 consecutive days or greater.
- i. Hotel length of stay shall not exceed 179 consecutive days.
- j. Outside sales, storage, and display shall be prohibited.
- k. Pole signs and billboards shall be prohibited. Ground signs shall comply with the Master Sign Plan. ~~and fascia signs~~ All other signage shall comply with Chapter 31.5 of the Orange County Code.
- l. A current Phase I 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 PSP and /or DP approval for any streets or tracts anticipated to be dedicated to the County or to the perpetual use of the public.



- m. If the proposed North-South roadway currently shown as a private road on the Boggy Creek Crossings PD/LUP dated "received January 11, 2016," moves forward as a private road then all internal roadways of this development must also be private with a gated entry to the residential portion of this development subject to approval by the Board of County Commissioners.
- n. The following waivers from Orange County Code are granted:
  - 1) A waiver from Section 38-79(20)(j) to allow 40' rear to rear townhome building separations within Parcel 4, in lieu of a 60' rear to rear separation for townhome buildings.
  - 2) A waiver from Section 38-79(20)(f) to allow a maximum 50% of buildings to be (4) four units within Parcel 4 in lieu of a maximum 25% of building to be (4) four-units.
  - 3) A waiver from Section 38-1258(e) to allow parking and other paved areas for multi-family development on parcel 3 to be located ten (10) feet from the east property line adjacent to single-family zoned property line. A (10)-foot landscape buffer shall be provided consistent with Type C landscape buffer requirements, as set forth in Chapter 24 of the Orange County Code, in lieu of parking and other paved areas for multi-family development shall be located at least twenty-five (25) feet from any single-family zoned property. A twenty-five (25)-foot landscape buffer shall be provided consistent with Type C landscape buffer requirements, as set forth in Chapter 24 of the Orange County Code.
  - 4) A waiver from Section 38-1258(f) to allow a 6' high aluminum fence on the east and west property line of Parcel 3, in lieu of a six-foot high masonry, brick, or block wall shall be constructed whenever a multi-family development is located adjacent to single-family zoned property.
  - 5) A waiver from Section 38-1272(5) to allow a 6 story (75' height) hotel within Parcel 1 north of Pond 10, in lieu of a maximum commercial building height of 50' and 35' within 100' of any residential property.
  - 6) A waiver from Section 38-1603 to allow a 60' non-residential building setback from the center line of Boggy Creek Rd (minor arterial urban) and 40' from the property line whichever is greater, in lieu of a 120' non-residential building setback from the center line of Boggy Creek Rd (minor arterial rural)
  - 7) A waiver from Section 24-5(3) to allow a 10' landscape buffer on the north and west side of Parcel 2, in lieu of a 15' Type "C" landscape buffer.
- o. If the Boggy Creek Crossings PD/LUP develops multi-family development adjacent to the proposed easternmost cross access between PD Parcel 1 and the Boggy Creek Crossings PD/LUP, then the proposed cross access shall not be constructed.



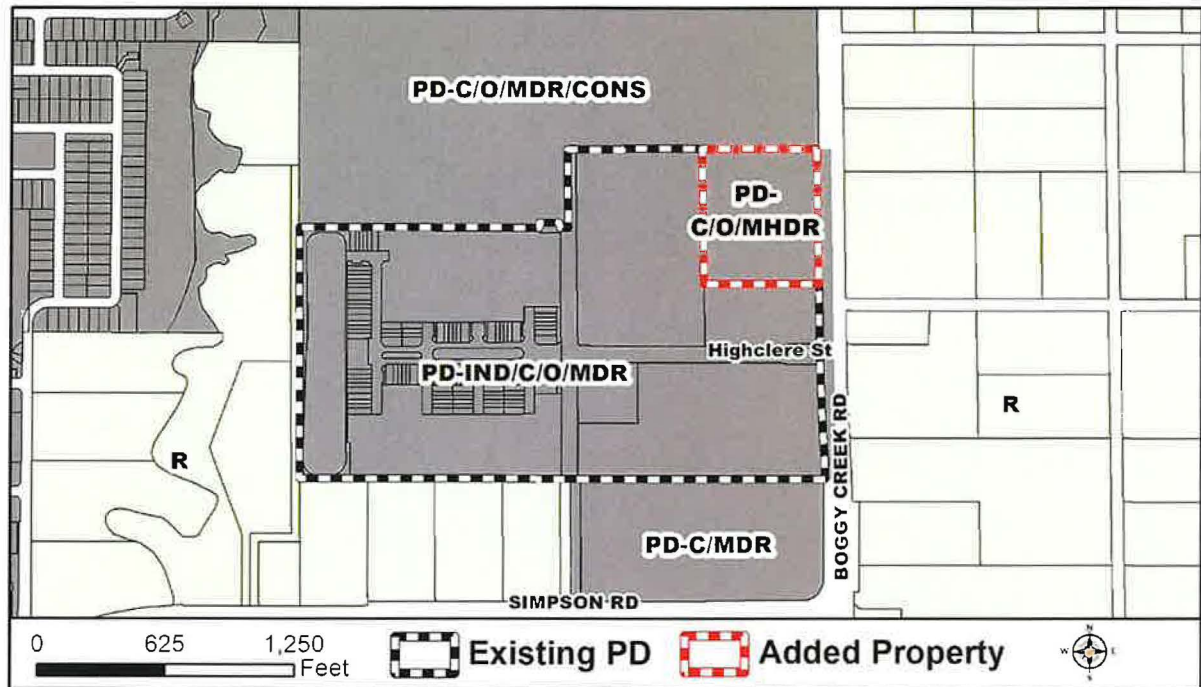
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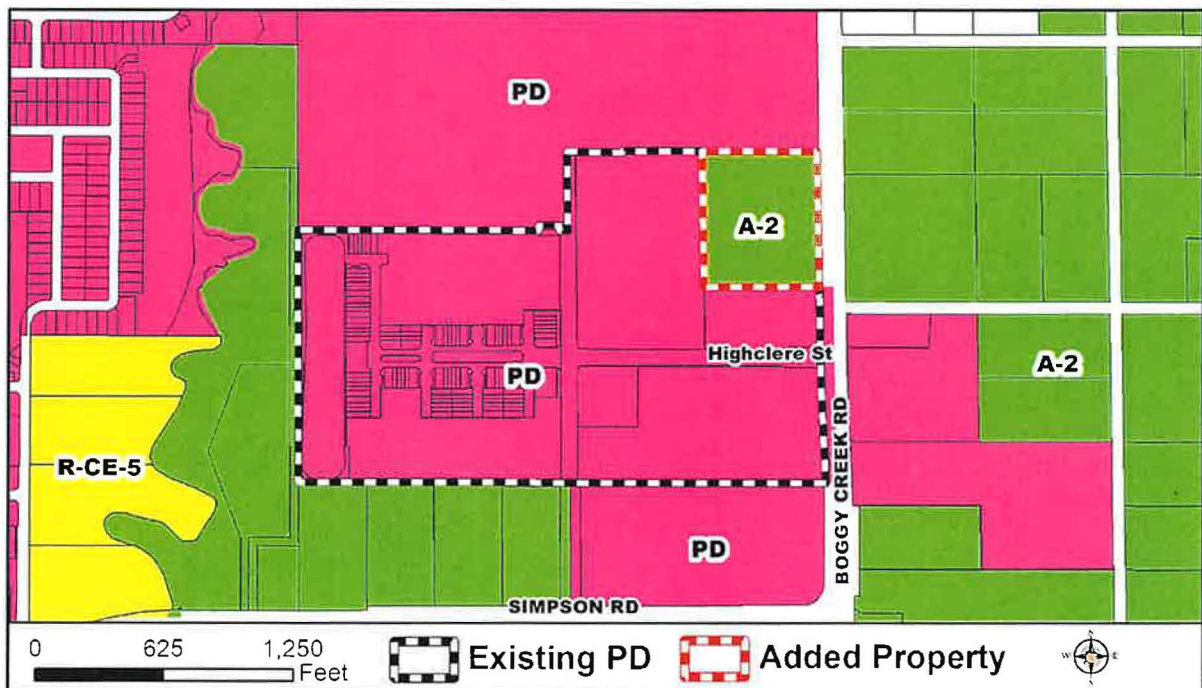
## FUTURE LAND USE - CURRENT

Planned Development

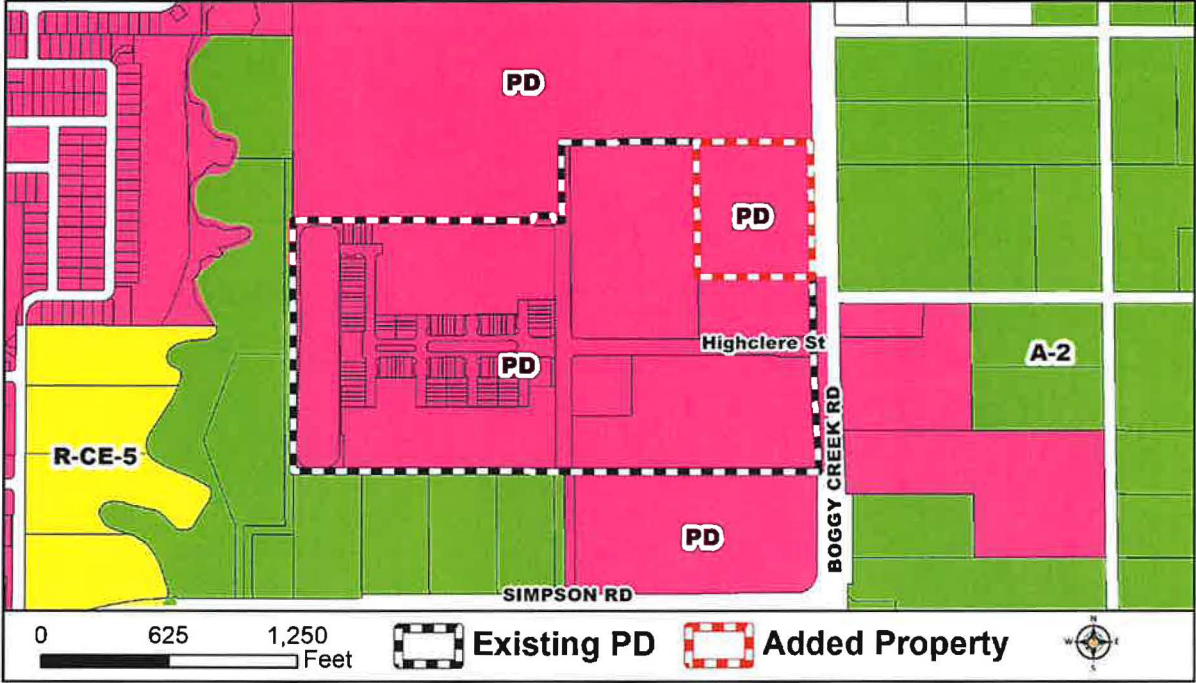


## ZONING – CURRENT

A-2 (Farmland Rural District)



**ZONING – PROPOSED**  
PD (Planned Development)



Parcel ID #'s 33-24-30-8540-001-000 &  
33-24-30-8540-02-000 & 33-24-30-8540-00-0018  
33-24-30-0000-00-035 (Affected Parcels)

August 2022

[illegible]

A map of the study area showing the location of the site. The map includes a river, a road, and a site. The site is located on the right side of the road, near the river. The map also shows the location of the river and the road. The site is marked with a black square and labeled 'Site'.

- Cover
- Adjacent Development
- Proposed Land Use Plan
- FEMA and Soils Map
- Site Data Tables
- Environmental Conditions
- Master Sign Plan
- Waiver Plan

**Traffic Engineer**  
Traffic & Utility Consultants, Inc.  
3101 Magnolia Blvd., Suite 206  
Coral Gables, FL 33133  
(407) 551-5322  
Contact: Mr. Mohammed Abdou, PE, PTOE

**Civil Engineer**  
UTC Engineering &  
Building & Mechanical Company  
200 West Poinsett Blvd., Suite 665  
Miami, Florida 33121  
(407) 566-2266  
Contact: Mr. George Scharf, PE

**Traffic Engineer**  
Traffic & Mobility Consulting  
3101 Maguire Drive Suite 200  
Columbus, AL 32503  
404/437-4352  
Contact Mr. Monnette

Applicant / Planner  
 City Design Group  
 513 11 Fairview Ave  
 Windsor, ON Canada N9A 3P9  
 416 717 4423  
 Contact: Mr. Tom Cady

COUNTY EPD CADS  
845 III  
01-000 & CAJ-21  
FACE WATERS ON 6

CAD application  
21-06-14 All w  
County Conserv  
19, 2022 to rem

[illegible]

THESE RESULTS ARE DISCUSSIBLE IN THE LIGHT OF THE FACT THAT THE DISEASES OF THE RESPIRATORY SYSTEM ARE THE MOST COMMON CAUSE OF DEATH IN THE ELDERLY. THE PREVALENCE OF THESE DISEASES IS INCREASED IN THE ELDERLY DUE TO THE FACT THAT THE IMMUNE SYSTEM IS WEAKENED WITH AGE. THE PREVALENCE OF THESE DISEASES IS ALSO INCREASED IN THE ELDERLY DUE TO THE FACT THAT THE RESPIRATORY SYSTEM IS WEAKENED WITH AGE. THE PREVALENCE OF THESE DISEASES IS ALSO INCREASED IN THE ELDERLY DUE TO THE FACT THAT THE RESPIRATORY SYSTEM IS WEAKENED WITH AGE.

Uses within the non residential parcels will be allowed to have shared parking facilities providing a minimum number of parking spaces are provided per Sec 38-1476 of the Orange

County: DC

The covered DC is being addressed with "an intent to be consistent with the following policies as shown

The project has been designed with and joint use and it allows the adjacent parcels as shown on this LUP. The master stormwater ponds are a shared facility between the county and the master property owners association. An existing agreement between the county and the land

ponds will be designed in accordance with Orange County and GFVMD standards. A Master Water Use Districts Ownership and All Responsibilities associated with the Joint Use Ponds Association will maintain ownership and maintenance requirements for the Joint Use Ponds.

1. Based upon FIRM Map #12055-00652F. A portion of the site is within Zone A. Flood elevations have been established along Boggy Creek, and range from 65.7 to 66.4 along the west property.

24

Minimum living area in relation to the number of bedrooms shall be consistent with section

12-275-2017) of the Orange County LDC

Fire Protection shall be provided by Orange County Fire and Rescue.

Police Protection shall be provided by Orange County Sheriff's Department.

A primary access to the site is located at Boggy Creek Road and Highway 202. A secondary private road (New Creek Ave) provides access to the north and to the south.

0. Project will be constructed in multiple phases. Determination for phasing shall be established at PSP / OJ review. The master infrastructure, including connector roads, the main access road and master utilities, has been provided with the initial phase of development.

1 FT-01-81260 WITH DAVIDSON USED FOR U.S. AIR FORCE / AIRCRAFT 2000

2. This plan indicates the maximum number of units anticipated for this development. Actual units may vary once further detailed engineering studies are performed during the P&P, DP

3. A CEA has been approved (OC-18-008) & review process

OC-19-036)

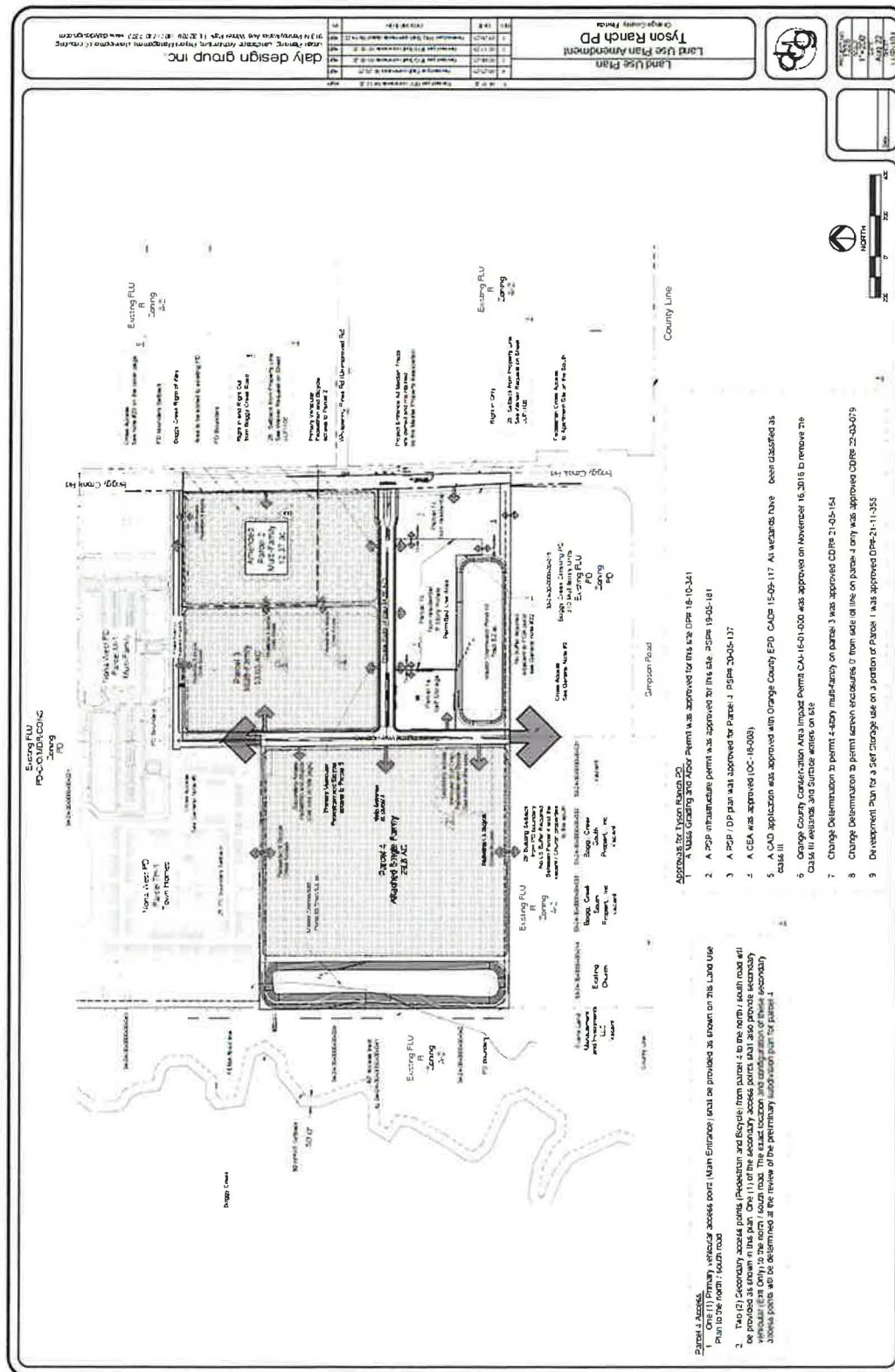
CAD# 21-06-141 All welllands have been classified as Class III

Orange County Conservators Area Impact Permit CA-16-01-000 & CA-21-12076 was approved on May 19, 2022 to remove the Calus III wetlands and Surface waters on site

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# Tyson Ranch PD / LUP



## Notification Map

