





Interoffice Memorandum

DATE: January 30, 2019

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, Interim DRC Chairman
Development Review Committee
Planning Division 
(407) 836-5523

SUBJECT: February 26, 2019 – Public Hearing
James H. McNeil Jr., Akerman, LLP
Orangewood N-2 Planned Development
Case # CDR-18-07-230 / District 1

The Orangewood N-2 Planned Development (PD) is located south of Central Florida Parkway and West of International Drive.

The existing PD development program allows for 648 timeshare villas, 1,017 hotel rooms, 2,447 multi-family dwelling units, 507 single-family dwelling units, an elementary school site, and 457,455 square feet of tourist commercial uses.

Through this PD substantial change, the applicant is seeking to convert 507 single-family dwelling units to 507 short-term rental units and remove the potential elementary school site from Parcel 11D. Additionally, two waivers are being requested to allow for the project to be governed by a Preliminary Subdivision Plan and residential site standards.

On January 9, 2019, 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 substantial change to the Orangewood N-2 Planned Development / Land Use Plan (PD/LUP) dated “Received November 8, 2018”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1

JVW/EPR/nsw
Attachments

CASE # CDR-18-07-230

Commission District: # 1

GENERAL INFORMATION

APPLICANT James H. McNeil, Jr., Akerman, LLP

OWNER AG-RW Grande Pines LLC

PROJECT NAME Orangewood N-2 Planned Development

PARCEL ID NUMBER 13-24-28-6283-07-010, 13-24-28-6283-00-110,
13-24-28-0530-02-000, 13-24-28-6283-12-090 (*a portion of
(affected parcels only)*)

TRACT SIZE 588.70 gross acres (*overall PD*)
116.10 gross acres (*affected parcels only*)

LOCATION Generally located south of Central Florida Parkway and West
of International Drive

REQUEST A PD substantial change to convert entitlements on PD Parcel
11D from 507 single-family dwelling units to 507 short-term
rental units and remove the elementary school site.
Additionally, two waivers are being requested to allow for the
project to be governed by a Preliminary Subdivision Plan and
residential site standards. Those waivers are as follows:

1. A waiver from 38-1203(3) is granted to allow the project to be governed by a Preliminary Subdivision Plan, in accordance with the applicable provisions of Chapter 34, and any other applicable provisions of Orange County Code related to residential development, in lieu of the requirement to submit a Development Plan(s).

Applicant Justification: *The project will be a commercial project for short-term rental, but will be constructed in appearance as a residential development. The product will be constructed on individually platted lots with individual rental properties to appear as homes and townhomes, and specific design concerns may be addressed on the PSP, individual development plans for each lot will be unnecessary.*

2. A waiver is granted to allow the project to be treated as a residential project and be governed by the standards in Chapter 38, Article VIII, related to Residential Site Standards, and any other applicable provisions of Orange County Code related to residential development, in lieu of the standards set forth in Chapter 38, Article VIII, and any

other applicable provisions of Orange County Code related to Tourist Commercial Site Development Standards or commercial components of a planned development (PD).

Applicant Justification: *The project will be a commercial project for short-term rental, but will be constructed in appearance as a residential development.*

PUBLIC NOTIFICATION A notification area extending beyond five hundred (500) feet was used for this application [*Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet*]. Six hundred eight (608) notices were mailed to those property owners in the notification buffer area. A community meeting was not required for this application.

IMPACT ANALYSIS

Special Information

The Orangewood N-2 PD was originally approved on September 5, 1972, and has existing development entitlements for up to 1,665 hotel rooms and timeshare villas; 2,447 multi-family residential units; 507 single family units, 457,455 square feet of tourist commercial uses, and a potential elementary school.

Through this PD Change Determination Request (CDR), the applicant is seeking to convert 507 single-family dwelling units to 507 short-term rental units and remove the potential elementary school site from PD Parcel 11D.

Land Use Compatibility

The proposed PD substantial change would not adversely impact any adjacent properties or result in an incompatible land use pattern.

Comprehensive Plan (CP) Consistency

The subject property has an underlying Future Land Use Map (FLUM) designation of Activity Center Residential (ACR). The Orangewood N-2 PD was approved in 1972 and includes multi-family residential, single-family residential, hotel, timeshare, and tourist commercial uses. The proposed Change Determination Request (CDR) is consistent with the designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

Overlay District Ordinance

The subject property is located within the Tourist Commercial Signage Overlay.

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.

Environmental

Environmental Protection Division (EPD) staff has reviewed the proposed request, but did not identify any issues or concerns.

Transportation / Concurrency

The Orangewood N-2 PD is vested from transportation concurrency under vested rights certificate 92-268.

Community Meeting Summary

A community meeting was not required for this request.

Schools

Orange County Public Schools (OCPS) reviewed the request and determined that it will not impact public school capacity.

Parks and Recreation

Orange County Parks and Recreation staff reviewed the Change Determination Request, but did not identify any issues or concerns.

Specific Project Expenditure Report and Relationship Disclosure Forms

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

ACTION REQUESTED

Development Review Committee (DRC) Recommendation – (January 9, 2019)

Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Orangewood N-2 Planned Development / Land Use Plan (PD/LUP) dated "Received November 8, 2018", subject to the following conditions:

1. Development shall conform to the Orangewood N-2 Land Use Plan (LUP) dated "Received November 8, 2018" 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 November 8, 2018," 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. This project shall comply with the County's International Drive Activity Center Comprehensive Plan requirement for a 15-foot transit easement and a separate 20-foot landscape, pedestrian and utility easement needed for future roadway improvements. The easement areas required shall be shown on all plans and shall be conveyed concurrently at time of platting or dedicated to the County via separate instrument prior to Development Plan Approval. Developer / applicant to contact Transportation Planning at 407-836-8076 to coordinate.
7. The following waivers from Orange County Code are granted:
 - a. A waiver from 38-1203(3) is granted to allow the project to be governed by a Preliminary Subdivision Plan, in accordance with the applicable provisions of Chapter 34, and any other applicable provisions of Orange County Code related to residential development, in lieu of the requirement to submit a Development Plan(s).
 - b. A waiver is granted to allow the project to be treated as a residential project and be governed by the standards in Chapter 38, Article VIII, related to Residential Site Standards, and any other applicable provisions of Orange County Code related to residential development, in lieu of the standards set forth in Chapter 38, Article VIII, and any other applicable provisions of Orange County Code related to Tourist Commercial Site Development Standards or commercial components of a planned development (PD).
8. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated June 30, 2015 shall apply:
 - a. All acreages identified as conservation areas and buffers are considered approximate until finalized by Conservation Area Determination (CAD) and Conservation Area Impact (CAI) Permits. Approval of this plan does not permit any proposed conservation impacts.
 - b. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a capacity encumbrance letter prior to construction plan submittal and must apply for and obtain a capacity reservation certificate prior to approval of the plat. Nothing in this condition, and nothing in the decision to approve this land use plan/preliminary subdivision plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a capacity encumbrance letter or a capacity reservation certificate.
 - c. The following Education Condition of Approval shall apply to Parcel 11 only:
 - 1) Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of April 28, 2015, as may be amended.
 - 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 781 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.
- d. Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP). An MUP update shall be submitted to Orange County Utilities at least thirty (30) days prior to construction plan submittal. The updated MUP must be approved prior to Construction Plan approval.
 - e. The developer shall obtain water, wastewater, and reclaimed water from Orange County Utilities.
 - f. Any multi-family development shall prohibit short term rental of 179 days or less. Any hotel/timeshare development, and any development on Parcel 11D, shall prohibit stays of 180 days or more. The CCR's shall include a notice/provision stating that short term rental shall not exceed 179 consecutive days within any 12-month period.
 - g. A waiver from Orange County Code Section 38-1501 is granted to allow a minimum lot width of thirty-two (32) feet, in lieu of forty-five (45) feet.
 - h. A waiver from Orange County Code Section 38-1501 is granted to allow a side setback of four (4) feet in lieu of five (5) feet for the thirty-two (32) foot

- lots. A/C units shall be located to the rear of homes, outside of the side setback.
- i. Permitted and prohibited uses shall be those specified in Policies ID1.1.3 and ID1.1.6 of the International Drive Activity Center Element.
 - j. Any single family detached houses or short term rental units on lots less than 50 feet in width shall have rear-loaded garages.
 - k. Parcel 11A shall require approval by the Board of County Commissioners at a public hearing.
9. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated March 10, 2015, shall apply:
- a. The following Education Condition of Approval shall apply to Parcel 15 only:
 - 1) Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board [and Orange County] as of 2/02/2015.
 - 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 zero (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.

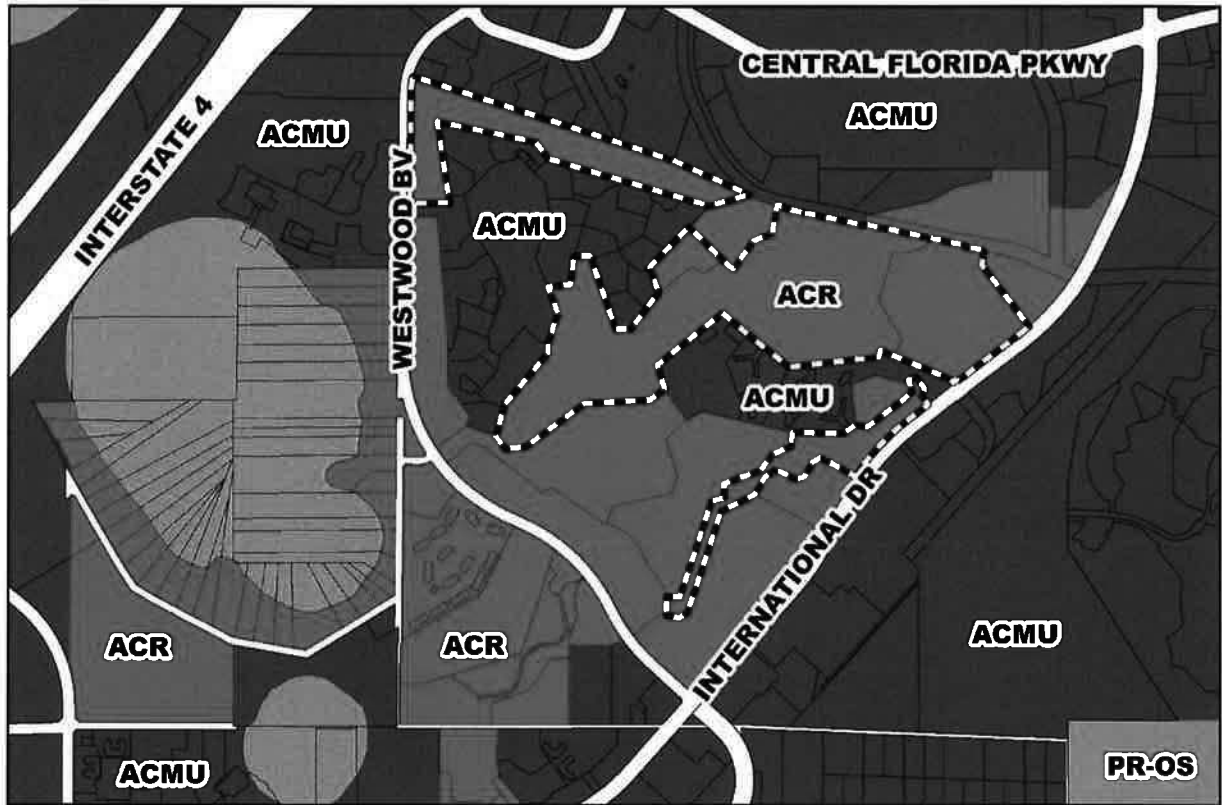
- 5) Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.
 - b. A copy of Concurrency Vested Rights certificate must be provided with the application for a building permit.
 - c. For Parcel 15 only, upon receipt of a permit, following County Completion of Design Plans, Developer shall construct the Improvements to the intersection of Westwood Boulevard Extension and International Drive within 180 days as provided in the Road Impact Fee Agreement approved by the BCC on May 14, 2013, and recorded at OR Book/Page 10571/4753.
 - d. Pole signs and billboards shall be prohibited. Ground and fascia sign shall comply with Chapter 31.5 Tourist Commercial Standards of the Orange County Code with the exception of Parcel 6 which shall comply with the approved Master Sign Plan.
10. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated October 8, 2013, shall apply:
- a. An additional access driveway is approved for a right-in access only for Parcel 15 only. No future right-out access is approved at this location without a change to the Land Use Plan and approval by the Board of this change request.
 - b. The Master Sign Plan, dated "Received July 24, 2013," applicable to Parcel 6 only, is approved with the following waivers:
 - 1) A waiver from Section 31.5-163(a)(1) to allow the copy area of the outparcel 7 ground signs to be no more than 60 square feet each in exchange for other ground signs (per the Master Sign Plan for Parcel 6) to be reduced to 30 square feet, as outparcel 7 has limited right-of-way frontage. The exception to this requirement is that the ground sign within outparcel 5 may also have no greater than 60 square feet in copy area, in lieu of 30 square feet.
 - 2) A waiver from Section 31.5-166(d) to allow a maximum of two (2) ground signs for outparcel 7 (as identified on the Master Sign Plan) where less than 500-feet of right-of-way frontage is present, in lieu of the requirement that the two (2) ground signs have greater than 500-feet of right-of-way frontage. The waiver also allows the two (2) ground signs to be separated from each other and from any other ground signs within adjacent outparcels to be separated by a distance of less than 100-feet, but no closer than 50-feet; in lieu of the requirement that they be separated by a distance of not less than 100-feet.

- 3) A waiver from Section 31.5-166(e) to allow two (2) ground signs advertising or identifying businesses within outparcel 7 to be located off-site (within adjacent outparcels 1, 2 and 6 as identified on the Master Sign Plan), in lieu of the requirement that ground signs only be used to advertise or identify businesses within the parcel in which they are located.
 - 4) A waiver from Section 31.5-166(e) to allow Parcel 2 to share a 60 dual tenant square foot ground sign on Parcel 5 in lieu of a ground sign may only advertise or identify the establishment or business on the parcel.
 - 5) A waiver from Section 38-1287(2), (3) & (4) to allow internal lot lines to have building and paving setbacks reduced to zero is granted for Parcel 6 only.
11. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval dated April 20, 2010 and February 16, 2010, shall apply:
- a. Tree removal / earthwork shall not occur unless and until construction plans for the first Preliminary Subdivision and/or Development Plan, with a tree removal and mitigation plan, have been approved by Orange County.
 - b. Outdoor storage and display shall be prohibited.
 - c. This project is located in the International Drive Activity Center and is subject to the provisions of the International Drive Activity Center Element of the Comprehensive Plan.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (June 30, 2015)

Upon a motion by Commissioner Boyd, seconded by Commissioner Nelson, and carried with all present members voting AYE by voice vote; the Board made a finding of consistency with the Comprehensive Plan; and approved the substantial change request subject to the conditions of approval listed under the Development Review Committee recommendation in the Staff Report; and further, approved the new waivers.

CDR-18-07-230



Subject Property

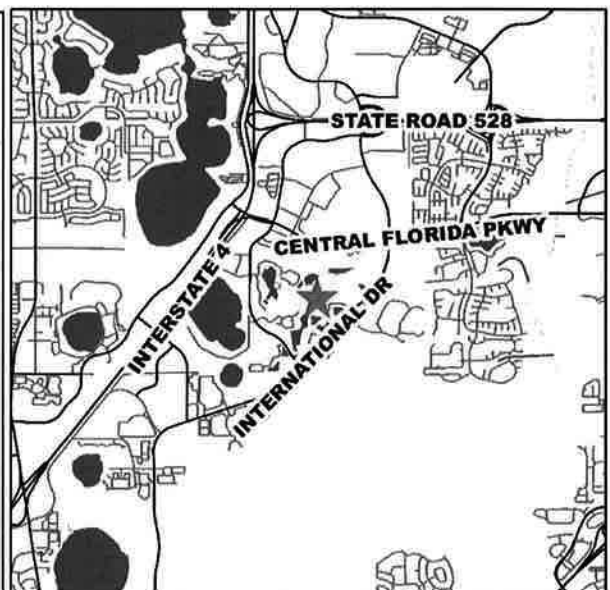


Subject Property

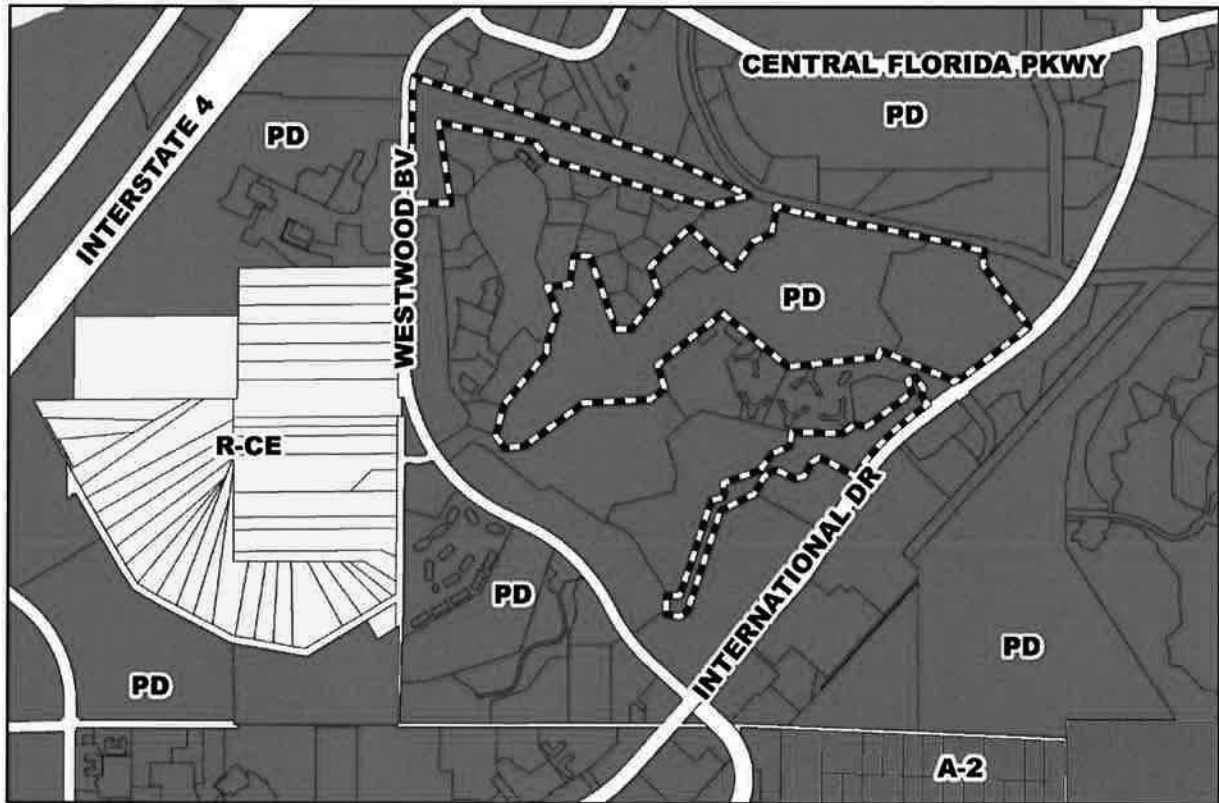
Future Land Use Map

FLUM: Activity Center Residential
APPLICANT: James H. McNeil, Jr., Akerman, LLP
LOCATION: Generally located south of Central Florida Parkway and West of International Drive.
TRACT SIZE: 116.10 gross acres (affected parcels)
DISTRICT: # 1
S/I/R: 13/24/28

1 inch = 1,250 feet



CDR-18-07-230



 Subject Property



 Subject Property

Zoning Map

ZONING: PD (Planned Development)
APPLICANT: James H. McNeil, Jr., Akerman, LLP
LOCATION: Generally located south of Central Florida Parkway and West of International Drive.
TRACT SIZE: 116.10 gross acres (affected parcels)
DISTRICT: # 1
S/T/R: 13/24/28

1 inch = 1,250 feet

