



Interoffice Memorandum

DATE: March 29, 2021

TO: Mayor Jerry L. Demings
-AND-
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 13, 2021 – Public Hearing
Brian Ashby, Kimley-Horn and Associates, Inc.
Science and Technology Planned Development
Case # CDR-20-12-348 / District 5

Eric P. Raasch, Jr., AICP
Digitally signed by Eric P. Raasch, Jr., AICP
Date: 2021.03.29 13:56:27 -04'00'

The Science and Technology Planned Development (PD) is generally located on the east side of Science Drive, west of Technology Parkway, north of Challenger Parkway, and south of Research Parkway. The Science and Technology PD contains 3.82 acres and it was originally approved by the Board on November 10, 2020. The PD is currently approved with a development program that consists of 764 student housing beds.

Through this PD Change Determination Request, the applicant is seeking a waiver from Orange County Code Section 38-1506 to allow the garage structure a maximum height extension of ten feet (10') for stair well shafts, elevator shafts, appurtenances, and architectural features in lieu of allowing a maximum height extension of ten feet (10') for appurtenances and architectural features only. No change to the development program or development standards are proposed with this request.

On February 10, 2021, 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 Science and Technology Planned Development / Land Use Plan (PD/LUP) dated “Received February 10, 2021”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 5

Attachments
JVW/EPR/jh

CASE # CDR-20-12-348

Commission District: # 5

GENERAL INFORMATION

APPLICANT Brian Ashby, Kimley-Horn and Associates, Inc.

OWNER Davaswarnauth Shiwlochan, Kamlawatee Shiwlochan

PROJECT NAME Science and Technology Planned Development (PD)

PARCEL ID NUMBER(S) 15-22-31-8835-00-011

TRACT SIZE 3.82 gross acres

LOCATION 12175 Science Drive; generally located on the east side of Science Drive, west of Technology Parkway, north of Challenger Parkway, and south of Research Parkway

REQUEST A PD substantial change to add a waiver from Orange County Code Section 38-1506 to allow the garage structure a maximum height extension of ten feet (10') for stairwell shafts, elevator shafts, appurtenances, and architectural features in lieu of allowing a maximum height extension of ten feet (10') for appurtenances and architectural features only.

PUBLIC NOTIFICATION A notification area extending beyond fifteen hundred (1500) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Two-hundred eighty-five (285) 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 Science and Technology Planned Development PD was originally approved on November 10, 2020 and it includes entitlements for 764 student housing beds. Through this PD Change Determination Request, the applicant is seeking to add a waiver to allow the parking garage structure to have a maximum height extension of ten feet (10') for stairwell shafts, elevation shafts, appurtenances, and architectural features in lieu of allowing a maximum height extension of ten feet (10') for appurtenances and architectural features only.

Land Use Compatibility

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 an underlying Future Land Use Map (FLUM) designation of High Density Residential – Student Housing. The Science and Technology PD was approved in 2020 and includes entitlements for 764 student housing beds. The proposed PD substantial change is consistent with this designation and all applicable CP provisions; therefore, the request is consistent with the Comprehensive Plan.

Overlay Ordinance

The subject property is not located within an Overlay District.

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 request, but did not identify any issues or concerns.

Transportation Concurrency

The waiver request to increase the height of the parking garage will not impact the roadway network.

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 – (February 10, 2021)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Science and Technology Planned Development / Land Use Plan (PD/LUP), dated “February 10, 2021”, subject to the following conditions:

1. Development shall conform to the Science and Technology PD Land Use Plan dated “Received February 10, 2021,” 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 February 10, 2021," 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 this condition may result in the withholding of development permits and plat approval(s).
6. In order to qualify as student housing, all units must comply at all times with the definition of student housing in Section 38-1, Orange County Code, as such definition exists as of the date of approval of this development plan. Currently, that definition requires, among other things, that every unit has a minimum of three (3) bedrooms. Failure to comply with such definition may subject the project to code enforcement and/or increased impact fees, as well as any applicable concurrency requirements.
7. The following waiver from Orange County Code is granted:
 - a. A waiver from Orange County Code Section 38-1506 to allow the garage structure a maximum height extension of ten feet (10') for stairwell shafts, elevator shafts, appurtenances, and architectural features in lieu of allowing a maximum height extension of ten feet (10') for appurtenances and architectural features only.
8. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated November 10, 2020, shall apply:
 - a. 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.
 - b. If this student housing use converts to a market rate multi-family use, then this PD shall comply with OCPS capacity review and enhancement procedures prior to scheduling for BCC.
 - c. 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.

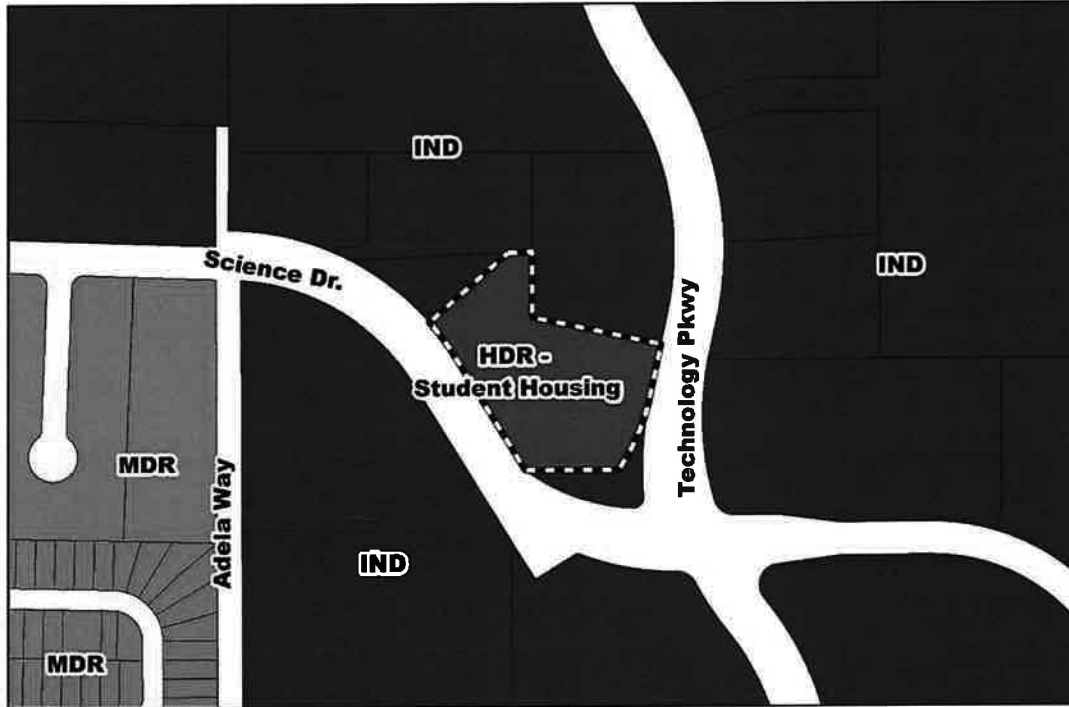
- d. Pole signs and billboards shall be prohibited. All other signage shall comply with Chapter 31.5 of the Orange County Code.
- e. Short term/transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater.
- f. Tree removal/earthwork shall not occur unless and until construction plans for the first Preliminary Subdivision Plan and/or Development Plan with a tree removal and mitigation plan have been approved by Orange County.
- g. The amendment to the territorial agreement between Orange County and Central Florida Research Park must be approved by the BCC prior to approval of any construction plans within this PD. The amendment shall transfer the utilities service area to the County at no cost to the County.
- h. The developer shall be responsible for all offsite improvements required for this PD to connect to the Orange County Utilities water and wastewater systems, including the replacement of over ½-mile of existing public 4-inch wastewater forcemain on Science Drive and Lokanotosa Trail with a public wastewater forcemain with adequate capacity to accommodate the wastewater flow from this PD and the existing wastewater flow. The offsite improvements shall be constructed at no cost to the County.
- i. The developer shall obtain water and wastewater service from Orange County Utilities subject to County rate resolutions and ordinances.
- j. 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. 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 MUP and updates must be approved prior to Construction Plan approval.
- k. The following waivers from Orange County Code are granted:
 - 1) A waiver from Chapter 38-1259(d) to allow a vegetative buffer in lieu of a six foot high masonry, brick, or block wall along the boundaries of the student housing development located adjacent to right-of-way. This buffer will conform to the requirements found in Orange County Land Development Code Chapter 24-4 (a)(1).
 - 2) A waiver from Section 38-1259(h) to allow the student housing buildings up to five (5) stories/fifty-five (55) feet with an additional 10' to

- accommodate stair well shafts, elevator shafts, and up to 16 mezzanine bedrooms in lieu of the maximum building height of three (3) stories/forty (40) feet.
- 3) A waiver from Section 38-1476(A) to allow 0.85 parking spaces per bedroom in lieu of one (1) space per bedroom.
 - 4) A waiver from Section 38-1254(1) to allow a twenty (20) foot PD perimeter setback in lieu of the twenty-five (25) foot PD perimeter setback.
 - 5) A waiver from Section 38-1251 (B) to allow a maximum building coverage of sixty-five (65) percent in lieu of the thirty (30) percent.
 - 6) A waiver from Section 38-1259 (G) to allow a maximum density rate of 1 bedroom to count as one-quarter dwelling unit (1 bedroom =1/4 dwelling unit) in lieu of one-half dwelling unit.
 - 7) A waiver from Section 38-1259 (C) to allow a maximum number of bedrooms of 764 in lieu of the 750 maximum.
 - 8) A waiver from Section 38-1272 (A)(1) to allow maximum impervious coverage of eighty-five (85) percent in lieu of the seventy (70) percent.
 - 9) A waiver from Section 38-1253 (B) to allow the required recreation space to be calculated with a ratio of 2.25 acres per one thousand (1,000) projected population in lieu of the 2.5 acres per one thousand (1,000).
 - 10) A waiver from Section 38-1259 (H) to allow the parking garage up to six (6) stories/sixty-five (65) feet in lieu of the maximum building height of three (3)stories/forty (40) feet.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (November 10, 2020)

Upon a motion by Commissioner Bonilla, seconded by Commissioner Uribe, and carried by all present members voting AYE by voice vote, the Board made a finding of consistency with the Comprehensive Plan (see Future Land Use Element Objective FLU8.2, and Policies FLU1.1.2, FLU1.1.5, FLU1.4.1, FLU8.1.1, FLU8.2.1, and FLU8.2.11); further, determined that the proposed amendment is in compliance; further, adopted Amendment SS-20-07-048, Industrial (IND) to High Density Residential - Student Housing (HDR), to allow student housing development with 764 beds; further, made a finding of consistency with the Comprehensive Plan; further, approved the rezoning request from R-3 (Multiple-Family Residential District) to PD (Planned Development District), in order to construct a student housing project with 764 beds, subject to the sixteen (16) conditions listed in the Staff Report; and further, adopted Small-Scale Ordinance 2020-33.

CDR-20-12-348



Subject Property



Subject Property

Future Land Use Map

FLUM: High Density Residential - Student Housing (HDR)

APPLICANT: Brian Ashby, Kimley-Horn and Associates, Inc.

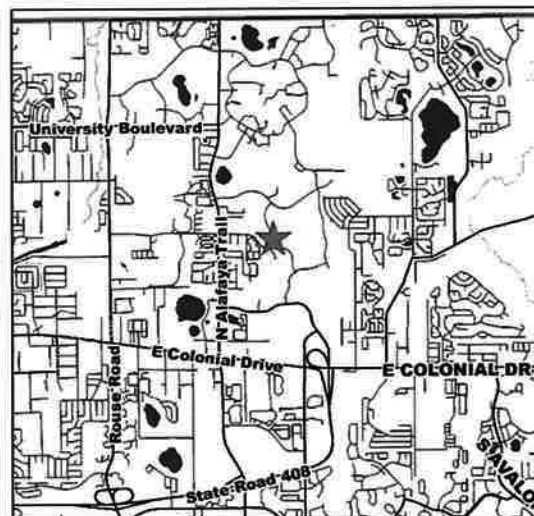
LOCATION: 12175 Science Drive; generally located on the east side of Science Drive, on the west side of Technology Parkway, north of Challenger Parkway, south of Research Parkway, north of Old Winter Garden Road

TRACT SIZE: 3.82 gross acres

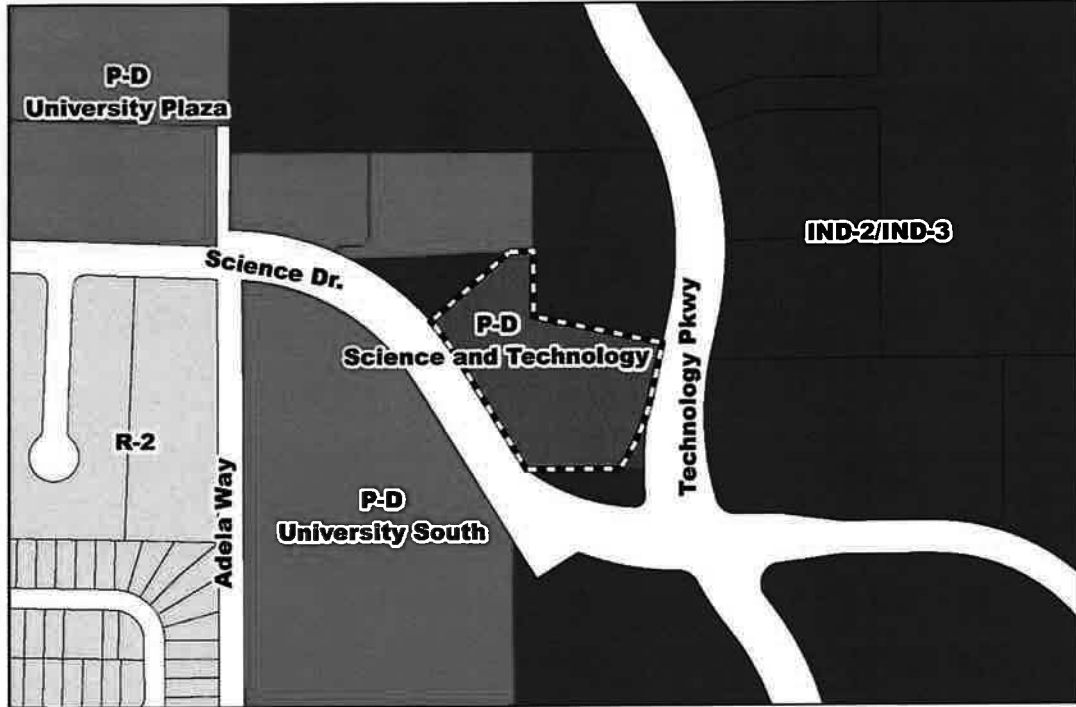
DISTRICT: # 5

S/T/R: 15/22/31

1 inch = 333 feet



CDR-20-12-348



Subject Property



Subject Property

Zoning: PD (Planned Development District)

APPLICANT: Brian Ashby, Kimley-Horn and Associates, Inc.

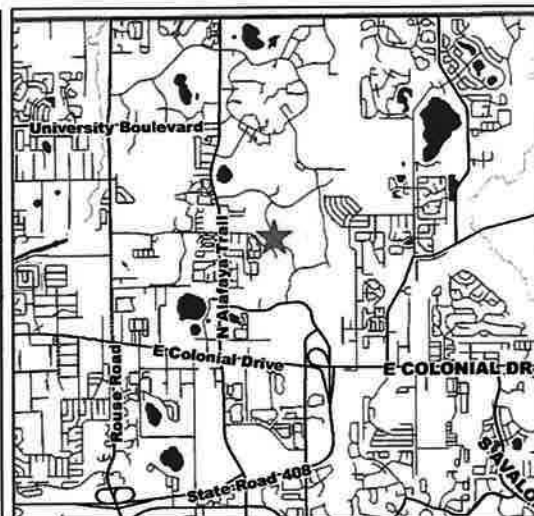
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DISTRICT: # 5

S/T/R: 15/22/31

1 inch = 333 feet



CDR-20-12-348



 Subject Property



1 inch = 300 feet

Notification Map

locnagmdeprhBusiness SystemsBoard Administration\SUBSTANTIAL CHANGE\2021\PLANNING\Science & Technology LUP_DP-20-10

