



**Interoffice Memorandum**

**DATE:** January 29, 2020

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

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

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

**SUBJECT:** February 25, 2020 – Public Hearing  
Brooks A. Stickler, Kimley-Horn and Associates, Inc.  
Narcoossee Retail Planned Development  
Case # LUP-19-06-226 / District 4

The Narcoossee Retail Planned Development (PD) is generally located east of Narcoossee Road, approximately 400 feet south of Kirby Smith Road. The applicant is seeking to to rezone the subject parcel from A-2 (Farmland Rural District) to PD (Planned Development District) in order to construct up to 15,703 square feet of commercial uses. The applicant is also seeking approval of four waivers to allow for a reduced setback and landscape buffer along the south property line, a reduced landscape buffer along the north property line, and to allow for shared access between residential and commercial uses.

On December 19, 2019, the Planning and Zoning Commission (PZC) recommended approval of the request, subject to conditions. A community meeting was not required for this application.

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 Narcoossee Retail Planned Development / Land Use Plan (PD/LUP) dated "Received November 5, 2019", subject to the conditions listed under the PZC Recommendation in the Staff Report. District 4

Attachments  
JVW/EPR/nt

**GENERAL INFORMATION**

**APPLICANT** Brooks A. Stickler, Kimley-Horn and Associates, Inc.  
**OWNER** Judith S. Burton  
**PROJECT NAME** Narcoossee Retail Planned Development (PD)  
**HEARING TYPE** Planned Development / Land Use Plan (PD / LUP)  
**REQUEST** A-2 (Farmland Rural District) to PD (Planned Development District)

A request to rezone 1.03 gross acres from A-2 to PD, in order to construct 15,703 square feet of retail commercial uses. The request also includes the following waiver from Orange County Code:

1. A waiver from Section 38-1272(a)(3) to allow for a setback on the south property line of 5 feet, in lieu of 30 feet.

***Applicant Justification:*** Given the physical width of this property, and only being permitted a single access point, the proposed setback is required in order to provide a commercial development on this property and would match the setback condition for the property to the south. In addition, the commercial development is consistent with the Comprehensive Plan for this area.

2. A waiver from Section 24-4(a)(2) to allow for a landscape buffer of 5 feet on the south property line, in lieu of 7 feet.

***Applicant Justification:*** Given the physical width of this property, and only being permitted a single access point, the proposed buffer is required in order to provide a commercial development on this property and would match the buffer condition for the property to the south.

3. A waiver from Section 24-4(a)(2) to allow for a landscape buffer of 0 feet on the north property line, in lieu of 7 feet.

***Applicant Justification:*** Due to the shared driveway along the north property line, a landscape buffer is not

*feasible as the driveway will encroach over the proposed property boundary.*

4. A waiver from Section 38-830(13) to allow a commercial driveway to direct traffic into a residential district.

***Applicant Justification:*** *The site is only allowed one driveway access location and in order to provide a commercial development (consistent with the County's Comprehensive Plan), a shared driveway is required between the proposed commercial development and the existing residential property*

<b>LOCATION</b>	Generally located east of Narcoossee Road, approximately 400 feet south of Kirby Smith Road.
<b>PARCEL ID NUMBER</b>	17-24-31-0000-00-003 (portion of)
<b>TRACT SIZE</b>	1.03-gross acre
<b>PUBLIC NOTIFICATION</b>	The notification area for this public hearing was 1,200 feet [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Ninety-three (93) notices were mailed to those property owners in the mailing area. A community meeting was not required for this application.
<b>PROPOSED USE</b>	15,703 square feet of retail commercial uses

### **STAFF RECOMMENDATION**

#### **Development Review Committee – (November 20, 2019)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Narcoossee Retail Planned Development / Land Use Plan (PD/LUP), dated "Received November 5, 2019", subject to the following conditions:**

1. Development shall conform to the Narcoossee Retail Land Use Plan (LUP) dated "Received November 5, 2019," 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 5, 2019," 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. 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.
7. 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.
8. 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.
9. Lake Whippoorwill has an established Municipal Service Taxing Unit (MSTU) or Municipal Service Benefit Unit (MSBU) for the purpose of funding lake management services. To the extent this project is part of the taxing district or benefits from Lake Whippoorwill, this project shall be required to be a participant.
10. 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).
11. Pursuant to Section 30-552 (3) of the County's Code of Ordinances, any application for a development plan is required to conduct a study to assess the traffic and capacity impacts of the proposed development. A traffic study is required prior to development plan approval.
12. The developer shall obtain wastewater service from Orange County Utilities subject to County rate resolutions and ordinances.
13. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing wastewater systems have been designed to support all development within the PD.

14. 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.
15. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County code.
16. The following waivers from Orange County Code are granted:
  - a. A waiver from Section 38-1272(a)(3) to allow for a setback on the south property line of 5 feet, in lieu of 30 feet.
  - b. A waiver from Section 24-4(a)(2) to allow for a landscape buffer of 5 feet on the south property line in lieu of 7 feet.
  - c. A waiver from Section 24-4(a)(2) to allow for a landscape buffer of 0 feet on the north property line in lieu of 7 feet.
  - d. A waiver from Section 38-830(13) to allow a commercial driveway to direct traffic into a residential district.
17. Prior to any Development Plan approval, a lot split must be approved to separate the 1.03 acre PD zoned property from the 3.23 acre A-2 zoned property.

## **IMPACT ANALYSIS**

### **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 Planned Development-Commercial (PD-C), with a development program of up to 15,703 square feet of commercial uses. The proposed PD zoning district and development program are consistent with the proposed FLUM designation and the following CP provisions:

**FLU6.3.1.2** states that to recognize the importance of protecting the visual, residential and environmental character of the Lake Hart/Lake Whippoorwill Rural Settlement and Lake Whippoorwill, which both adjoin the Study Area to the east, Orange County and the City of Orlando have entered into an interlocal agreement, approved by the Board of County Commissioners (BCC) on September 22, 2015, to provide general planning principles for the Narcoossee Roadway Corridor Study Area (depicted on Map 19 of the Future Land Use Map Series) in the event the City annexes or has annexed any portion of this Study Area and considers an application to amend the City's Growth Management Plan or an application for a development order for the area annexed. The interlocal agreement provides standards that ensure a transition from higher densities and intensities along the properties immediately abutting the east side of Narcoossee

Road to lower densities and intensities abutting the Rural Settlement and Lake Whippoorwill, which are largely similar to standards outlined in Policies FLU6.3.2 through FLU6.3.4.2. (Added 11/15, Ord. 2015-20)

**FLU6.3.2** states that on November 18, 2008, the Narcoossee Road-Lake Hart / Lake Whippoorwill Rural Settlement Study was presented to the Board of County Commissioners. The study's intent was to provide sound planning guidelines along the east side of Narcoossee Road in keeping with development occurring in the City of Orlando to the west, and to transition the intensity of land uses from Narcoossee Road east to the Rural Settlement in order to protect the Rural Settlement and Lake Whippoorwill. Policies FLU6.3.2 through FLU6.3.4.2 shall apply only to properties with direct frontage on the east side of Narcoossee Road between Kirby Smith Road and Tyson Road in the Lake Hart/Lake Whippoorwill Rural Settlement. Nothing in these policies shall be construed to convey entitlements of development rights. To address the specific and unique issues affecting the Lake Hart/ Lake Whippoorwill Rural Settlement, applications for development approval for property fronting on Narcoossee Road in the Lake Hart/Lake Whippoorwill Rural Settlement shall be processed as Planned Developments (at both the Comprehensive Plan Amendment and the rezoning stage) to ensure compatibility with the Rural Settlement. (Added 5/01, Ord. 01-11; Amended 10/09, Ord. 2009-28, Policy 2.4.2-r; Amended 11/15, Ord. 2015-20)

**FLU6.3.2.1** states that upon adoption by the Board of County Commissioners, a property which is granted a future land use change to Planned Development (PD) pursuant to Policy FLU6.3.2 will be included in the Urban Service Area (with the exception of the portion of the PD that retains a Rural Settlement designation pursuant to Policies FLU6.3.2 and FLU6.3.2.2, which will remain in the Rural Settlement). As part of the application submittal, the applicant must demonstrate that the request is consistent with Orange County's goals for the Narcoossee Road corridor and must identify three development zones: a 'frontage zone' which abuts Narcoossee Road; a 'rural settlement zone' adjacent to Lake Whippoorwill; and a 'transition zone' which is the remaining area between the 'frontage zone', and the 'rural settlement zone'. (Added 10/09, Ord. 2009-28; Amended 11/15, Ord. 2015-20)

**FLU6.3.2.2** states that compatibility requirements shall address transitional uses, appropriate mass and scale of structures, architectural features, increased buffers, and other performance standards deemed appropriate during review by the Development Review Committee. Proposed future land use changes that include commercial uses also shall be consistent with the requirements of FLU1.4.3 through FLU1.4.15. To provide transition between development occurring on Narcoossee Road and the land adjacent to the lake that will remain in the Rural Settlement, development standards shall be incorporated into the land development code to address the following:

- A. **Building Height Transition.** Building heights and density and intensity of land uses within this Study Area shall transition downward from west to east, with the highest structures and highest density and intensity fronting Narcoossee Road, and development on the eastern boundary of the Study Area remaining compatible with the Rural Settlement, consistent with Policy FLU6.2.14.
- B. **Cross Access.** To minimize ingress and egress onto Narcoossee Road from the Study Area, and/or to provide access to properties remaining within the Rural

Settlement, development within the Study Area shall construct an accessway. The accessway shall generally be oriented north and south and located at the junction of the 'transition zone' and the 'rural settlement zone'. It shall accommodate vehicular and pedestrian traffic and, when functionally feasible, on-street parking. The accessway will also be included within a cross-access easement to adjacent developments, consistent with approved land use plans. Additionally, shared parking may be approved by Orange County on a case-by-case basis.

- C. Access Management. Any access to Tyson Road or Kirby Smith Road shall be designed to discourage trips heading east into the Rural Settlement.
  
- D. Physical Buffering. Development on the eastern boundary of the Study Area must remain compatible with the Rural Settlement. A buffer averaging 300 feet from the normal high water elevation of Lake Whippoorwill shall be retained and included in the 'rural settlement zone'; and in no case shall such buffer be less than 200 feet. Within this buffer, a minimum of 100 feet shall remain undeveloped. This area may be planted with native species, and invasive species shall be removed as a condition of any future development order. The western boundary of the 'rural settlement zone' shall generally align with the approved Rural Settlement boundary of the adjacent Planned Developments within the Study Area (if any), consistent with the approved land use plans. This land may be utilized for: single-family detached housing at a maximum density of one (1) dwelling unit per two (2) acres of developable land; passive open space incorporating walks or trails; or conservation through protective covenants running with the land. Along with this transitional use, buffers between Study Area development and adjacent Rural Settlement properties shall be similar to those required in the Code between residential and non-residential uses.
  
- E. Management and Protection of Rural Settlement Lands and Resources. Those portions of the Study Area that will be preserved as part of the Lake Hart / Lake Whippoorwill Rural Settlement shall be protected and managed to preserve the natural resources and vegetation that provide wildlife habitat and a visual buffer between urban and rural land uses. All Planned Development-Land Use Plans shall incorporate natural resource inventories and land management practices designed to:
  - 1. Maintain, and supplement, where possible, the height and opacity of existing tree canopy and understory vegetation;
  - 2. Remove or manage invasive vegetation; and
  - 3. Reduce the direct flow and increase the quality of stormwater to Lake Whippoorwill.
  
- F. Stormwater Management. Stormwater retention and detention facilities designed to serve urban development may be permitted in the 'rural settlement zone', provided that all design standards for stormwater management facilities are met and such facilities are not located closer than 100 feet from the normal high water elevation of Lake Whippoorwill. However, a secondary system, such as a bioswale, may be allowed within that 100 feet in order to prevent overland stormwater flow from



discharging into Lake Whippoorwill. In addition, the use of one or more Low Impact Development (LID) techniques approved by the County shall be strongly encouraged for all urban development within the Study Area. The purpose of utilizing Low Impact Development stormwater design techniques is to reduce pollutants entering Lake Whippoorwill by: capturing those pollutants close to the source; utilizing existing natural features and resources as stormwater filtering systems; and ensuring that stormwater retention and detention facilities are integrated into the overall project plan and designed, constructed, and maintained as project amenities. (Original Policy FLU6.3.2.2 added 10/09, Ord. 2009-28; Policy deleted 11/15, Ord. 2015- 20; new Policy FLU6.3.2.2 added 11/15, Ord. 2015-20)

**FLU6.3.2.4** states that allowable uses as part of the Planned Development shall be as follows:

- A. Office. P-O (Professional Office District) uses for offices including, but not limited to, doctor's offices, attorney's offices, real estate offices, mortgage and finance offices and tax consultant services;
- B. Commercial. Limited C-1 (Retail Commercial District) uses for neighborhood commercial and community-scale commercial and office development, such as small neighborhood-serving retail, eating and drinking places, and personal services. Professional office (P-O) and retail commercial (C-1) uses may be allowed subject to the following:
  - 1. The maximum intensity (Floor Area Ratio) for any site where professional office and/or retail commercial may be allowed shall be limited to 0.35;
  - 2. Retail commercial uses shall be restricted to sites within the 'frontage zone' that have direct access (one of the approaches to the intersection is either internal to the subject property or abuts the subject property) to: an existing signalized intersection with Narcoossee Road; or direct access to an intersection that is consistent with minimum spacing standards for signalized intersections;
  - 3. Retail commercial uses shall be limited to the amount of square feet of nonresidential use consistent with a neighborhood center, as defined through Comprehensive Plan Policy FLU1.4.6 (per intersection).
  - 4. Strip commercial shall be prohibited;
  - 5. Professional office uses shall be permitted to locate anywhere within a Planned Development outside of the 'rural settlement zone' and may be developed in conjunction with retail commercial uses; however, office uses will not count toward the square footage limitation identified in Policy FLU1.4.6; and
  - 6. The size and shape of sites where professional office/retail commercial uses may be allowed shall be compact and oriented to a signalized intersection.
- C. Residential. Residential uses shall be permitted consistent with the following criteria:

1. The maximum density within the 'frontage zone' and 'transition zone' shall be limited to that permitted under the Low-Medium Density Residential (LMDR) future land use designation. The maximum density within the 'frontage zone' may be increased to the Medium Density Residential (MDR) when the 'transition zone' is used as a sending area and the units are transferred out of the 'transition zone' to the 'frontage zone' using the conversion matrix identified in the corresponding overlay district. Once the units are transferred out of the 'transition zone', that area can only be used for stormwater, parking, or open space.
2. The total number of dwellings that would be permitted under the Medium Density Residential (MDR) and Low-Medium Density Residential (LMDR) future land use designations may be developed as single-family detached, attached or multi-family housing types, subject to the limitations described below.
  - a. Multi-family three stories or higher shall be restricted to the 'frontage zone'.
  - b. Where residential dwellings are planned in the 'transition zone' to abut lands remaining within the 'rural settlement zone', single-family detached or attached dwellings are permitted. The number of attached units within a single building shall be limited, and buildings shall generally be oriented toward the 'rural settlement zone'. In addition, attached dwelling buildings shall be spaced in a manner compatible with the spacing of residential dwellings within the Rural Settlement.

**FLU6.3.4** states that new development fronting on Lakes Hart or Whippoorwill shall take into consideration existing tree canopy and wetland areas in project design. The County may apply reasonable performance standards to address impacts of building height and lighting on adjacent development and on view corridors from the lake. The County also may require connectivity of recreational facilities, such as equestrian and multi-use trails, between the properties included in the Study Area and development north and south of the study area. Orange County shall impose restrictions on the use of watercraft and access to lakes. Restrictions on lake access are not intended to apply to the development of a single-family home on a lot of record in the Rural Settlement, so long as applicable Land Development Code and State standards are met.

**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 the 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.

**FLU8.2.1** states that land use changes shall be required to be compatible with the 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

**Community Meeting Summary**

A community meeting for the associated Comprehensive Plan Amendment (2019-2-S-4-1) was held on September 12, 2019. No residents attended the meeting.

**SITE DATA**

<b>Existing Use</b>	Undeveloped Land
<b>Adjacent Zoning</b>	N: A-2 (Farmland Rural District) (1957)
	E: A-2 (Farmland Rural District) (1957)
	W: City of Orlando
	S: R-CE (Country Estate District) (1976)
<b>Adjacent Land Uses</b>	N: Single Family Residence
	E: Single Family Residence
	W: Stormwater Pond
	S: Undeveloped Land

**APPLICABLE PD DEVELOPMENT STANDARDS**

PD Perimeter Setback	25 feet
Maximum Building Height:	35 feet
<i>Minimum Building Setbacks</i>	
North Setback:	25 feet
South Setback:	5 feet *Per Waiver Request
East Setback:	25 feet (50 feet from NHWL)
West Setback:	30 feet (Narcoossee Road)

**SPECIAL INFORMATION**

**Subject Property Analysis**

Through this request, the applicant is seeking to rezone the subject parcel from A-2 (Farmland Rural District) to PD (Planned Development District) in order to construct up to 15,703 square feet of commercial uses. The applicant is also seeking approval of four (4) waivers to allow for a reduced setback and landscape buffer along the south property line, a reduced landscape buffer along the north property line, and to allow for shared access between residential and commercial uses. This proposed development program is consistent with the property's Planned Development-Commercial (PD-C) Future Land Use Map designation, which was approved by the Board of County Commissioners on December 3, 2019 (Case #2019-2-S-4-1). The development is consistent with the Narcoossee Road Corridor Overlay policies in the Comprehensive Plan.

The 1.03-acre subject property lies east of Narcoossee Road, a six-lane major collector roadway, and comprises approximately the first 500 feet of the 3.25-acre Parcel 17-24-31-0000-00-003, presently the site of a single-family home located at the rear of the parcel, adjacent to Lake Whippoorwill. The property is bounded to the south by another single-family lakefront lot within the Rural Settlement with a zoning classification of R-CE (Country Estate District). In addition, the undeveloped Nona Center PD, approved for the development of up to 23,173 square feet of P-O (Professional Office District) and C-1 uses, abuts the subject site to the south. Staff notes that that the 1.8-acre Nona Center PD possesses the same Planned Development-Commercial future land use designation as that approved for the subject parcel by the Board of County Commissioners on December 3, 2019. Lastly, a stormwater retention pond, located within the Orlando city limits, is situated immediately opposite the subject property, on the west side of Narcoossee Road.

**Comprehensive Plan (CP) Amendment**

The property has an underlying Future Land Use Map (FLUM) designation Planned Development-Commercial (PD-C). The proposed use is consistent with this designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

**Rural Settlement**

The subject property is not located within a Rural Settlement.

**Joint Planning Area (JPA)**

The subject property is located within the Narcoossee Roadway Corridor Interlocal Agreement.

**Overlay District Ordinance**

The subject property is located within the Narcoossee Road Corridor Overlay District.

**Airport Noise Zone**

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

**Environmental**

Lake Whippoorwill has an established Municipal Service Taxing Unit (MSTU) or Municipal Service Benefit Unit (MSBU) for the purpose of funding lake management services. To the extent this project is part of the taxing district or benefits from the lake, this project shall be required to be a participant.

Approval of this plan does not grant permission for the construction or alteration of boat ramps, docks, observation piers, lake shore vegetation, or seawalls on the lake. Any person desiring these types of structures or to perform shoreline alterations shall first apply for a permit from the Orange County EPD prior to commencement of such activities.

Development of the subject properties shall comply with all state and federal regulations regarding wildlife or plants listed as endangered, threatened, or species of special concern. The applicant is responsible to determine the presence of listed species and obtain any required habitat permits from the U.S. Fish and Wildlife Service (USFWS) and/or the Florida Fish & Wildlife Conservation Commission (FWC).

Density and Floor Area Ratio (FAR) calculation is determined by dividing the total number of units/square footage by the net developable land area. The net developable land area is defined as the gross land area, less surface waters and wetland areas. In order to include new Class I, II and III conservation areas in the density and FAR calculations, the parcels shall have an approved Conservation Area Determination (CAD) and an approved Conservation Area Impact (CAI) permit from the Orange County Environmental Protection Division. Reference Orange County Comprehensive Plan Policy FLU1.1.2 C.

**Transportation / Concurrency**

Based on the Concurrency information database dated July 2019, there are no failing roadways within the impact area. Capacity is available to be encumbered.

**Water / Wastewater / Reclaim**

	<u>Existing service or provider</u>
Water:	Orlando Utilities Commission
Wastewater:	Orange County Utilities
Reclaim Water:	Orange County Utilities

**Schools**

Orange County Public Schools (OCPS) staff has reviewed the request but did not identify any issues or concerns.

**Parks and Recreation**

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

**Code Enforcement**

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

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

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

**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 Narcoossee Retail Planned Development (PD) Land Use Plan, subject to seventeen (17) conditions.

Staff indicated that ninety-three (93) notices were mailed to surrounding property owners within a buffer of 1,200 feet from the subject property, with zero (0) commentaries received in favor of the request and zero (0) commentaries received in opposition to the request. The applicant was present for the hearing and concurred with staff's recommendation. No members of the public spoke at the hearing.

After a brief discussion, a motion was made by Commissioner Nazario to find the request to be consistent with the Comprehensive Plan and recommend approval of the Narcoossee Retail PD Land Use Plan, subject to the seventeen (17) conditions listed under the DRC Recommendation. Commissioner Wade seconded the motion, which then carried on a 7-0 vote.

<b>Motion / Second</b>	<i>Carlos Nazario / JaJa Wade</i>
<b>Voting in Favor</b>	<i>Carlos Nazario, JaJa Wade, Diane Velazquez, Jose Cantero, Yog Melwani, Jimmy Dunn, and Gordon Spears</i>
<b>Voting in Opposition</b>	<i>None</i>
<b>Absent</b>	<i>Eddie Fernandez and Mohammed Abdallah</i>

**PZC RECOMMENDED ACTION**

**Planning and Zoning Commission (PZC) Recommendation – (December 19, 2019)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Narcoossee Retail Planned Development / Land Use Plan (PD/LUP), dated "Received November 5, 2019", subject to the following conditions:**

1. Development shall conform to the Narcoossee Retail Land Use Plan (LUP) dated "Received November 5, 2019," 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 5, 2019," 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. 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

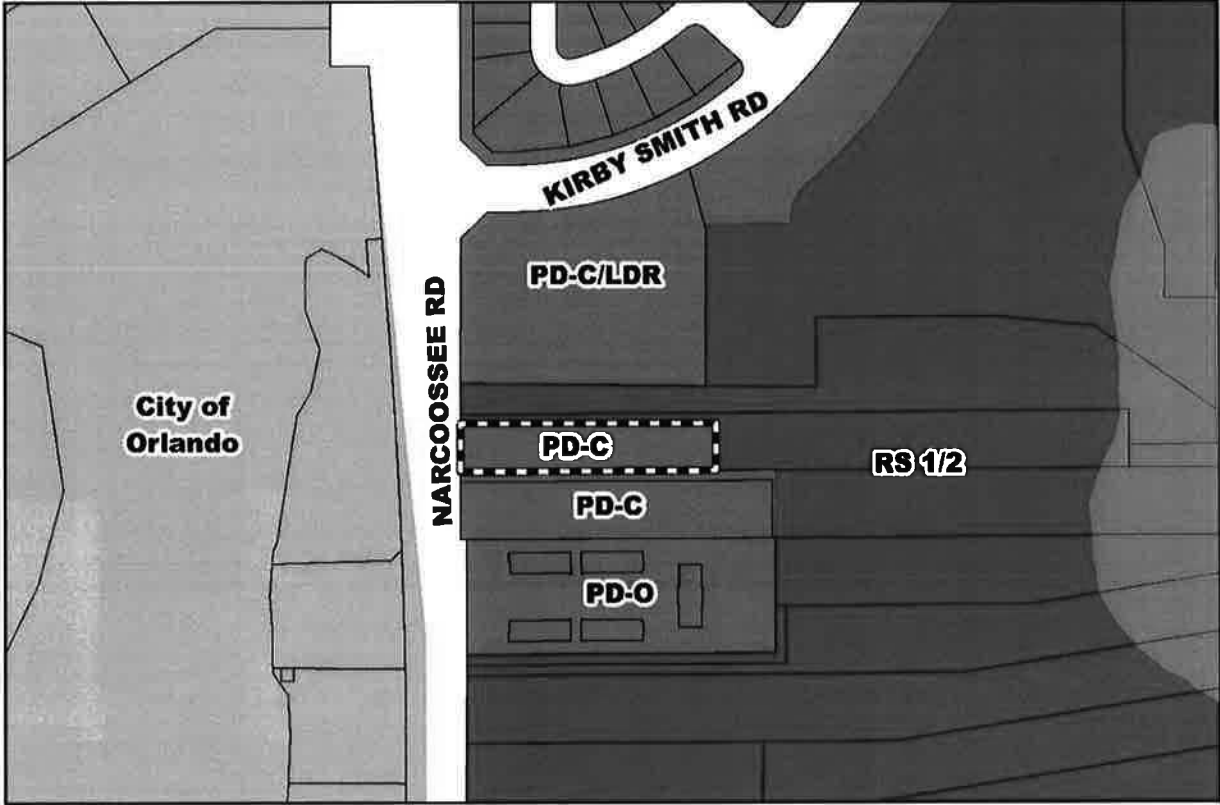
applicant will be able to satisfy the requirements for obtaining a capacity encumbrance letter or a capacity reservation certificate.

7. 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.
8. 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.
9. Lake Whippoorwill has an established Municipal Service Taxing Unit (MSTU) or Municipal Service Benefit Unit (MSBU) for the purpose of funding lake management services. To the extent this project is part of the taxing district or benefits from Lake Whippoorwill, this project shall be required to be a participant.
10. 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).
11. Pursuant to Section 30-552 (3) of the County's Code of Ordinances, any application for a development plan is required to conduct a study to assess the traffic and capacity impacts of the proposed development. A traffic study is required prior to development plan approval.
12. The developer shall obtain wastewater service from Orange County Utilities subject to County rate resolutions and ordinances.
13. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing wastewater systems have been designed to support all development within the PD.
14. 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.
15. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County code.
16. The following waivers from Orange County Code are granted:
  - a. A waiver from Section 38-1272(a)(3) to allow for a setback on the south property line of 5 feet, in lieu of 30 feet.



- b. A waiver from Section 24-4(a)(2) to allow for a landscape buffer of 5 feet on the south property line in lieu of 7 feet.
  - c. A waiver from Section 24-4(a)(2) to allow for a landscape buffer of 0 feet on the north property line in lieu of 7 feet.
  - d. A waiver from Section 38-830(13) to allow a commercial driveway to direct traffic into a residential district.
17. Prior to any Development Plan approval, a lot split must be approved to separate the 1.03 acre PD zoned property from the 3.23 acre A-2 zoned property.

LUP-19-06-226



Subject Property

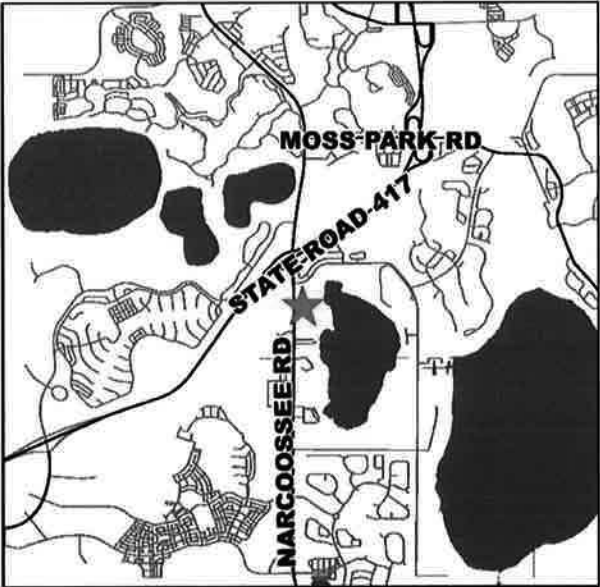


Subject Property

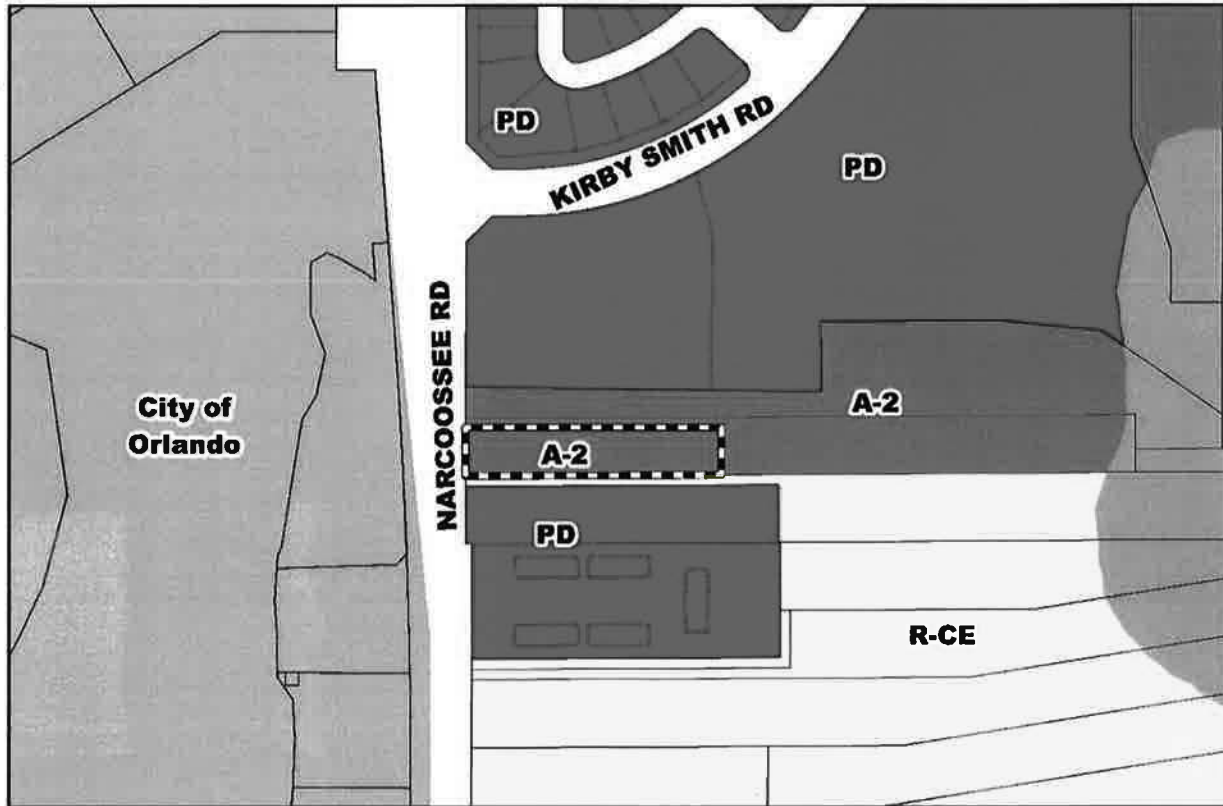
**Future Land Use Map**

**FLUM:** Planned Development - Commercial (PD-C)  
**APPLICANT:** Brooks A. Stickler, Kimley-Horn and Associates, Inc.  
**LOCATION:** Generally located east of Narcoossee Road, south of Kirby Smith Road, and north of Wellness Way.  
**TRACT SIZE:** 1.03 gross acres  
**DISTRICT:** # 4  
**S/T/R:** 17/24/31

1 inch = 300 feet



LUP-19-06-226



 Subject Property



 Subject Property

**Zoning Map**

**ZONING:** A-2 (Farmland Rural District) to PD (Planned Development District)

**APPLICANT:** Brooks A. Stickler, Kimley-Horn and Associates, Inc.

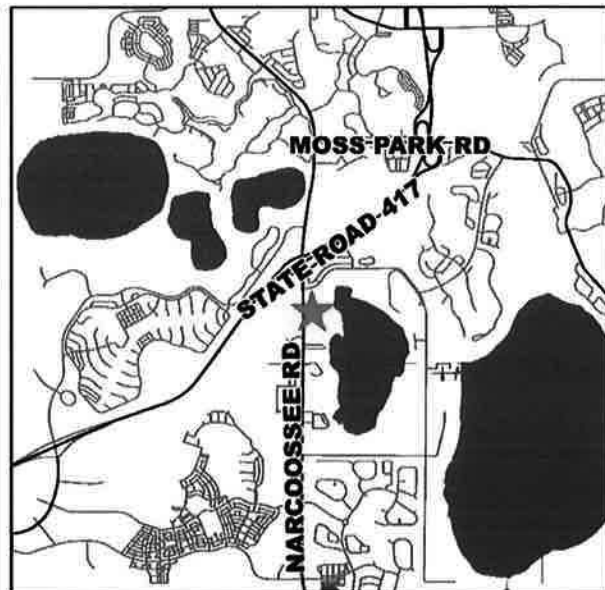
**LOCATION:** Generally located east of Narcoossee Road, south of Kirby Smith Road, and north of Wellness Way.

**TRACT SIZE:** 1.03 gross acres

**DISTRICT:** # 4

**S/T/R:** 17/24/31

1 inch = 300 feet



LUP-19-06-226



 Subject Property



1 Inch = 195 feet

# Narcoossee Retail PD / LUP (Cover Sheet)

## NARCOOSSEE RETAIL LAND USE PLAN

A PORTION OF  
 PARCEL #: 17-24-31-0000-00-0003  
 ORANGE COUNTY, FLORIDA  
 JUNE 28, 2019  
 LUP-19-06-226

**SHEET INDEX**  
 Sheet Number  
 LUP0.0  
 LUP1.0  
 LUP2.0

**Sheet Title**  
 COVER SHEET  
 LAND USE PLAN  
 SURVEY



PROJECT LOCATION

**LEGAL DESCRIPTION**

A PORTION OF PARCEL 17-24-31-0000-00-0003, ORANGE COUNTY, FLORIDA, BEING THAT PORTION OF THE LAND DESCRIBED IN THE INSTRUMENT RECORDED IN PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, BOOK 17-24-31-0000-00-0003, PAGE 1, DATED 06/28/19, AS SHOWN ON THE SURVEY ATTACHED HERETO, TO-WIT: PARCELS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 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**OWNER/DEVELOPER**  
 MARCOSSEE DEVELOPMENT, LLC  
 1815 ORANGE AVENUE SUITE 100  
 ORLANDO FL 32801  
 CONTACT: BROOKS A. STOKER P.E.  
 EMAIL: brooks.stoker@mhly.com

**PROJECT TEAM**  
**ENGINEER**  
 MARCOSSEE ENGINEERING, INC.  
 1815 ORANGE AVENUE SUITE 100  
 ORLANDO FL 32801  
 CONTACT: BROOKS A. STOKER P.E.  
 EMAIL: brooks.stoker@mhly.com

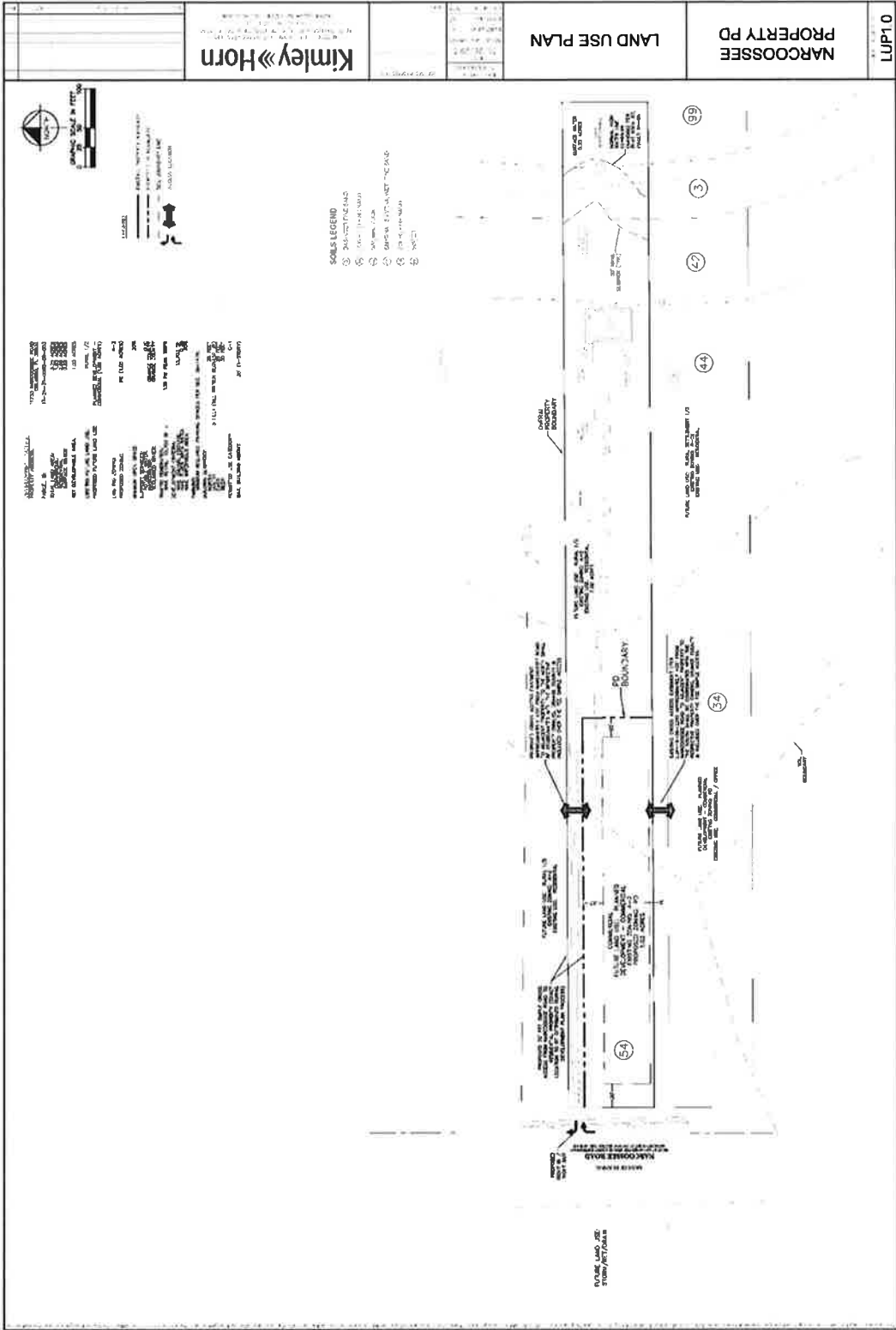
**SURVEYOR**  
 VES SURVEYING, INC.  
 5000 WEST UNIVERSITY AVENUE  
 SUITE 100  
 ORLANDO FL 32811  
 CONTACT: VISHAM SIRGH  
 PHONE: 407.342.1510

**RECEIVED**  
 By DRC OFFICE at 2:54 pm, Nov 06, 2019

PREPARED BY  
**Kimley Horn**

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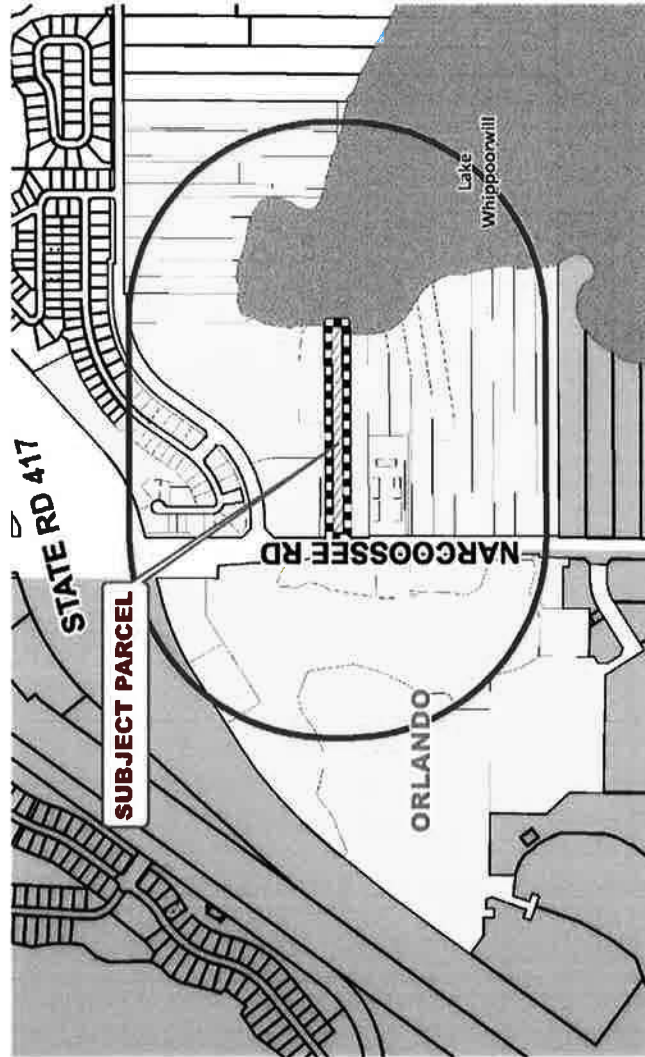
**Narcoossee Retail PD / LUP**



# Notification Map

## Public Notification Map

2019-2-S-4-1 and LUP-19-06-226 Narcossee Retail



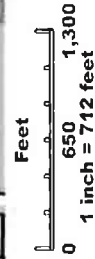
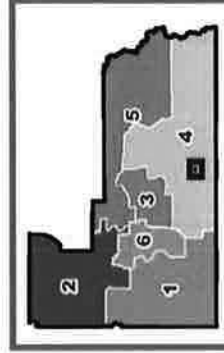
### MAP LEGEND

- SUBJECT
- 1200 FT BUFFER
- HYDROLOGY
- NOTIFIED PARCELS
- PARCELS

1200 : FT BUFFER

93 : NOTICES

55 : RESIDENTIAL COUNT



Subject Site

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