



**DATE:** August 11, 2020  
**TO:** Mayor Jerry L. Demings  
-AND-  
Board of County Commissioners (BCC)  
**FROM:** Alberto A. Vargas, MArch., Manager  
Planning Division  
**THROUGH:** Jon V. Weiss, P.E., Director  
Planning, Environmental, and Development Services Department  
**SUBJECT:** Adoption Public Hearing – 2019-2 Out-of-Cycle Small-Scale Development Amendments and Concurrent Rezoning Request

The adoption public hearings for these amendments were conducted before the Planning and Zoning Commission (PZC)/Local Planning Agency (LPA) on December 19, 2019. The Board of County Commissioners (BCC), at the June 2, 2020 hearing, heard these amendments where the Board voted to continue the amendments to the August 11, 2020 meeting. The applicant requested a continuance from the August 11, 2020 meeting to the September 1, 2020 BCC meeting, during which Planning Division staff requested a continuance to September 22, 2020. The reports are also available under the Amendment Cycle section of the County's Comprehensive Planning webpage. See:

<http://www.orangecountyfl.net/PlanningDevelopment/ComprehensivePlanning.aspx>.

The 2019-2 Out-of-Cycle Small-Scale Development Amendments scheduled for consideration on September 1 include one privately-initiated Future Land Use Map Amendment located in District 1 (Amendment 2019-2-S-1-2) with a concurrent rezoning request (LUP-19-08-258) and one staff-initiated text amendment (Amendment 2019-2-S-FLUE-3).

If the BCC adopts the proposed Small-Scale Development Amendments, they will become effective 31 days after the public hearings, provided no challenges are brought forth for any of the amendments.

Any questions concerning this document should be directed to Alberto A. Vargas, MArch, Manager, Planning Division, at (407) 836-5802 or [Alberto.Vargas@ocfl.net](mailto:Alberto.Vargas@ocfl.net) or Greg Gologowski, AICP, Chief Planner, Comprehensive Planning Section, at (407) 836-5624 or [Gregory.Gologowski@ocfl.net](mailto:Gregory.Gologowski@ocfl.net).

AAV/sgw

Enc: 2019-2 Out-of-Cycle Small-Scale Development Amendments – BCC Adoption Binder Amendments

c: Christopher R. Testerman, AICP, Assistant County Administrator  
Joel Prinsell, Deputy County Attorney  
Whitney Evers, Assistant County Attorney  
Roberta Alfonso, Assistant County Attorney  
Gregory Gologowski, AICP, Chief Planner, Planning Division  
Olan D. Hill, AICP, Assistant Manager, Planning Division  
Eric P. Raasch, AICP, Planning Administrator, Planning Division  
Read File

#### PLANNING DIVISION

Alberto A. Vargas, MArch, Planning Manager

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# ORANGE COUNTY

PLANNING DIVISION

## 2019-2 OUT-OF-CYCLE SMALL-SCALE DEVELOPMENT AMENDMENT

2010 - 2030 COMPREHENSIVE PLAN

**BOARD OF COUNTY  
COMMISSIONERS**

**SEPTEMBER 22, 2020**

**ADOPTION PUBLIC HEARING**

**PREPARED BY:**

ORANGE COUNTY PLANNING, ENVIRONMENTAL  
AND DEVELOPMENT SERVICES

PLANNING DIVISION  
COMPREHENSIVE PLANNING SECTION



2019-2 Out-Of-Cycle Small-Scale Development Comprehensive Plan Amendments														
Privately-Initiated Future Land Use Map Amendments														
Amendment Number	Concurrent Rezoning or Substantial Change	Owner	Agent	Parcel ID Number(s)	General Location / Comments	Future Land Use Map Designation FROM:	Future Land Use Map Designation TO:	Zoning Map Designation FROM:	Zoning Map Designation TO:	Acreage	Project Planner	Rezoner	Staff Rec	LPA Rec
District 1														
2019-2-S-1-2 Townhomes at Westwood	LUP-19-08-258	Westwood Partners Group, LLC	Rebecca Wilson, Lowndes, Drossick, Doster, Kantor & Reed, P.A.	14-24-28-4800-00-360370	11302 and 11314 Westwood Blvd.; Generally located west of Westwood Blvd., north of Lake Willis Dr., and south of Central Florida Pkwy.	Activity Center Residential (ACR)	Planned Development-Medium Density Residential (PD-MDR)	R-CE (Country Estate District)	PD (Planned Development District) (Townhomes at Westwood PDLUP)	8.88 gross/4.02 net developable ac.	Jennifer DuBois	Nathaniel Wicke	Adopt & Approve, rezoning, subject to 19 conditions	Adopt & Approve rezoning, subject to 19 conditions (6-1)

ABBREVIATIONS INDEX:

ABBREVIATIONS INDEX: IND-Industrial; C-Commercial; O-Office; LDR-Low Density Residential; LMDR-Low-Medium Density Residential; MDR-Medium Density Residential; MHDR-Medium-High Density Residential; HDR-High Density Residential; PD-Planned Development; INST-Institutional; CONS-Wetland/Conservation; PR/OS-Parks/Recreation/Open Space; OS-Open Space; R-Rural/Agricultural; RS-Rural Settlement; RS 1/5-Rural Settlement 1/5; RS 1/2-Rural Settlement 1/2; RS 1/1-Rural Settlement 1/1; GC-Growth Center; USA-Urban Service Area; WB-Water Body; ACMU-Activity Center Mixed Use; EDU-Educational; CP-Comprehensive Plan; FLUM-Future Land Use Map; FLUE-Future Land Use Element; GOPS-Goals, Objectives, and Policies; O&J-Objective; TRAN-Transportation; LUP-Land Use Plan; RZ-Resoning; A-1-Citrus Rural District; A-2-Farmland Rural District; R-T-Mobile Home Park District; R-CE-Country Estate District; R-1A-Single-Family Dwelling District; R-1-Single-Family Dwelling District; R-3-Multiple-Family Dwelling District; R-2-Residential District; R-T-2-Combination Mobile Home and Single-Family Dwelling District; P-O-Professional Office District; C-1-Retail Commercial District; C-2-General Commercial District; C-3-Wholesale Commercial District; I-1/5-Light Industrial District; PD-Planned Development District; RZ-Resoning; LUP-Land Use Plan; CDR-Change Determination Request; SR-State Road; AC-Acres

2019-2 Out-Of-Cycle Small-Scale Development Comprehensive Plan Amendments								
Staff-Initiated Comprehensive Plan Map and Text Amendments								
Amendment Number	Sponsor	Description of Proposed Changes to the 2010-2030 Comprehensive Plan (CP)			Project Planner	Rezoner	Staff Rec	LPA Rec
2019-2-S-FLUE-3	Planning Division	Text amendment to Future Land Use Element Policy FLUE.1.4 establishing the maximum densities and intensities for proposed Planned Developments within Orange County			Jennifer DuBois	N/A	Adopt	Adopt (7-0)

ABBREVIATIONS INDEX:

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	-and-		
	Rezoning LUP-19-08-258	R-CE (Country Estate District) to PD (Planned Development District) (Townhomes at Westwood PD/LUP)	

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# 2019-2 OUT-OF-CYCLE SMALL-SCALE DEVELOPMENT

## AMENDMENTS TO THE 2010-2030 COMPREHENSIVE PLAN BOARD OF COUNTY COMMISSIONERS ADOPTION BOOK

### INTRODUCTION

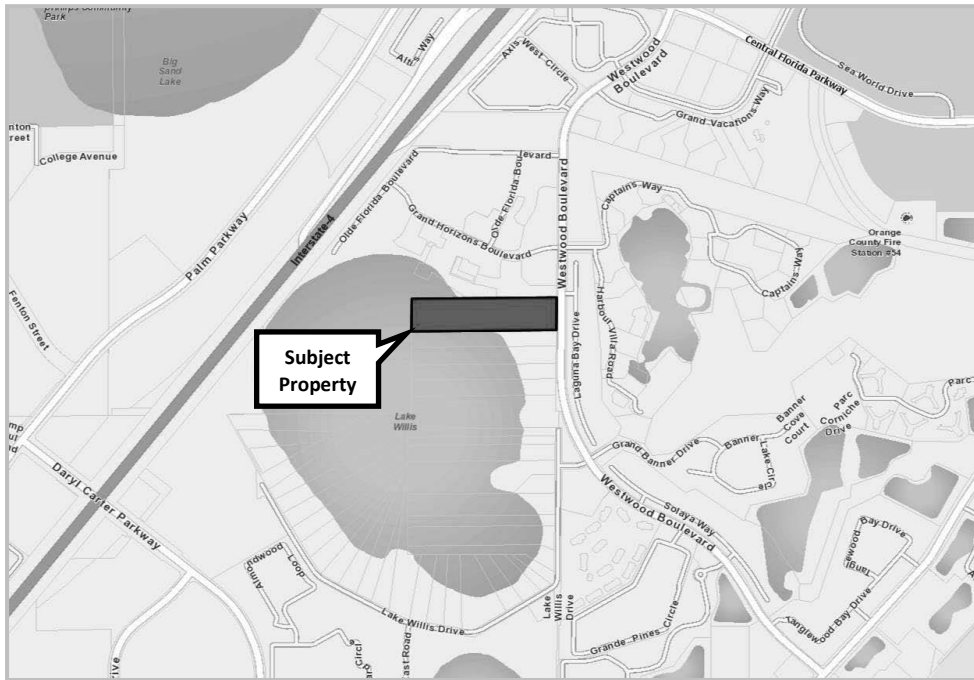
This is the Board of County Commissioners (BCC) adoption public hearing book for the proposed Out-of-Cycle Small-Scale Development Amendments (2019-2) to the Future Land Use Map (FLUM) and Comprehensive Plan (CP). The adoption public hearings for these amendments were conducted before the Planning and Zoning Commission (PZC)/Local Planning Agency (LPA) on December 19, 2019. The Board of County Commissioners (BCC), at the June 2, 2020 hearing, heard these amendments where the Board voted to continue the amendments to the August 11, 2020 meeting. The applicant requested a continuance from the August 11, 2020 meeting to the September 1, 2020 BCC meeting, during which Planning Division staff requested a continuance to September 22, 2020.

Please note the following modifications to this report:

KEY TO HIGHLIGHTED CHANGES	
Highlight	When changes made
Pink	Following the LPA adoption public hearing (by staff)

The 2019-2 Out-of-Cycle Small-Scale Development Amendments scheduled for public hearings on September 1 include one privately-initiated Future Land Use Map Amendment located in District 1 with a concurrent rezoning request and one staff-initiated text amendment. If the BCC adopts the proposed Small-Scale Development Amendments, they will become effective 31 days after the public hearings, provided no challenges are brought forth for any of the amendments.

Any questions concerning this document should be directed to Alberto A. Vargas, MArch, Manager, Planning Division, at (407) 836-5802 or [Alberto.Vargas@ocfl.net](mailto:Alberto.Vargas@ocfl.net) or Greg Golgowski, AICP, Chief Planner, Comprehensive Planning Section, at (407) 836-5624 or [Gregory.Golgowski@ocfl.net](mailto:Gregory.Golgowski@ocfl.net).



**Applicant/Owner:**  
 Rebecca Wilson, Lowndes, Drosdick, Doster, Kantor & Reed, P.A./Westwood Partners Group, LLC

**Location:**  
 11302 and 11314 Westwood Boulevard; Generally located west of Westwood Boulevard, north of Lake Willis Drive, south of Central Florida Parkway, and on the northeast shore of Lake Willis.

**Existing Use:**  
 Undeveloped land

**Parcel ID Numbers:**  
 14-24-28-4800-00-360/370

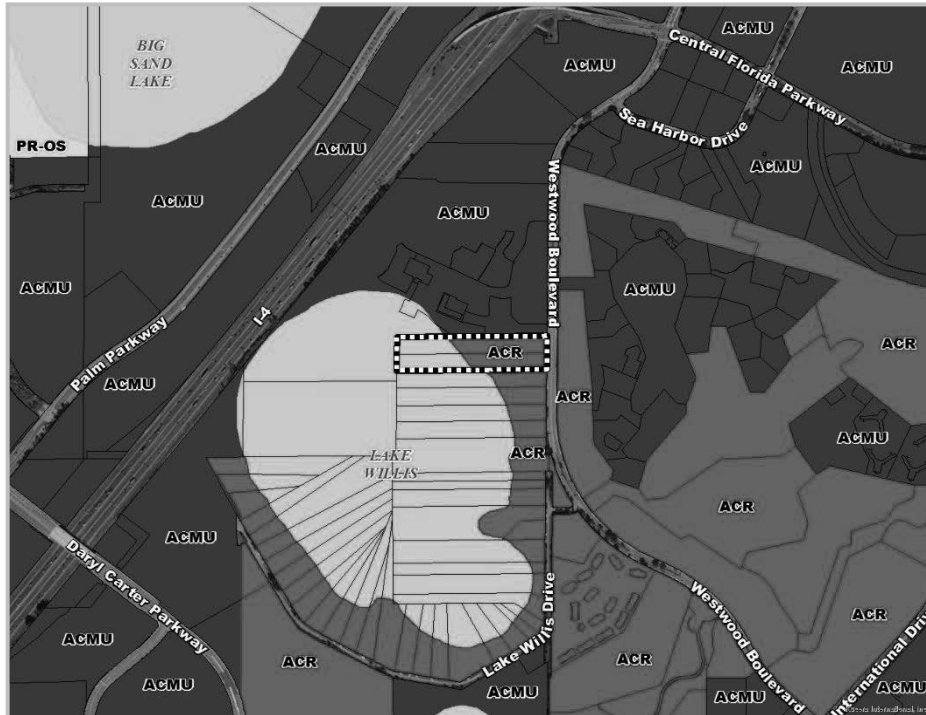
**Tract Size:**  
 8.88 gross/4.02 net acres

The following meetings and hearings have been held :		Project Information
<b>Report/Public Hearing</b>	<b>Outcome</b>	<b>Request:</b> Activity Center Residential (ACR) to Planned Development-Medium Density Residential (PD-MDR)
✓ A community meeting was held September 16, 2019, with nine residents in attendance.	<b>Negative</b> – Attendees expressed concern about compatibility with single-family homes in the Lake Willis Neighborhood Overlay District, potential impacts on Lake Willis, and existing drainage issues.	<b>Proposed Development Program:</b> Up to forty-three (43) single-family attached dwelling units
✓ Staff Report	Recommend adoption of the proposed amendment and approval of the concurrent rezoning request, subject to nineteen (19) conditions	<b>Concurrent Rezoning:</b> Case LUP-19-08-258 R-CE (Country Estate District) to PD (Planned Development District) (Townhomes at Westwood PD/LUP)
✓ LPA Adoption Hearing December 19, 2019	Recommend Adoption (6-1)	<b>Public Facilities and Services:</b> Please see the Public Facilities & Services Appendix for specific analysis of each public facility.
✓ PZC Rezoning Hearing December 19, 2019	Recommend Approval, subject to 19 conditions (6-1)	<b>Transportation:</b> The developer shall comply with the 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.
BCC Adoption Hearing	September 22, 2020 (continued from June 2, 2020, August 11, 2020, and September 1, 2020)	<b>Environmental:</b> Revised Conservation Area Determination CAD-18-11-180 was issued August 26, 2019, and expires May 9, 2024. Per the CAD, the site contains 4.02 net developable acres and 4.86 acres of wetlands and water.
BCC Rezoning Hearing	September 22, 2020 (continued from June 2, 2020, August 11, 2020, and September 1, 2020)	<b>Schools:</b> The executed Reinstatement of and Second Amendment to School Mitigation Agreement for Capacity Enhancement OC-17-022 was recorded in the Public Records of Orange County on May 8, 2020.

**SITE AERIAL**



### FUTURE LAND USE – CURRENT



**Current Future Land Use:**

Activity Center  
Residential (ACR)

**Special Area Information**

Overlay District: The site is located within the Lake Willis Neighborhood Overlay District and the Tourist Commercial Signage Overlay District.

JPA: N/A

Rural Settlement: N/A

Airport Noise Zone: N/A

### FUTURE LAND USE – AS PROPOSED



**Proposed Future Land Use:**

Planned Development-  
Medium Density  
Residential (PD-MDR)





## Staff Recommendations

If the requested Comprehensive Plan amendment is adopted, the Board will then need to take action on the proposed rezoning. These items need to be addressed as two separate motions by the Board. Below are the staff recommendations for each of these items.

1. **COMPREHENSIVE PLAN AMENDMENT:** Make a finding of **consistency** with the Comprehensive Plan (see Future Land Use Element Goal FLU2, Objectives FLU2.1, FLU2.2, and FLU8.2, and Policies FLU1.1.1, FLU1.1.5, FLU8.2.1, and FLU8.2.2; and Housing Element Goal H1 and Objective H1.1), determine that the amendment is in compliance, and **ADOPT** Amendment 2019-2-S-1-2, Activity Center Residential (ACR) to Planned Development-Medium Density Residential (PD-MDR).
2. **REZONING (December 19, 2019, PZC Recommendation):** Make a finding of **consistency** with the Comprehensive Plan and **APPROVE** Rezoning Case LUP-19-08-258, Townhomes at Westwood Planned Development/Land Use Plan (PD/LUP) dated "Received November 1, 2019", subject to the following nineteen (19) conditions:
  1. Development shall conform to the Townhomes at Westwood Land Use Plan (LUP) dated "Received November 1, 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 1, 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 the 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 the County, prior to the County's acceptance of conveyance. As part of the review process for construction plan approval(s), any required off-site easements identified by the County must be conveyed to the County prior to any such approval, or at a later date as determined by the County. Any failure to comply with this condition may result in the withholding of development permits and plat approval(s).
6. The following Education Condition of Approval shall apply:
  - a) Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board [and Orange County] as of **April 16, 2020**.
  - b) 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 **two (2)** 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.
  - c) 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.
  - d) 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.

- e) 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.
7. Community and private ramps and docks shall be prohibited.
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. This project shall comply with the County's International Drive Activity Center Comprehensive Plan requirement for a fifteen (15)-foot transit easement and a separate twenty (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.
10. 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, 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.
11. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities, subject to County rate resolutions and ordinances.
12. A Master Utility Plan (MUP) for the PD shall be submitted to Orange County Utilities at least thirty (30) days prior to submittal of the first set of construction plans. The MUP must be approved prior to Construction Plan approval.
13. Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP). MUP updates shall be submitted to Orange County Utilities at least thirty (30) days prior to the corresponding construction plan submittal. The updated MUP must be approved prior to construction plan approval.
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. Short-term/transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater.
16. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with the Chapter 31.5 Tourist Commercial standards of the Orange County Code.
17. 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.

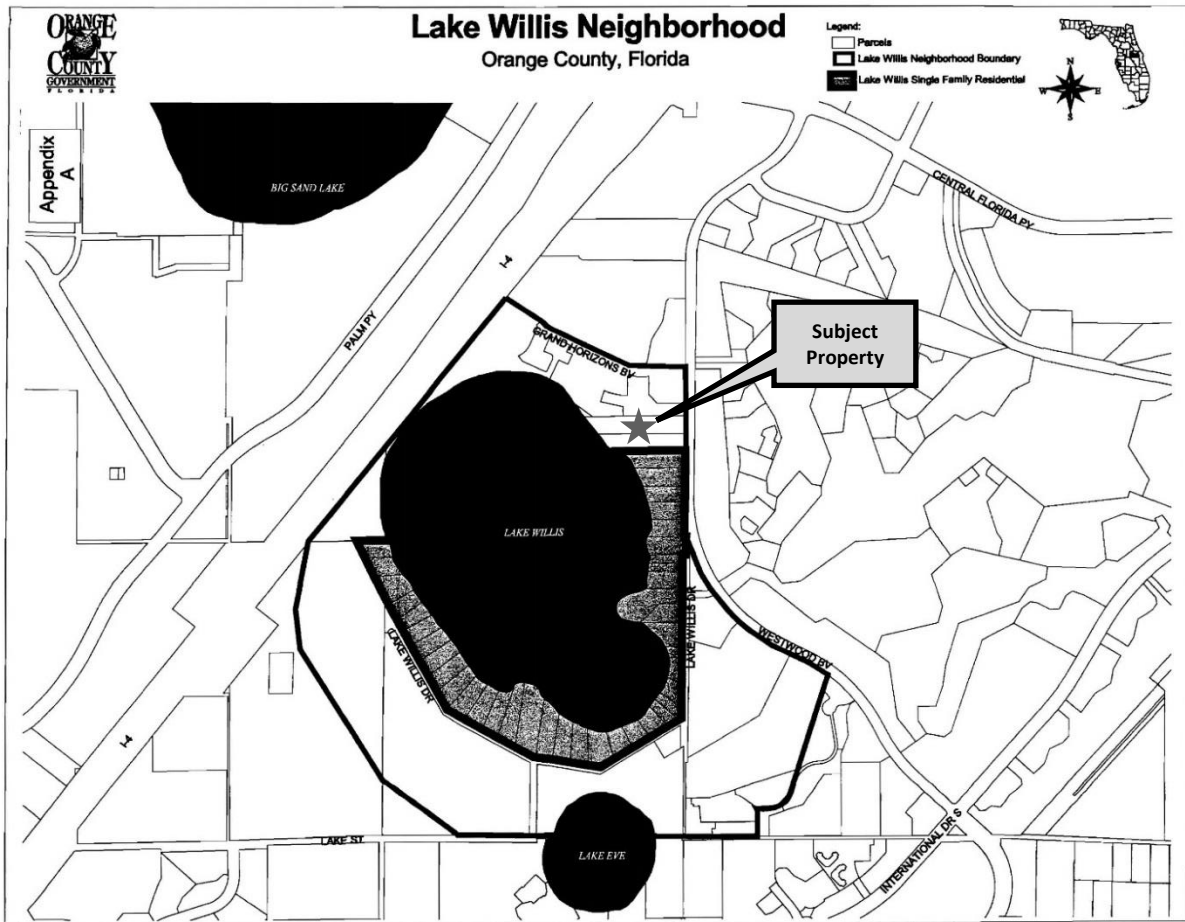
18. Access to Lake Willis shall be prohibited from this site. Community and private ramps and docks shall be prohibited.
19. A waiver from Orange County Code Section 38-1400.2(1) is requested to allow for two-story townhouse buildings, not to exceed thirty (30) feet in height, to be located up to thirty (30) feet from single-family zoned property along the south PD property line, in lieu of the requirement that townhouses be restricted to a single story in height within one hundred (100) feet of single-family zoned property.

## **Analysis**

### **1. Background and Development Program**

The applicant, Rebecca Wilson, is seeking to change the Future Land Use Map (FLUM) designation of the 8.88-acre subject property, comprised of two undeveloped parcels, from Activity Center Residential (ACR) to Planned Development-Medium Density Residential (PD-MDR). The property—consisting of 4.02 upland acres and 4.86 acres of wetlands and surface water—is located in the International Drive Activity Center, to which its present ACR future land use designation corresponds. Under the ACR classification, the property may be developed at a minimum density of 12 dwelling units per net acre, with a density cap of 30 dwelling units per net acre. It is the intent of the property owner, Westwood Partners Group, LLC, to construct up to 43 single-family attached homes (townhomes) on the site's 4.02 net developable acres, at a density of 10.7 dwelling units per net acre, which falls below the established minimum density of the ACR category. The applicant is, therefore, requesting the PD-MDR designation, with a density range of 0 to 20 dwelling units per net developable acre, to allow the project to move forward.

In addition to its location in the International Drive Activity Center, the subject property lies within the Lake Willis Neighborhood Overlay District. The overlay district—initially approved by the Orange County Board of County Commissioners (BCC) on January 28, 2003 (Ordinance No. 2003-01) and subsequently amended on December 9, 2003 (Ordinance No. 2003-21)—established buffering and design guidelines to protect a neighborhood of approximately 35 single-family homes situated along the shoreline of Lake Willis from the impacts of approved residential and non-residential development within the International Drive Activity Center. Ordinance 2003-21, attached to this staff report, differentiates the Lake Willis Single-Family Residential District, encompassing only the single-family homesites, from the larger Lake Willis Neighborhood Boundary. As illustrated on the map below, Appendix A of Ordinance 2003-21, the two individual parcels that comprise the subject property, located immediately south of the Activity Center Mixed Use (ACMU)-designated Marriott Vacation Club Harbour Lake Resort, lie within the Lake Willis Neighborhood Boundary, but outside the Lake Willis Single-Family Residential District. Use of the subject site, therefore, would not be restricted to single-family development, but, rather, could be approved for a townhome community (classified as multi-family in the two ordinances), subject to the applicable Lake Willis Neighborhood Buffering and Design Guidelines, codified in Chapter 38, Zoning, Article VIII, P-D Planned Development District, Division 10 of the Orange County Code.



Staff notes that the site was previously the subject of Rezoning Case LUP-16-09-335, a request to rezone the property from R-CE (Country Estate District) to PD (Planned Development District) to allow for the creation of the Townhomes at Westwood PD, featuring up to 80 single-family attached dwelling units under the ACR future land use designation. While the Orange County Development Review Committee (DRC) and the Planning and Zoning Commission (PZC) recommended approval of the rezoning petition and the associated PD Land Use Plan (LUP), the request was denied by the BCC on July 10, 2018. Westwood Partners Group, LLC and the County subsequently mediated the case through the special magistrate process, resulting in the Settlement Agreement discussed below.

In conjunction with this requested Future Land Use Map Amendment, the applicant has submitted a new application for a concurrent rezoning of the subject property from R-CE to PD, consistent with the Settlement Agreement (Rezoning Case LUP-19-08-258). The proposed Townhomes at Westwood PD entails a reduced development program of 43 single-family attached dwelling units, as stipulated in the agreement. The application also involves a requested waiver from Orange County Code Section 38-1400.2(1) to allow two-story townhouse buildings, not to exceed thirty (30) feet in height, to be located up to thirty (30) feet from single-family zoned property along the south PD property line, in lieu of the requirement that townhouses be restricted to a single story in height within one hundred (100) feet of single-family zoned property. On November 20, 2019, the DRC recommended approval

of the Townhomes at Westwood PD Land Use Plan, subject to nineteen (19) Conditions of Approval, including the proposed waiver, listed in this staff report.

### **Settlement Agreement for *Westwood Partners Group, LLC v. Orange County***

In March 2018, Westwood Partners Group, LLC filed the above-discussed PD rezoning application, Case LUP-16-09-335, with the Orange County Development Review Committee (DRC), seeking approval of a rezoning of the two parcels comprising the 8.88-acre subject property, Parcels 14-24-28-4800-00-360 and 14-24-28-4800-00-370, from R-CE to PD for the purpose of constructing eighty (80) single-family attached dwelling units. On March 28, 2018, the DRC recommended approval of the proposed Townhomes at Westwood PD Land Use Plan, with the PZC concurring with this recommendation at the May 17, 2018, rezoning public hearing. The BCC, however, denied the rezoning request on July 10, 2018.

Westwood Partners Group, LLC proceeded to file a request with the County invoking the special magistrate process described in Section 70.51, Florida Statutes, for land use disputes. As part of the special magistrate process, Westwood Partners Group, LLC and the County mediated the case, resulting in the attached Settlement Agreement, approved by the BCC on July 16, 2019. The Settlement Agreement allows Westwood Partners Group, LLC to submit a Small-Scale Development Comprehensive Plan Amendment application to change the Future Land Use Map designation of the property from ACR to PD-MDR and to submit a petition for a concurrent rezoning of the property from R-CE to PD, with a maximum development program of forty-three (43) single-family attached dwelling units.

Per the Settlement Agreement, the PZC's and BCC's consideration of the proposed Comprehensive Plan Amendment and associated rezoning request must occur at advertised and noticed public hearings, during which interested members of the public may appear and participate. Approval of the Settlement Agreement, though, does not obligate the BCC to approve the Comprehensive Plan Amendment or rezoning request at those public hearings. If the Comprehensive Plan Amendment and rezoning petitions are not approved, the litigation will resume in accordance with Section 70.51, Florida Statutes.

Staff notes that at the time of the original rezoning application, the 8.88-acre site was believed to possess 3.78 developable acres, as noted in the Settlement Agreement. The Orange County Environmental Protection Division (EPD) subsequently issued Revised Conservation Area Determination CAD-18-11-180 on August 26, 2019, with an expiration date of May 9, 2024, establishing the site's net developable land at 4.02 acres.

### **Community Meeting**

A community meeting for this proposed Future Land Use Map Amendment and associated PD rezoning application was held September 16, 2019, at Tangelo Park Elementary School. The nine meeting attendees, all residents of the Lake Willis Single-Family Residential District, expressed their opposition to the two requests. Several meeting participants asserted that the two parcels that comprise the subject property were erroneously omitted from the Lake Willis Single-Family Residential District and that the map included in the amended Lake Willis Neighborhood Buffering and Design Guidelines ordinance, Ordinance 2003-21, is incorrect.

The residents in attendance expressed their belief that the proposed single-family attached homes would prove incompatible with the existing single-family detached homes in the Lake Willis

neighborhood, despite the reduction in the number of units from 80 to 43. The applicant noted that under the present ACR future land use designation, up to 30 dwelling units per net acre (120 units) could potentially be constructed on the site and stated that, alternatively, an apartment community could be built on the site. She informed the meeting attendees that she believes the requested development of up to 43 single-family attached units is a reasonable compromise. The applicant further provided an overview of the Settlement Agreement, emphasizing that the proposed PD-MDR future land use designation and amended PD rezoning petition are consistent with the terms of the agreement.

In answer to the area residents, the applicant confirmed that the prospective developer is proposing to restrict the height of each home to 30 feet/two stories and is committed to honoring the previously-declared pledge that the use of Lake Willis by the community's residents shall be prohibited, with no community or private boat docks or ramps allowed. She verified, though, that the developer has requested a waiver from Orange County Code Section 38-1400.2(1) to allow two-story townhouse buildings, not to exceed thirty (30) feet in height, to be located up to thirty (30) feet from single-family zoned property along the south PD property line, in lieu of the requirement that townhouses be restricted to a single story in height within one hundred (100) feet of single-family zoned property. Several meeting attendees voiced their objection to this proposed waiver, stating that it is inconsistent with the purpose and intent of the Lake Willis Neighborhood Buffering and Design Guidelines. They further expressed their belief that this reduced setback, if approved, would result in a loss of privacy for the owners of the lots in close proximity to the site, particularly if substantial amounts of fill were brought in to raise the grade of the property.

In addition to the concerns regarding compatibility, one meeting attendee voiced his worry about current drainage problems in the neighborhood, asserting that the proposed project, if developed, will only exacerbate them. Orange County Development Engineering informed the resident that a representative of the Stormwater Management Division would contact him to discuss the drainage issues. Lastly, several meeting attendees expressed concern that additional development on Lake Willis would negatively impact the water quality of the lake.

The tone of the meeting was negative.

## 2. Project Analysis

### *Consistency*

The requested FLUM amendment appears to be **consistent** with the applicable Goals, Objectives, and Policies of the Comprehensive Plan.

The subject property is located within the County's Urban Service Area (USA) boundary and is situated in an urbanized area characterized by a mix of single-family homes, multi-family communities, and tourist-oriented development. In addition to the aforementioned single-family homes in the Lake Willis neighborhood to the south and the adjacent Marriott Vacation Club Harbour Lake Resort to the north, the site is bordered to the east by the Westwood Park apartment community and the Marriott Vacation Club Cypress Harbour Resort. The site also lies in close proximity to several major employers, including Sea World (located less than one mile north of the property), the Orange County Convention Center, the Orlando Health Dr. P. Phillips Hospital, and Lockheed Martin. As discussed above, the applicant is seeking the PD-MDR FLUM designation to allow for the development of up to 43 single-family attached homes on a vacant infill site within the Urban Service Area, in accordance with the



approved Settlement Agreement. Staff finds this proposal consistent with **Future Land Use Element Goal FLU2**, which states that Orange County will encourage urban strategies such as infill development, coordinated land use and transportation planning, and mixed-use development, which promote efficient use of infrastructure, compact development, and an urban experience with a range of choices and living options. In the same vein, the request is consistent with **Future Land Use Element Objective FLU2.1**, which establishes that Orange County shall promote and encourage infill development through incentives identified in the Land Development Code for relatively small vacant and underutilized parcels within the County's established core areas in the Urban Service Area.

Staff further finds this request consistent with **Future Land Use Element Objective OBJ FLU2.2**, which states that Orange County shall develop, adopt, and implement mixed-use strategies and incentives as part of its comprehensive planning and land development code efforts, including standards for determining consistency with the Future Land Use Map. Other objectives of mixed-use development include reducing trip lengths, providing for diverse housing types, using infrastructure efficiently, and promoting a sense of community. Likewise, this proposal is in harmony with **Future Land Use Element Policy FLU1.1.5**, which encourages mixed-use development, infill development, and transit-oriented development to promote compact urban form and efficiently use land and infrastructure in the Urban Service Area. Staff notes that if approved, the residential project will use infrastructure that is already in place. Per Orange County Utilities (OCU), potable water, wastewater, and reclaimed water service will be furnished by OCU, with no facility improvements necessary to maintain level of service standards. Moreover, the project would use the existing transportation network, which serves transit riders and pedestrians, as well as automobile drivers. Several LYNX bus stops are located on Westwood Boulevard in the vicinity of the subject site, including one immediately north of the property, near the entrance to the abutting Marriott Vacation Club Harbour Lake Resort, and sidewalks currently extend along both sides of Westwood Boulevard and connect to the network of sidewalks in the surrounding area, thus helping to provide for pedestrian safety.

As noted previously, the subject property is situated in an area characterized by a mix of single-family detached homes and apartments. The proposed FLUM Amendment and associated residential development program of up to 43 single-family attached homes are consistent with Orange County's commitment to ensuring that sufficient land is available to meet the identified housing needs of its present and future residents. The prospective developer's intent to construct up to 43 single-family attached units is consistent with **Housing Element GOAL H1** and **Objective H1.1**, which state that the County will promote and assist in the provision of an ample housing supply, within a broad range of types and price levels, and will support private sector housing production capacity sufficient to meet current and anticipated housing needs. Similarly, **Future Land Use Element Policy FLU8.2.2** directs that continuous stretches of similar housing types and density of units shall be avoided. It is staff's belief that the proposed townhome community will contribute to the mix of available housing options in an area of the County deemed appropriate for urban uses, as set forth in **Future Land Use Element Policy FLU1.1.1**.

Pursuant to the Settlement Agreement, this application is required to be processed as a Planned Development (PD) future land use request, with the Planned Development-Medium Density Residential (PD-MDR) designation specified. If this proposed amendment is adopted, the amendment of **Future Land Use Element Policy FLU8.1.4** will be necessary to establish the maximum development program for the subject property. The maximum development program for Amendment 2019-2-S-1-2, if approved, will be as follows:

Amendment Number	Adopted FLUM Designation	Maximum Density/Intensity	Ordinance Number
<u>2019-2-S-1-2 Townhomes at Westwood</u>	<u>Planned Development-Medium Density Residential (PD-MDR)</u>	<u>Up to 43 single-family attached dwelling units</u>	<u>2020-</u>

**Compatibility**

The requested FLUM amendment appears to be **compatible** with the development trend of the surrounding area. **Future Land Use Element Objective FLU8.2** states that compatibility will continue to be the fundamental consideration in all land use and zoning decisions, while **Policy FLU8.2.1** requires land use changes to be compatible with the existing development pattern and development trends in the area. As discussed earlier, the subject property is located in an urban area characterized by a mix of single-family homes, multi-family communities, and tourist-oriented development. In addition, it is situated in close proximity to several major employers, adding to its suitability for residential development. It is staff’s belief that the proposed townhome project would contribute to the County’s larger goals of promoting infill and compact urban form within the Urban Service Area, providing for a range of living options, efficiently using existing infrastructure, reducing trip lengths, and encouraging accessibility via multiple modes of transportation. Staff, therefore, recommends adoption of this requested amendment and approval of the concurrent rezoning petition.

**Division Comments**

**Environmental Protection Division.** Class I wetlands and a portion of Lake Willis are located onsite, amounting to 4.86 acres. Conservation Area Determination CAD-18-11-180 was completed for the subject property, with a certified wetland boundary survey approved by the Environmental Protection Division (EPD) on August 26, 2019. The CAD established that the 8.88-acre site consists of 4.017 acres of uplands, 0.2422 acre of wetlands, and 4.6208 acres of surface water. This determination expires May 9, 2024.

The net developable acreage is the gross acreage less the wetlands and surface water acreage. The buildable area is the net developable acreage less protective buffer areas required to prevent adverse secondary impacts and less the required lakefront berm and swale (unless drainage is designed to flow away from the lake). The applicant is advised not to make financial decisions based upon development within the wetland or the upland protective buffer areas. Any plan showing development in such areas without Orange County and other jurisdictional governmental agency wetland permits is speculative and may not be approved.

Density and floor area ratio (FAR) calculations are determined by dividing the total number of units and the square footage by the net developable area. In order to include 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 EPD. Please reference Comprehensive Plan Policy FLU1.1.2 C. Impacts to Class I conservation areas require approval from the Orange County Board of County Commissioners (BCC).

The Normal High Water Elevation (NHWE) of Lake Willis was established at 103.6 feet NAVD 88. The applicant shall clearly show and label the NHWE line of the lake on all plans and permit applications, in addition to any wetland and setback lines.

The concurrent Planned Development/Land Use Plan (PD/LUP) rezoning application indicates that community and private ramps and docks shall be prohibited in this development.

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 for determining the presence of listed species and obtaining any required habitat permits from the U.S. Fish and Wildlife Service (USFWS) and/or the Florida Fish & Wildlife Conservation Commission (FWC).

All development is required to pretreat stormwater runoff for pollution abatement purposes, per Orange County Code Section 34-227. Discharge that flows directly into wetlands or surface water without pretreatment is prohibited.

**Transportation Planning Division:** The applicant is requesting a land use change from Activity Center Residential (ACR) to Planned Development-Medium Density Residential (PD-MDR) and a corresponding rezoning from R-CE (Country Estate District) to PD (Planned Development District) to allow for the development of up to 43 single-family attached dwelling units on the subject property's 4.02 net developable acres.

The subject property is not located within the County's Alternative Mobility Area (AMA) or along a backlogged/constrained facility.

There are no planned roadway improvements at this time. Westwood Boulevard was recently resurfaced. However, 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.

The allowable development based on the approved ACR future land use designation will generate 66 p.m. peak hour trips. The proposed development of up to 43 townhomes under the requested PD-MDR classification will generate 28 p.m. peak hour trips, resulting in a net decrease of 38 p.m. peak hour trips.

Based on the existing concurrency database dated September 5, 2019, there is one (1) failing roadway segment along Turkey Lake Road within the project's impact area. Central Florida Parkway to Sand Lake Commons Boulevard is operating at Level of Service F, and there is no available capacity. This information is dated and subject to change.

Final permitting of any development on this site will be subject to review and approval under the capacity constraints of the County's Transportation Concurrency Management System. Such approval will not exclude the possibility of a proportionate share payment to mitigate any transportation deficiencies.

**Utilities Engineering Division:** The subject site lies within Orange County Utilities' (OCU's) potable water, wastewater, and reclaimed water service areas. Per OCU, a 12-inch water main is located within the Westwood Boulevard right-of-way. In regard to wastewater, there is a 10-inch gravity main within the Westwood Boulevard right-of-way, and an 8-inch forcemain is in place near the intersection

of Westwood Boulevard and Turkeyleg Drive. With respect to reclaimed water, an 8-inch reclaimed water main is present within the Westwood Boulevard right-of-way. OCU has informed staff that no improvements to County facilities to maintain current level of service (LOS) standards are needed at this time.

**Schools:** Per Orange County Public Schools (OCPS), the elementary school (Tangelo Park Elementary), middle school (Freedom Middle), and high school (Freedom High) that would currently serve the project are operating over capacity. The executed Reinstatement of and Second Amendment to School Mitigation Agreement for Capacity Enhancement OC-17-022 was recorded in the Public Records of Orange County on May 8, 2020 (Document 20200272264).

### 3. Rezoning Request Analysis

#### SITE DATA

<b>Existing Use</b>	Undeveloped land
<b>Adjacent Zoning</b>	N: PD (Planned Development District) (1991) (I-4 Plaza PD)
	E: PD (Planned Development District) (1991) (Orangewood N-2 PD)
	W: PD (Planned Development District) (1991) (I-4 Plaza PD)
	S: R-CE (Country Estate District) (1968)
<b>Adjacent Land Uses</b>	N: Timeshare resort
	E: Multi-family dwelling units
	W: Lake Willis/Interstate-4
	S: Single-family home

#### APPLICABLE PD DEVELOPMENT STANDARDS

PD Perimeter Setback	30 feet (north) 30 feet (south) 40 feet (east) 50 feet (west) (Normal High Waterline setback)
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Maximum Building Height:	30 feet
Minimum Lot Size:	2,000 square feet
Minimum Lot Width:	20 feet
Minimum Living Area:	1,000 square feet (under HVAC)

#### Minimum Building Setbacks

Front Setback:	20 feet
Rear Setback:	20 feet
Side Setback:	0 feet (10 feet for end units)

**SPECIAL INFORMATION**

**Subject Property Analysis**

The applicant is seeking to rezone two (2) parcels containing 8.88 gross acres from R-CE to PD to allow for the construction of up to forty-three (43) single-family attached dwelling units. The subject properties are included in proposed Future Land Use Map Amendment 2019-2-S-1-2 to change the FLUM designation to Planned Development-Medium Density Residential (PD-MDR) and establish the desired residential development program.

**Future Land Use Map (FLUM) Amendment**

The property has an underlying Future Land Use Map (FLUM) designation of Activity Center Residential (ACR) but is the subject of requested Future Land Use Map Amendment 2019-2-S-1-2 to change the FLUM designation to Planned Development-Medium Density Residential (PD-MDR), which will allow for a maximum of forty-three (43) single-family attached dwelling units. The proposed use is consistent with the FLUM Amendment in process.

**Rural Settlement**

The subject property is not located within a Rural Settlement.

**Joint Planning Area (JPA)**

The subject property is not located within a JPA.

**Overlay District Ordinance**

The subject property is located within the Lake Willis Neighborhood Overlay District and the Tourist Commercial Signage Overlay District.

**Airport Noise Zone**

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

**Environmental**

CAD - Class I wetlands and a portion of Lake Willis are located onsite, amounting to 4.86 acres. Conservation Area Determination CAD-18-11-180 was completed for the subject property, with a certified wetland boundary survey approved by the Environmental Protection Division (EPD) on August 26, 2019. The CAD established that the 8.88-acre site consists of 4.017 acres of uplands, 0.2422 acre of wetlands, and 4.6208 acres of surface water. This determination expires May 9, 2024.

Conservation Features - The applicant is responsible for addressing any adverse impacts, including secondary impacts, to surface waters, wetlands, or conservation areas that may occur as a result of development of the site. Preventive measures include, but are not limited to, a 25-foot average undisturbed upland buffer along the wetland boundary, signage, pollution abatement swales, split rail fencing, retaining wall, or native plantings adjacent to the wetlands. The applicant shall clearly indicate and label the measures employed to prevent adverse conservation area impacts in the PSP/DP and permit applications.

Class I Impacts - The removal, alteration, or encroachment within a Class I conservation area shall only be allowed in cases where no other feasible or practical alternatives exist, impacts are unavoidable to allow a reasonable use of the land, or where there is an overriding public benefit, as determined before the Orange County Board of County Commissioners (BCC).

Habitat Protection - Development of the subject property shall comply with all state and federal regulations regarding wildlife and plants listed as endangered, threatened, or species of special concern. The applicant is responsible for determining the presence of listed species and obtaining

any required habitat permits from the U.S. Fish and Wildlife Service (USFWS) and/or the Florida Fish & Wildlife Conservation Commission (FWC).

**Transportation/Concurrency**

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

**Water/Wastewater/Reclaimed Water**

Existing service or provider

Water:	Orange County Utilities
Wastewater:	Orange County Utilities
Reclaimed Water:	Orange County Utilities

**Schools**

The applicant received a School Capacity Determination from Orange County Public Schools (OCPS) for Application OC-19-074. This determination showed that capacity is not available at the elementary, middle, and high schools that would serve the project. The executed Reinstatement of and Second Amendment to School Mitigation Agreement for Capacity Enhancement OC-17-022 was recorded in the Public Records of Orange County on May 8, 2020 (Document 20200272264).

**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.

**4. Policy References**

**Goal FLU2 – URBAN STRATEGIES.** Orange County will encourage urban strategies such as infill development, coordinated land use and transportation planning, and mixed-use development, which promote efficient use of infrastructure, compact development and an urban experience with a range of choices and living options.

**OBJ FLU2.1 INFILL.** Orange County shall promote and encourage infill development through incentives identified in the Land Development Code for relatively small vacant and underutilized parcels within the County’s established core areas in the Urban Service Area.

**OBJ FLU2.2 –** Orange County shall develop, adopt, and implement mixed-use strategies and incentives as part of its comprehensive plan and land development code efforts, including standards for determining consistency with the Future Land Use Map. Other objectives of mixed-use development include reducing trip lengths, providing for diverse housing types, using infrastructure efficiently and promoting a sense of community.

**OBJ FLU8.2 –** Compatibility will continue to be the fundamental consideration in all land use and zoning decisions. For purposes of this objective, the following policies shall guide regulatory decisions that involve differing land uses.

**FLU1.1.1** – Urban uses shall be concentrated within the Urban Service Area, except as specified for the Horizon West Village and Innovation Way Overlay (Scenario 5), Growth Centers, and to a limited extent, Rural Settlements.

**FLU1.1.5** – Orange County shall encourage mixed-use development, infill development and transit-oriented development to promote compact urban form and efficiently use land and infrastructure in the Urban Service Area. The County may require minimum FARs and densities in its Land Development Code to achieve the County’s desired urban framework. Infill is defined as development consistent with the *Infill Master Plan* (2008).







**FLU8.2.1** – 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.

**FLU8.2.2**– Continuous stretches of similar housing types and density of units shall be avoided. A diverse mix of uses and housing types shall be promoted.

**GOAL H1** – Orange County's goal is to promote and assist in the provision of an ample housing supply, within a broad range of types and price levels, to meet current and anticipated housing needs so that all our residents have the opportunity to purchase or rent standard housing.

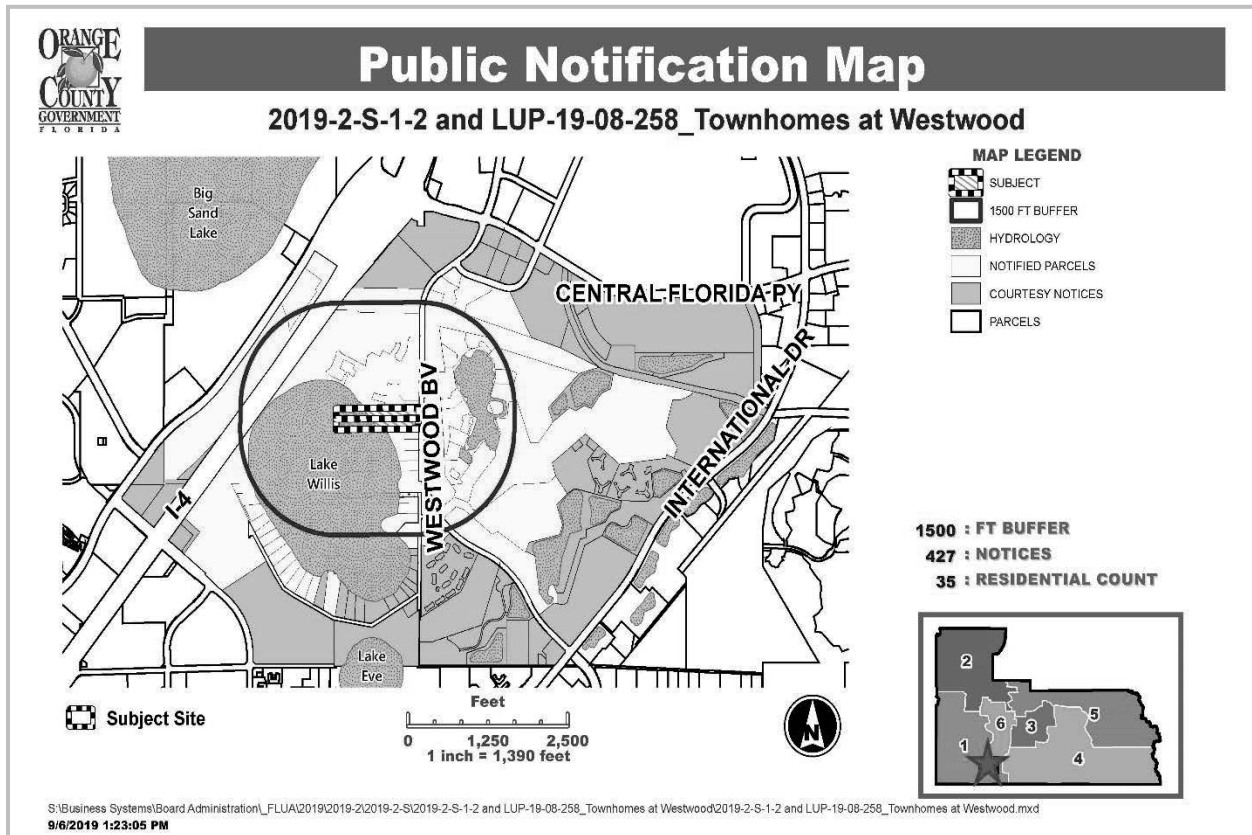
**OBJ H1.1** – The County will continue to support private sector housing production capacity sufficient to meet the housing needs of existing and future residents.

**Site Visit Photos**

<b>Subject Site</b>	
	
<b>North of Subject Site</b>	<b>South of Subject Site</b>
	
<b>West of Subject Site</b>	<b>East of Subject Site</b>
	



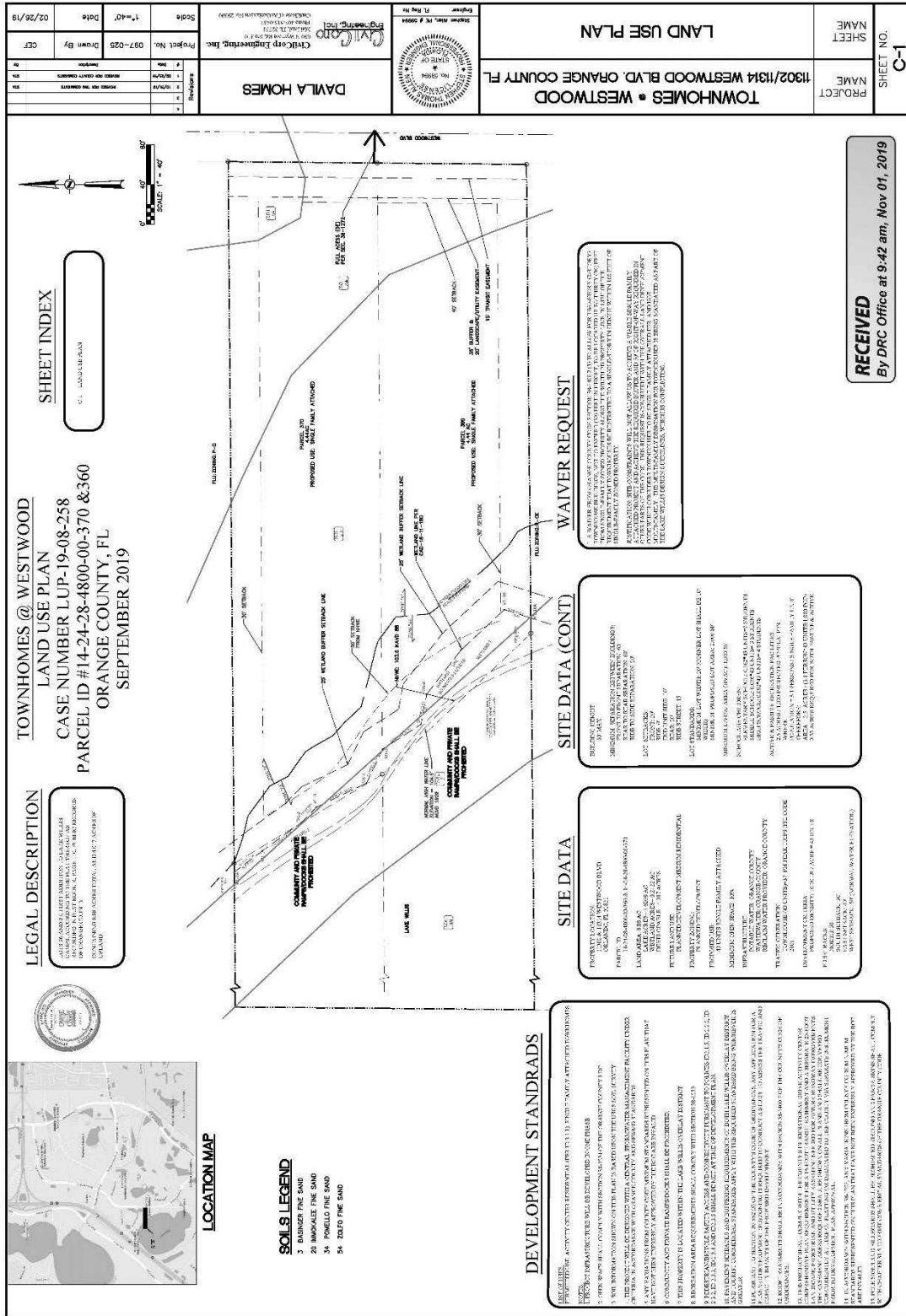
**PUBLIC NOTIFICATION MAP**



**Notification Area**

- 1,500 feet plus neighborhood and homeowners’ associations within a one-mile radius of the subject site
- 427 notices sent

Townhomes at Westwood PD Land Use Plan  
 DRC-Approved Plan



**Settlement Agreement for *Westwood Partners Group, LLC v. Orange County***



COUNTY ATTORNEY'S OFFICE  
JEFFREY J. NEWTON, *County Attorney*

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**MEMORANDUM**

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

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Gail Stanford

**TO:** Mayor Jerry L. Demings  
and  
County Commissioners

**FROM:** Jeffrey J. Newton, County Attorney   
Elaine M. Asad, Senior Assistant County Attorney   
**Contact Number: 407-836-7357**

**DATE:** July 2, 2019

**RE:** Consent Agenda Item for July 16, 2019  
Settlement Agreement for *Westwood Partners Group, LLC v. Orange County*  
Section 70.51, Florida Statutes

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In March 2018, Westwood Partners Group, LLC (“Westwood”) filed an application with the Orange County Development Review Committee (“DRC”) seeking approval of a development plan to rezone two parcels on Lake Willis in District 1 containing 8.88 gross net acres, of which 3.78 acres are developable, from R-CE (Country Estate District) to PD (Planned Development District) for the purpose of constructing eighty (80) attached single-family residential dwelling units. The DRC and the Planning and Zoning Commission (“PZC”) both recommended approval of Westwood’s proposed PD Land Use Plan.

On July 10, 2018, the Board denied the rezoning request.

Westwood then filed a request with the County invoking the special magistrate process described in Section 70.51, Florida Statutes, for land use disputes. As part of the special magistrate process, Westwood and the County mediated the case, resulting in the proposed Settlement Agreement.

If approved by the Board, the Settlement Agreement allows Westwood to submit a small scale development comprehensive plan amendment and concurrent rezoning requesting a change to the Future Land Use Element Map designation for the property from ACR to PD-MDR and rezone the property from R-CE to PD, with a maximum of forty-three (43) units. Also, if the Settlement Agreement is approved, the Board’s decision whether to approve the comprehensive plan amendment and rezoning request would need to be made by the Board at advertised and noticed public hearings where interested members

July 2, 2019  
Consent Agenda Item for July 16, 2019  
Settlement Agreement for *Westwood Partners Group, LLC v. Orange County*  
Page 2

of the public would be allowed to appear and participate. In other words, approval of the Settlement Agreement would not obligate the Board to approve the comprehensive plan amendment or rezoning request at those future public hearings.

If the Settlement Agreement is not approved, or if the Settlement Agreement is approved but the comprehensive plan amendment and rezoning request are not subsequently approved, the litigation will resume under Section 70.51, Florida Statutes.

Please let us know if you have any questions.

ACTION REQUESTED: Approval of Settlement Agreement in the case of *Westwood Partners Group, LLC v. Orange County*, Case No. LUP-16-09-335. District 1.

c: Byron Brooks, County Administrator  
Chris Testerman, Deputy County Administrator  
Joel D. Prinsell, Deputy County Attorney

APPROVED BY ORANGE  
COUNTY BOARD OF COUNTY  
COMMISSIONERS

BCC Mtg. Date: July 16, 2019

Settlement Agreement between Westwood Partners Group, LLC, Petitioner and Orange County, Florida, Respondent.  
File No. 2018-761  
Case No. LUP-16-09-335

6/3/19

IN AND BEFORE A SPECIAL MAGISTRATE  
IN AND FOR ORANGE COUNTY, FLORIDA

WESTWOOD PARTNERS GROUP, LLC

Petitioner

vs.

File No. 18-761  
Westwood Partners  
Group, LLC Rezoning  
Case No. LUP-16-09-335

ORANGE COUNTY, FLORIDA,

Respondent

SETTLEMENT AGREEMENT

Petitioner, WESTWOOD PARTNERS GROUP, LLC, a Florida limited liability company ("Westwood"), and Respondent, ORANGE COUNTY, FLORIDA, a Charter County and political subdivision of the State of Florida ("County"), hereby enter into this Settlement Agreement ("Agreement"):

A. STIPULATIONS OF FACT

1. Westwood is the owner of certain real property that is the subject of the above-styled proceeding and that is located at 11302 and 11314 Westwood Boulevard, in Orange County, Florida, with Parcel Identification Numbers 14-24-28-4800-00-370 & 14-24-28-4800-00-360 ("Property").
2. The Property is located in the unincorporated area of Orange County, and accordingly is subject to the County's Comprehensive Plan, the County Code, and the County's Land Development Regulations.
3. In March, 2018, Westwood filed an application with the Orange County Development Review Committee ("DRC") seeking approval of a development plan to rezone

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T.J.

Settlement Agreement between Westwood Partners Group, LLC, Petitioner and Orange County, Florida, Respondent.  
File No. 2018-761  
Case No. LUP-16-09-335

two (2) parcels containing 8.88 gross net acres, of which, 3.78 acres are developable, from R-CE (Country Estate District) to PD (Planned Development District) for the purpose of constructing eighty (80) attached single-family residential dwelling units (the "Original Rezoning Request").

4. On or about March 28, 2018, the DRC recommended approval of Westwood's PD Land Use Plan.

5. On or about May 17, 2018, the Planning and Zoning Commission ("PZC") also recommended approval of Westwood's PD Land Use Plan.

6. On or about July 10, 2018, the Board of County Commissioners ("BCC") conducted a public hearing on Westwood's proposed rezoning, and, at the conclusion thereof, voted to deny the rezoning request from R-CE (Country Estate District) to PD (Planned Development District) for the purpose of constructing eighty (80) attached single-family residential dwelling units. The BCC's Decision Letter was filed with the Clerk of the BCC on July 24, 2018.

7. On August 7, 2018, Westwood filed a request with the County invoking the special magistrate process prescribed in Section 70.51, *Florida Statutes*, with regard to the BCC's denial of Westwood's Original Rezoning Request, such proceeding being styled as *Westwood Partners Group, LLC v. Orange County, et al.*, OC File No. 18-761 ("Special Magistrate Proceeding").

8. On November 1, 2018, Westwood, the County, and interested members of the public participated in a mediation conference in accordance with Section 70.51(12), *Florida Statutes*, in an attempt to amicably resolve the Special Magistrate Proceeding and to arrive at a fair and reasonable agreement to resolve the dispute.

9. Westwood and the County (collectively, the "Parties") desire to enter into this Settlement Agreement for the purpose of attempting to resolve the Special Magistrate Proceeding in accordance with the terms below.

#### **B. SETTLEMENT COVENANTS AND TERMS**

1. **Terms of Agreement.** In connection with the Parties' execution of this Agreement and the covenants and terms herein, the Parties agree as follows:

a. Within ninety (90) days of the Effective Date of this Agreement,

Page 2 of 9

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T.J.

Settlement Agreement between Westwood Partners Group, LLC, Petitioner and Orange County, Florida, Respondent.  
File No. 2018-761  
Case No. LUP-16-09-335

Westwood shall submit to the County its applications for a small scale development comprehensive plan amendment (“plan amendment”) and concurrent rezoning. The plan amendment application will request to change the Future Land Use Element Map designation for the Property from ACR to PD-MDR, and to rezone the Property from R-CE to PD, with a maximum of 43 units.

- b. As soon as the DRC’s calendar permits, the proposed rezoning shall be reviewed by the DRC in accordance with standard DRC procedures and practice, and the DRC shall make a recommendation on the proposed rezoning. (The DRC does not review proposed comprehensive plan amendments.) Thereafter, as soon as the calendar for the Local Planning Agency/Planning and Zoning Commission (“LPA/PZC”) permits, the proposed plan amendment and concurrent rezoning shall be reviewed by the LPA/PZC at duly noticed concurrent public hearings. Thereafter, as soon as the BCC’s calendar permits, the proposed plan amendment and concurrent rezoning shall be reviewed by the BCC at duly noticed concurrent public hearings, notwithstanding the time period restrictions set forth in Sections 30-37 and 30-48 of the Orange County Code.
- c. The County agrees to waive the application fees for the plan amendment and concurrent rezoning.
- d. Any other waiver requests will be subject to review by the County.
- e. If, at the conclusion of the BCC’s concurrent public hearings, a member of the BCC makes a motion to deny Westwood’s proposed plan amendment and/or concurrent rezoning, and the motion is seconded, Westwood may elect to withdraw the requests and thereafter schedule a hearing on the Original Rezoning Request as provided in Section 70.51(15)(a), *Florida Statutes*. If, however, the BCC approves the plan amendment and concurrent rezoning, such approval shall supersede and vacate the BCC’s denial of the Original Rezoning Request, shall constitute the County’s final decision on the matter, shall constitute a final resolution of the Special Magistrate Proceeding, and, accordingly, within ten (10) days, Westwood shall voluntarily dismiss the Special Magistrate Proceeding with prejudice.

Settlement Agreement between Westwood Partners Group, LLC, Petitioner and Orange County, Florida, Respondent.  
File No. 2018-761  
Case No. LUP-16-09-335

f. In the event the BCC denies the plan amendment and concurrent rezoning, or the BCC fails to review and consider the plan amendment and concurrent rezoning within ninety (90) days after the date that the DRC renders a decision on the rezoning (unless Westwood agrees to an extension of such time period in writing), then the BCC's July 24, 2018, decision on the Original Rezoning Request shall be deemed unaffected by the Parties' settlement efforts, the plan amendment and concurrent rezoning applications shall be deemed to have been withdrawn, this Agreement shall become null and void, and Westwood shall be entitled to resume the Special Magistrate Proceeding pursuant to Section 70.51, *Florida Statutes*, on the Original Rezoning Request.

2. **Permits Required.** The plan amendment and concurrent rezoning, as well as any and all development on the Property, may require certain subsequent permits. Westwood shall apply for all such permits as may be required and shall meet all applicable requirements of the Orange County Code, the County's Land Development Regulations, and the County's Comprehensive Plan, as amended.

3. **Authority.** Each Party represents and warrants, with respect to itself, that the execution and delivery of this Agreement has been authorized by all necessary action of such Party, and that this Agreement constitutes the legal, valid, and binding agreement of each Party, enforceable in accordance with its terms. It is expressly understood and agreed that this Agreement shall not become binding upon Westwood and the County unless and until the BCC approves this Agreement at a public hearing, as is required by Florida law.

4. **Governing Law; Venue.** This Agreement shall be construed, interpreted, enforced, and governed in accordance with the laws of the State of Florida. Venue for any action arising out of or related to this Agreement shall be in Orange County, Florida.

5. **Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the respective successors, heirs, assigns, bankruptcy trustees, representatives, affiliates, officers, directors, partners, members, and joint venturers of the Parties.

7. **Non-Waiver.** Failure by Westwood or the County to insist upon the strict performance of any of the terms, conditions, or provisions of this Agreement shall not be deemed to be a waiver of such terms, conditions, and provisions, and Westwood and the County, notwithstanding such failure, shall have the right hereafter to insist upon the strict performance of any or all such terms and conditions of this Agreement as set forth herein. Notwithstanding

T.J.



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the foregoing, the BCC's review of Westwood's proposed plan amendment and concurrent rezoning pursuant to this Agreement shall be conducted at duly noticed concurrent public hearings where the BCC hears testimony and receives evidence from Westwood and the general public, and reserves its authority to approve or deny the plan amendment and concurrent rezoning. Accordingly, nothing in this Agreement may be construed or interpreted to mean that the BCC is obligated to give, or will give, favorable consideration to the plan amendment and concurrent rezoning.

8. **Construction; Headings.** The Parties acknowledge that they participated in the negotiation and drafting of the terms of this Agreement and acknowledge that no provision shall be strictly construed against one party or the other based solely on draftsmanship. The Parties have entered into this Agreement without duress, coercion, or under undue influence of any kind, and are motivated by a desire to avoid the costs and time associated with further litigation and to arrive at a fair and reasonable agreement with regard to the dispute. The Parties acknowledge that they have been represented by counsel in connection with the negotiation of the terms of this Agreement and that they enter into this Agreement freely and voluntarily, and only after consultation with their respective counsel. Captions and paragraph headings contained in this Agreement are for convenience and reference only. They in no way define, describe, extend or limit the scope or intent of this Agreement.

9. **Interpretation.** This Agreement shall be read and interpreted in such a manner as to give all provisions their ordinary and customary meaning, and all words, terms, and phrases not otherwise specifically defined by a capitalized term or otherwise shall have the same meaning and interpretation as customarily used among lay persons. The terms "hereby," "hereof," "herein," "hereto," "hereunder," and any similar terms refer to this Agreement in its entirety and not solely to the particular section or paragraph in which the term is used. All words, terms, and phrases specifically defined by a capitalized term shall apply throughout this Agreement in its entirety and not solely to the particular section or paragraph in which the term is used. In construing this Agreement, unless the context clearly indicates or suggests otherwise, the singular shall be held to include the plural, the plural shall include the singular, and the use of any gender shall include every other and all genders.

10. **Entire Agreement; Amendments.** This Agreement represents the entire understanding and agreement between the Parties with respect to the subject matter hereof. No representations have been made, either express or implied by the Parties, other than those expressly set forth in this Agreement. This Agreement or any part hereof may not be changed, amended, waived, discharged, or terminated except by an instrument in writing, executed by all Parties.

T.J.

Settlement Agreement between Westwood Partners Group, LLC, Petitioner and Orange County, Florida, Respondent.  
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11. **Disclaimer of Third Party Beneficiaries.** This Agreement is solely for the benefit of the Parties and no right or cause of action shall accrue by reason hereof to, or for the benefit of, any third party not a formal party hereto. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon or give any other third person or entity any right, remedy, or claim under or by reason of this Agreement or any provisions or conditions hereof, other than as may be expressly stated herein.

12. **Purpose of this Agreement; Not Establishing Precedent.** The Parties acknowledge and agree that this Agreement is not intended by any Party to be construed, and shall not be construed, as an admission by any Party of any liability, error, or violation of any law, statute, ordinance, regulation, or other legal duty of any nature whatsoever. Rather, the Parties enter into this Agreement in a spirit of cooperation and compromise for the purpose of avoiding further litigation and a desire to resolve the Disputes. The Parties enter into this Agreement as part of a mediated settlement affecting many factual and legal issues and do not intend this Agreement to be an endorsement of, or precedent for, the use of the terms set forth herein in any other circumstances.

13. **Attorneys' Fees; Costs.** Each Party expressly agrees to bear the fees and costs of its respective counsel, experts, and consultants in the Special Magistrate Proceeding, as well as in the preparation of this Agreement, and the Parties expressly waive any and all rights to pursue an award of attorneys' fees and costs in such proceedings. The Parties further agree to pay an equal share of the total amount of Special Magistrate fees that are due and owing to Lewis Stone, Esquire, who served as Special Magistrate in the mediation.

14. **Notices.** All notices and other communications required hereunder shall be in writing and shall be delivered personally, or by registered or certified mail, return receipt requested, postage prepaid, or by Federal Express or other nationally recognized overnight commercial delivery service, fees prepaid for next day delivery. Such notices shall be deemed to have been received: (i) upon delivery, if personally delivered; (ii) upon the earlier of actual receipt or the third day after mailing, if mailed by registered or certified United States mail, return receipt requested, postage prepaid; and (iii) upon the earlier of actual receipt or the next business day if sent by Federal Express or other nationally recognized overnight commercial delivery service, if fees are prepaid for next day delivery. The addresses for delivery of such notices shall be as follows:

- (a) To Westwood Group Partners, LLC:

T.J.

Settlement Agreement between Westwood Partners Group, LLC, Petitioner and Orange County, Florida, Respondent.  
File No. 2018-761  
Case No. LUP-16-09-335

2011 W Washington ST, Orlando FL 32805

~~[Need Westwood's address]~~

With a copy to:

Rebecca Wilson, Esq.  
Lowndes Drosdick Law Firm  
P.O. Box 3809  
Orlando, FL 32802-2809

(b) To the County:

Orange County Administrator  
c/o Chris Testerman, Deputy County Administrator  
P.O. Box 1393  
201 S. Rosalind Avenue  
Orlando, Florida 32802-1393

With a copy to:

Orange County Legal Department  
c/o Joel D. Prinsell, Deputy County Attorney  
P.O. Box 1393  
Orlando, Florida 32801

or to such other address as any Party hereto shall from time to time designate to the other Party by notice in writing as herein provided.

15. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original and need not be signed by more than one of the Parties and all of which shall constitute one and the same agreement.

16. **Effective Date.** This Agreement shall become effective upon the date of execution by the County, the last of the Parties to execute it.

*[THE REST OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.]*

Page 7 of 9

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T.J.

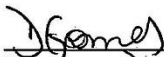
Settlement Agreement between Westwood Partners Group, LLC, Petitioner and Orange County, Florida, Respondent.  
File No. 2018-761  
Case No. LUP-16-09-335

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in a manner sufficient to bind them on the day and year identified above.

Signed, sealed, and delivered before me:

WITNESSES

  
Print Name: MELINDA GAXART

  
Print Name: DANILO GOMES

WESTWOOD GROUP PARTNERS, LLC,  
a Florida limited liability company,

By: 

Name: Thiago DAVALA

Its: Member

Date: 6/3/19

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

Settlement Agreement between Westwood Partners Group, LLC, Petitioner and Orange County, Florida, Respondent.  
File No. 2018-761  
Case No. LUP-16-09-335

The foregoing instrument was acknowledged before me this 4th day of June 2019,  
by Thiago Davila, as Member of Westwood Group  
Partners, LLC, on behalf of said entity. Said person (check one)  is personally known to me or  
G produced \_\_\_\_\_ as identification.

(Notary Seal)

Printed Name: Dawn T. O'Quin  
Notary Public, State of Florida  
Commission No. FF-240722  
My commission expires: 6/15/19

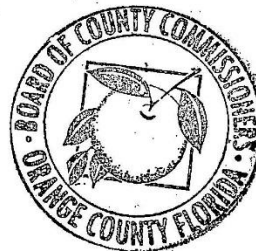


ORANGE COUNTY, FLORIDA  
By: Board of County Commissioners

By: Jerry L. Demings  
Jerry L. Demings  
Orange County Mayor

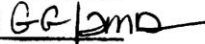
ATTEST: Phil Diamond, CPA, County Comptroller  
As Clerk of the Board of County Commissioners

By: Craig A. Stopysa  
Deputy Clerk  
Date: JUL 16 2019, 2019



**Lake Willis Neighborhood Buffering and Design Guidelines  
Ordinance No. 2003-01**

APPROVED  
BY ORANGE COUNTY BOARD  
OF COUNTY COMMISSIONERS

JAN 28 2003 

ORDINANCE NO. 2003- 01

Effective date:  
February 4, 2003

AN ORDINANCE AMENDING CHAPTER 38 (“ZONING”) OF THE ORANGE COUNTY CODE BY AMENDING ARTICLE VIII THEREOF (“P-D PLANNED DEVELOPMENT DISTRICT”); CREATING A DIVISION 10, TO BE ENTITLED THE “LAKE WILLIS NEIGHBORHOOD BUFFERING AND DESIGN GUIDELINES” WHICH DIVISION SHALL BE APPLICABLE ONLY TO A SPECIFICALLY DESCRIBED AREA OF UNINCORPORATED ORANGE COUNTY; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR UNIFORM STANDARDS; AND PROVIDING AN EFFECTIVE DATE.

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
ORANGE COUNTY:**

*Section 1.* The Orange County Code, Chapter 38, Zoning, is hereby amended by creating a new Article VIII, P-D Planned Development District, Division 10, Lake Willis Neighborhood Buffering and Design Guidelines, as follows:

**DIVISION 10.**

**LAKE WILLIS NEIGHBORHOOD BUFFERING AND  
DESIGN GUIDELINES**

*Section 38-1400. Intent and purpose.* The Lake Willis Neighborhood Buffering and Design Guidelines are intended to protect and shield the Lake Willis single-family residential enclave from the impacts of approved residential and non-residential developments within the International Drive Activity Center. These buffering and designs guidelines are in accordance with Policy 5.1.3 of the International Drive Activity Center Element of the 2000-2020 Comprehensive Policy Plan.

*Section 38-1400.1 Applicability.* Except as provided in Section 38-1400.9, the provisions of this division apply to all ACR/ACMU designated developments abutting properties located within the Lake Willis single-family residential district, a neighborhood comprised of approximately thirty-five (35) single-family residential homes, on one (1) acre lots situated along the shoreline of Lake Willis, fronting one mile of Lake Willis Drive.

The Lake Willis single-family residential district is identified on the map, which is attached hereto and incorporated herein by reference as **Appendix A**.

***Section 38-1400.2 Building heights.***

Notwithstanding the provisions of Chapter 38 to the contrary, for ACR/ACMU designated developments abutting the Lake Willis single-family residential district, building heights shall be based on the proximity to single-family zoned properties as follows:

(a) Multi-family buildings (including time-shares, condominiums, and townhouses; or hotels and other commercial non-residential developments) located within one hundred (100) feet from the property line of single-family zoned property shall be restricted to a single story in height, not to exceed twenty (20) feet.

(b) Multi-family buildings (including time-shares, condominiums, and townhouses; or hotels and other commercial non-residential developments) located at a distance in excess of one hundred (100) feet from the property line of single-family zoned property may be up to two-stories in height, not to exceed thirty (30) feet.

(c) Multi-family buildings (including time-shares, condominiums, and townhouses; or hotels and other commercial non-residential developments) located at a distance in excess of one hundred and fifty (150) feet from the property line of single-family zoned property may be up to three-stories in height, not to exceed forty (40) feet.

(d) Multi-family buildings (including time-shares, condominiums, and townhouses; or hotels and other commercial non-residential developments) located at a distance in excess of two hundred (200) feet from the property line of single-family zoned property may extend to a height of four-stories, not to exceed fifty (50) feet. However, no four story, multi-family buildings shall be permitted unless and until at least one (1) tier of buildings permitted pursuant to (b) or (c) above has commenced construction.

An additional five (5) feet may be added to the limitations established in subsections (a)-(d) for sloped roofs and screening purposes as required by Section 38-1400.7. Such additional height shall not be used to accommodate additional living area.

**Section 38-1400.3 Screening and fencing.**

(a) A six (6) to eight (8) foot high masonry or brick, capped wall shall be constructed ten (10) feet from the property line adjoining all development that abuts the Lake Willis single-family residential district. The wall height shall be measured from the highest finished elevation.

(b) Landscaping shall be planted on both sides of the wall, including the installation of irrigation facilities, and shall be maintained by the developer and/or subsequent condominium/homeowner association or property owner. At a minimum, thirty (30) inch tall shrubs shall be planted averaging thirty (30) inches on center on the Lake Willis Drive side of the wall. At a minimum, sixteen (16) foot shade trees shall be planted averaging forty (40) feet on center, on both sides of the wall in a staggered formation.

**Section 38-1400.4 Buffering.** A ten (10) foot landscaped buffer shall be provided along the required masonry wall adjacent to the Lake Willis Drive right-of-way. A twenty (20) foot landscaped buffer shall be provided adjacent to the development side of the required masonry wall.

**Section 38-1400.5 Vehicular Access.** All developments adjoining Lake Willis Drive shall be restricted from vehicular access to the road, except for emergency purposes.

**Section 38-1400.6 Lighting.** All lighting in the developments adjoining the Lake Willis single-family residential district shall be installed and maintained in a manner as to confine direct rays to the premises and prevent direct rays and glare from intruding on the homes along Lake Willis Drive. All development shall comply with the Exterior Lighting Ordinance as that ordinance may be amended from time to time.

**Section 38-1400.7 Roof Treatment.** Roofs shall be designed in accordance with the Orange County Architectural Standards and Guidelines for Commercial Buildings and Projects, subject to the following:

(a) No visible flat roofs. The primary facades of a structure shall have sloped roofs (e.g., gable, hip, or lean to) or parapet walls with sloped features (e.g. canopies, awnings, colonnades) or a combination of the two. At least seventy-five (75) percent of the linear length of a primary facade shall have one (1) or more sloped roofs, one (1) or more sloped features, or a



combination thereof.

(b) Parapet wall finish materials shall match the main wall finish material. A parapet wall shall be decorative in style. A flat parapet wall shall have a cornice.

(c) Parapet walls when used on flat canopy (non-walls) shall be constructed at the edge of the flat roof. (This type of parapet wall and canopy are common to service stations or drive up bank facilities). The material used for parapet walls on a flat canopy shall be compatible with the material used on the principle building.

(d) Metal framed roof panels, corrugated metal roof panels, and similar roof materials shall be prohibited.

(e) A sloped roof (gable, hip and lean to) shall be used in conjunction with a large area of flat roof to create smaller mass and variation on the subject building facade.

(f) Minimum pitch for a sloped roof or sloped feature shall be a slope of 4:12.

(g) All developments adjoining the Lake Willis single-family residential district shall incorporate design elements that screen all rooftop mechanical equipment from view. Additionally, the screening devices shall be designed to assure noise attenuation.

**Section 38-1400.8 Ancillary Structures.** Ancillary structures should have similar architectural details as the main building(s).

**Section 38-1400.9 Exceptions.**

(a) Properties zoned P-D planned development on January 28, 2003, shall be exempt from Sections 38-1400 through 38-1400.8. Any alteration to a previously approved land use plan or development plan shall be subject to Sections 38-1400 through 38-1400.8.

(b) Alterations to a land use plan or development plan for non-residential development, businesses that operate in the evening or late-night hours (for example, fast food restaurants, night clubs, theaters) shall locate such development furthest from the Lake Willis single-family residential district. All non-residential developments located in close proximity to the

Lake Willis single-family residential district shall be oriented  
away from residential development.

*Section 2. Effective Date.* This ordinance shall become effective pursuant to general  
law.

ADOPTED THIS 28 DAY OF January, 2003.

ORANGE COUNTY, FLORIDA  
By: Board of County Commissioners

By: Richard T. Crotty  
Richard T. Crotty  
County Chairman

ATTEST: Martha O. Haynie, County Comptroller  
As Clerk of the Board of County Commissioners

By: Martha O. Haynie  
Martha O. Haynie  
Deputy Clerk



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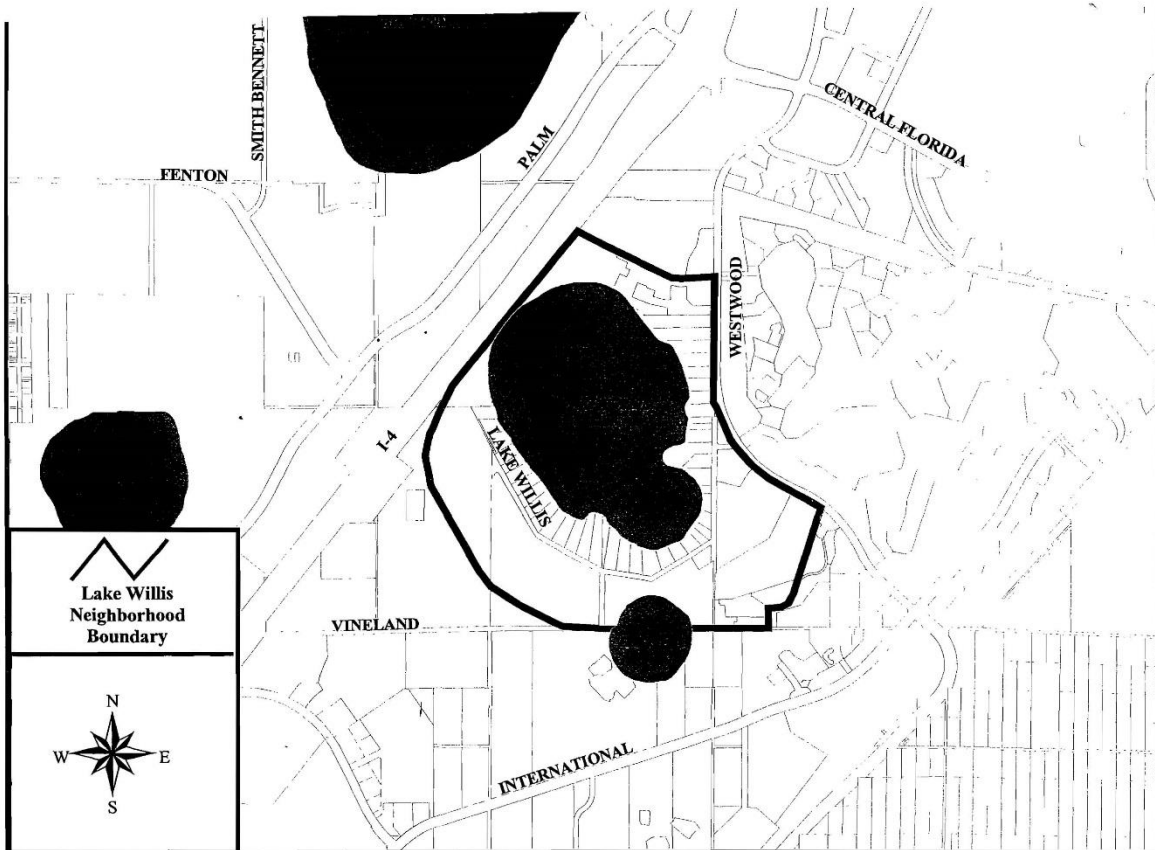


EXHIBIT "A"

**Amended Lake Willis Neighborhood Buffering and Design Guidelines -  
Ordinance No. 2003-21**

APPROVED  
BY ORANGE COUNTY BOARD  
OF COUNTY COMMISSIONERS

DEC 09 2003 *[Signature]*  
Effective date  
December 19, 2003

**ORDINANCE NO. 2003-21**

**AN ORDINANCE AFFECTING THE USE OF LAND IN ORANGE COUNTY; PROVIDING FOR AMENDMENT OF ORANGE COUNTY CODE CHAPTER 38 ("ZONING"); AMENDING ARTICLE VIII ("P-D PLANNED DEVELOPMENT DISTRICT"), DIVISION 10 ("LAKE WILLIS NEIGHBORHOOD BUFFERING AND DESIGN GUIDELINES"); BY CLARIFYING THE LAKE WILLIS NEIGHBORHOOD BOUNDARY; CLARIFYING SINGLE-FAMILY RESIDENTIAL USES WITHIN THE LAKE WILLIS NEIGHBORHOOD; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY:**

**Section 1.** The Orange County Code, Chapter 38, Zoning, Article VIII, P-D Planned Development District, Division 10, Lake Willis Neighborhood Buffering and Design Guidelines, is hereby amended as set forth in Sections 2 through 8 below, with additions being underlined and deletions being struck through.

**Section 2. Amendments to Section 38-1400.1.** Section 38-1400.1 ("Applicability") is amended as follows:

**Section 38-1400.1 Applicability.** Except as provided in Section 38-1400-910, the provisions of this division apply to all ACR/ACMU designated property developments within the Lake Willis Neighborhood which abutting properties located within the Lake Willis single-family residential district, a neighborhood comprised of approximately thirty-five (35) single-family residential homes, on one (1) acre lots situated along the shoreline of Lake Willis, fronting one mile of Lake Willis Drive. The Lake Willis

Neighborhood boundary and the Lake Willis single-family residential district is are identified on the map, which is attached hereto and incorporated herein by reference as **Appendix A**.

**Section 3. Amendments to Section 38-1400.2.** Section 38-1400.2 (“Building heights”) is amended as follows:

**Section 38-1400.2 Building heights.** Notwithstanding the provisions of Chapter 38 to the contrary, ~~for ACR/ACMU designated developments abutting the Lake Willis single-family residential district,~~ building heights shall be based on the proximity to single-family zoned properties within the Lake Willis single-family residential district as follows:

(1) Multi-family buildings (including time-shares, condominiums, and townhouses; or hotels and other commercial non-residential developments) located within one hundred (100) feet from the property line of single-family zoned property shall be restricted to a single story in height, not to exceed twenty (20) feet.

(2) Multi-family buildings (including time-shares, condominiums, and townhouses; or hotels and other commercial non-residential developments) located at a distance in excess of one hundred (100) feet from the property line of single-family zoned property may be up to two-stories in height, not to exceed thirty (30) feet.

(3) Multi-family buildings (including time-shares,

condominiums, and townhouses; or hotels and other commercial non-residential developments) located at a distance in excess of one hundred and fifty (150) feet from the property line of single-family zoned property may be up to three-stories in height, not to exceed forty (40) feet.

(4) Multi-family buildings (including time-shares, condominiums, and townhouses; or hotels and other commercial non-residential developments) located at a distance in excess of two hundred (200) feet from the property line of single-family zoned property may ~~extend to a height of four-stories~~ be up to four-stories in height, not to exceed fifty (50) feet. However, no four story, multi-family buildings shall be permitted unless and until at least one (1) tier of buildings permitted pursuant to (b) or (c) above has commenced construction.

An additional five (5) feet in height may be added to the limitations established in subsections (a)-(d) for sloped roofs and screening purposes as required by Section 38-1400.7. Such additional height shall not be used to accommodate additional living area.

**Section 4. Amendments to Section 38-1400.3.** Section 38-1400.3 (“Screening and fencing”) is hereby amended as follows:

***Section 38-1400.3 Screening and fencing.***

(a) A six (6) to eight (8) foot high masonry or

brick, capped wall shall be constructed ten (10) feet from the property line adjoining all development that abuts the Lake Willis Drive right-of-way ~~single-family residential district~~. The wall height shall be measured from the highest finished elevation.

**Section 5. Amendments to Section 38-1400.6.** Section 38-1400.6 (“Lighting”) is hereby amended as follows:

**Section 38-1400.6 Lighting.** ~~All lighting in the developments adjoining the Lake Willis single-family residential district shall be installed and maintained in a manner as to confine direct rays to the premises and prevent direct rays and glare from intruding on the homes along Lake Willis Drive. All development shall comply with the Exterior Lighting Ordinance as that ordinance may be amended from time to time.~~

**Section 6. Amendments to Section 38-1400.7.** Section 38.1400.7 (“Roof treatment”) is hereby amended as follows:

**Section 38-1400.7 Roof treatment.** Roofs shall be designed in accordance with the Orange County Architectural Standards and Guidelines for Commercial Buildings and Projects, subject to the following:

\* \* \*

- (3) Parapet walls when used on flat canopy (non-walls) shall be constructed at the edge of the flat roof. (This type of parapet wall and canopy are common to

service stations or drive up bank facilities). The material used for parapet walls on a flat canopy shall be compatible with the material used on the principle principal building.

**Section 7. Creation of a new Section 38-1400.9.** Existing Section 38-1400.9 (“Exceptions”) is renumbered as Section 38-1400.10 and Section 38-1400.9 (“Business orientation”) is created to read as follows:

***Section 38-1400.9 Business orientation.*** All non-residential developments located in close proximity to the Lake Willis single-family residential district shall be oriented away from residential development. For alterations to a land use plan or development plan for non-residential development of businesses that operate in the evening or late-night hours (for example, fast food restaurants, night clubs, theaters), the location of such development shall be furthest from the Lake Willis single-family residential district.

**Section 8. Amendments to Section 38-1400.10.** Section 38-1400.10 (“Exceptions”) is amended as follows:

***Section 38-1400.10 Exceptions.***

(a) Properties zoned P-D planned development within the Lake Willis Neighborhood boundary on January 28, 2003, shall be exempt from Sections 38-1400 through 38-1400.8. Any alteration to a previously approved land use plan or development plan



shall be subject to Sections 38-1400 through 38-1400.8.

~~(b) Alterations to a land use plan or development plan for non-residential development business that operate in the evening or late-night hours (for example, fast food restaurants, night clubs, theaters) shall locate such development furthest from the Lake Willis single-family residential district. All non-residential developments located in close proximity to the Lake Willis single-family residential district shall be oriented away from residential development.~~

(b) ACR designated developments within the Lake Willis single-family residential district shall be limited to single-family residential and ancillary uses.

**Section 9. Effective Date.** This ordinance shall become effective pursuant to general law.

ADOPTED THIS 9 DAY OF December, 2003.

ORANGE COUNTY, FLORIDA  
Board of County Commissioners



*[Signature]*  
Richard T. Crotty  
County Chairman

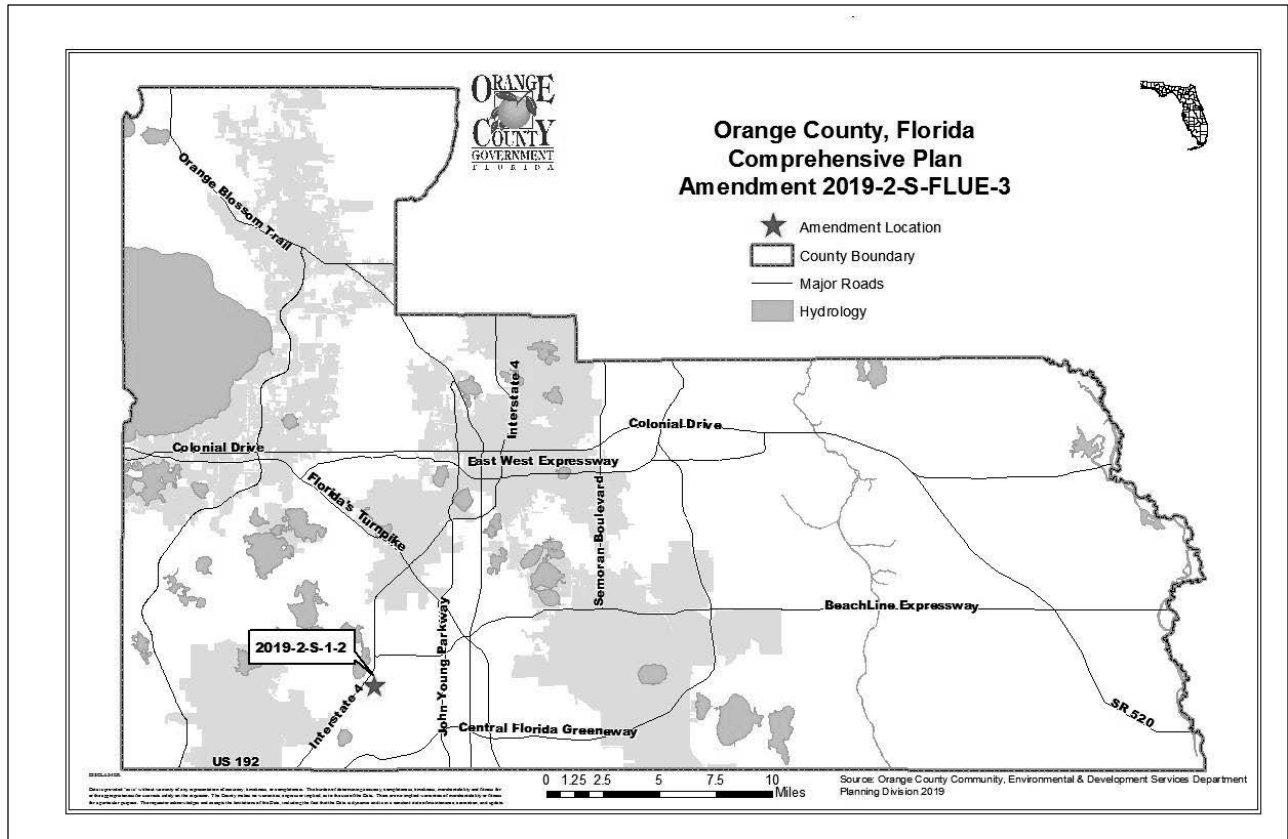
ATTEST: Martha O. Haynie, County Comptroller  
As Clerk of the Board of County Commissioners

By: *[Signature]*  
Deputy Clerk

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The following meetings and hearings have been held for this proposal:			Project/Legal Notice Information	
<b>Report/Public Hearing</b>	<b>Outcome</b>		<b>Title:</b> Amendment 2019-2-S-FLUE-3	
✓	Staff Report	Recommend Adoption	<b>Division:</b> Planning	
✓	LPA Adoption December 19, 2019	Recommend Adoption (7-0)	<b>Request:</b> Amendments to Future Land Use Element Policy FLU8.1.4 establishing the maximum densities and intensities for proposed Planned Developments within Orange County	
	BCC Adoption	September 22, 2020 (continued from June 2, 2020, August 11, 2020, and September 1, 2020)	<b>Revision:</b> FLU8.1.4	

**Staff Recommendation**

Make a finding of consistency with the Comprehensive Plan, determine that the plan amendment is in compliance, and **ADOPT** Amendment 2019-2-S-FLUE-3 to include the development program for Amendment 2019-2-S-1-2 in Future Land Use Element Policy FLU8.1.4.

## A. Background

The Orange County Comprehensive Plan (CP) allows for a Future Land Use designation of Planned Development. While other Future Land Use designations define the maximum dwelling units per acre for residential land uses or the maximum floor area ratio (FAR) for non-residential land uses, this is not the case for the Planned Development (PD) designation. Policy FLU8.1.3 establishes the basis for PD designations such that “specific land use designations...may be approved on a site-specific basis”. Furthermore, “such specific land use designation shall be established by a comprehensive plan amendment that identifies the specific land use type and density/intensity”. Each Comprehensive Plan amendment involving a PD Future Land Use designation involves two amendments: the first to the Future Land Use Map and the second to Policy FLU8.1.4. The latter serves to record the amendment and the associated density/intensity established on a site-specific basis. Any change to the uses and/or density and intensity of approved uses for a PD Future Land Use designation requires an amendment of FLU8.1.4.

Staff is recommending that the Board of County Commissioners (BCC) make a finding of **CONSISTENCY** with the Comprehensive Plan and **ADOPT** Amendment 2019-2-S-1-2; therefore, the development program for this amendment would be added to Policy FLU8.1.4. For specific references of consistency with the Comprehensive Plan, please refer to the staff report for the requested amendment.

## B. Policy Amendments

Following are the policy changes proposed by this amendment. The requested changes are shown in underline/~~strikethrough~~ format. Staff recommends adoption of the amendment.

FLU8.1.4 The following table details the maximum densities and intensities for the Planned Development (PD) and Lake Pickett (LP) Future Land Use designations that have been adopted subsequent to January 1, 2007.

Amendment Number	Adopted FLUM Designation	Maximum Density/ Intensity	Ordinance Number
***			
<u>2019-2-S-1-2 Townhomes at Westwood</u>	<u>Planned Development-Medium Density Residential (PD-MDR)</u>	<u>Up to 43 single-family attached dwelling units</u>	<u>2020-</u>

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## Community Meeting Memorandum

**DATE:** December 11, 2019  
**TO:** Gregory Golgowski, AICP, Chief Planner, Planning Division  
**FROM:** Jennifer DuBois, Senior Planner  
**SUBJECT:** Amendment 2019-2-S-1-2 (Townhomes at Westwood) – Community Meeting Memo  
**C:** Project File

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**Location of Project:** 11302 and 11314 Westwood Boulevard; Generally located west of Westwood Boulevard, north of Lake Willis Drive, and south of Central Florida Parkway

**Parcel ID Numbers:** 14-24-28-4800-00-360/370

**Meeting Date and Location:** September 16, 2019 at 6:00 p.m. at Tangelo Park Elementary School, 5115 Anzio Street, Orlando, FL 32819

### Attendance:

District Commissioner: Diana Dethlefs, Aide to District 1 Commissioner Betsy VanderLey

PZC/LPA Commissioner: District 1 Commissioner Jimmy Dunn

Orange County Staff: Jennifer DuBois and Nathaniel Wicke, Planning Division; Diana Almodovar, Development Engineering Division

Applicant Team: Rebecca Wilson, Lowndes, Drosdick, Doster, Kantor & Reed, P.A., and Stephen Allen, P.E., CivilCorp Engineering, Inc.

Residents: 427 notices sent; 9 members of the public in attendance

**Overview of Project:** The applicant, Rebecca Wilson, is seeking to change the Future Land Use Map (FLUM) designation of the 8.88-acre subject property, comprised of two undeveloped parcels, from Activity Center Residential (ACR) to Planned Development-Medium Density Residential (PD-MDR). The property—consisting of 4.02 upland acres and 4.86 acres of wetlands and surface water—is located in the International Drive Activity Center, to which its present ACR future land use designation corresponds. Under the ACR classification, the property may be developed at a minimum density of 12 dwelling units per net acre, with a density cap of 30 dwelling units per net acre. It is the intent of the property owner, Westwood Partners Group, LLC, to construct up to 43 single-family attached homes (townhomes) on the site's 4.02 net developable acres, at a density of 10.7 dwelling units per net acre, which falls below the established minimum density of the ACR category. The applicant is, therefore, requesting the PD-MDR designation, with a density range of 0 to 20 dwelling units per net developable acre, to allow the project to move forward.

The project site was previously the subject of Rezoning Case LUP-16-09-335, a request to rezone the property from R-CE (Country Estate District) to PD (Planned Development District) to allow for

the creation of the Townhomes at Westwood PD, featuring up to 80 single-family attached dwelling units under the ACR future land use designation. While the Orange County Development Review Committee (DRC) and the Planning and Zoning Commission (PZC) recommended approval of the rezoning petition and the associated PD Land Use Plan (LUP), the request was denied by the BCC on July 10, 2018. Westwood Partners Group, LLC and the County subsequently mediated the case through the special magistrate process, resulting in the Settlement Agreement for *Westwood Partners Group, LLC v. Orange County*, approved by the BCC on July 16, 2019.

In conjunction with this requested Future Land Use Map Amendment, the applicant has submitted a new application for a concurrent rezoning of the subject property from R-CE to PD, consistent with the Settlement Agreement (Rezoning Case LUP-19-08-258). The proposed Townhomes at Westwood PD entails a reduced development program of 43 single-family attached dwelling units, as stipulated in the agreement. The application also involves a requested waiver from Orange County Code Section 38-1400.2(1) to allow two-story townhouse buildings, not to exceed thirty (30) feet in height, to be located up to thirty (30) feet from single-family zoned property along the south PD property line, in lieu of the requirement that townhouses be restricted to a single story in height within one hundred (100) feet of single-family zoned property. On November 20, 2019, the DRC recommended approval of the Townhomes at Westwood PD Land Use Plan, subject to nineteen (19) Conditions of Approval, including the proposed waiver.

**Meeting Summary:** District 1 PZC/LPA Commissioner Jimmy Dunn opened the meeting and welcomed those in attendance.

Planner Nathaniel Wicke provided an overview of the requested amendment and associated rezoning application. Mr. Wicke informed the meeting participants of the tentative upcoming Local Planning Agency (LPA) and Board of County Commissioners (BCC) adoption public hearing dates, explaining that this request is an Out-of-Cycle Small-Scale Development Amendment that is unlikely to follow the 2019-2 Small-Scale Amendment public hearing schedule.

The applicant, Rebecca Wilson of Lowndes, Drosdick, Doster, Kantor & Reed, P.A., representing the owner, Westwood Partners Group, LLC, also provided an overview of the proposed project. Ms. Wilson noted that under the present ACR future land use designation, up to 30 dwelling units per net acre (120 units) could potentially be constructed on the site and stated that, alternatively, an apartment community could be built on the site. She informed that the meeting attendees that she believes the requested development of up to 43 single-family attached units is a reasonable compromise. Ms. Wilson further provided an overview of the Settlement Agreement, emphasizing that the proposed PD-MDR future land use designation and amended PD rezoning petition are consistent with the terms of the agreement.

Staff and Ms. Wilson noted that In addition to its location in the International Drive Activity Center, the subject property lies within the Lake Willis Neighborhood Overlay District. The overlay district—initially approved by the Orange County Board of County Commissioners (BCC) on January 28, 2003 (Ordinance No. 2003-01) and subsequently amended on December 9, 2003 (Ordinance No. 2003-21)—established buffering and design guidelines to protect a neighborhood of 38 single-family homes situated along the shoreline of Lake Willis from the impacts of approved residential and non-residential development within the International Drive Activity Center. Ms. Wilson clarified that Ordinance 2003-21 differentiates the Lake Willis Single-Family Residential District, encompassing only the single-family homesites, from the larger Lake Willis Neighborhood Boundary. She informed the meeting attendees that the two individual parcels that comprise the subject property, located immediately south of the Marriott Vacation Club Harbour Lake Resort, lie within the Lake Willis

Neighborhood Boundary, but outside the Lake Willis Single-Family Residential District. Use of the subject site, therefore, would not be restricted to single-family development, but, rather, could be approved for a townhome community (classified as multi-family in the two ordinances), subject to the applicable Lake Willis Neighborhood Buffering and Design Guidelines. Several meeting participants asserted that the two parcels in question were erroneously omitted from the Lake Willis Single-Family Residential District and that the map included in the amended Lake Willis Neighborhood Buffering and Design Guidelines ordinance, Ordinance 2003-21, is incorrect.

The nine meeting attendees, all residents of the single-family portion of the Lake Willis Neighborhood, voiced their opposition to the requested amendment and PD rezoning. They expressed their belief that the proposed single-family attached homes would prove incompatible with the existing single-family detached homes in the Lake Willis neighborhood, despite the reduction in the number of units from 80 to 43.

In answer to the area residents, Ms. Wilson confirmed that the prospective developer is proposing to restrict the height of each home to 30 feet/two stories and is committed to honoring the previously-declared pledge that the use of Lake Willis by the community's residents shall be prohibited, with no community or private boat docks or ramps allowed. She verified, though, that the developer has requested a waiver from Orange County Code Section 38-1400.2(1) to allow two-story townhouse buildings, not to exceed thirty (30) feet in height, to be located up to thirty (30) feet from single-family zoned property along the south PD property line, in lieu of the requirement that townhouses be restricted to a single story in height within one hundred (100) feet of single-family zoned property. Several meeting attendees voiced their objection to this proposed waiver, stating that it is inconsistent with the purpose and intent of the Lake Willis Neighborhood Buffering and Design Guidelines. They further expressed their belief that this reduced setback, if approved, would result in a loss of privacy for the owners of the lots in close proximity to the site, particularly if substantial amounts of fill were brought in to raise the grade of the property. The project engineer, Stephen Allen, of CivilCorp Engineering, Inc., responded that his goal is to use as little fill as possible for this development.

In addition to the concerns regarding compatibility, one meeting attendee voiced his worry about current drainage problems in the neighborhood, asserting that the proposed project, if developed, will only exacerbate them. In response to the resident's questions regarding stormwater retention, Mr. Allen explained that while he has not yet designed the stormwater management system, as it is premature at this stage, the project will require permitting through the St. Johns River Water Management District to ensure that all stormwater is retained onsite. Orange County Development Engineering Manager Diana Almodovar informed the resident that she would arrange to have a representative of the Stormwater Management Division contact him to discuss the drainage issues. Lastly, several meeting participants expressed concern that additional development on Lake Willis would negatively impact the water quality of the lake.

Planner Jenifer DuBois again provided the tentative dates of the upcoming public hearings and noted that all property owners within the notification area would be notified by mail when the public hearing dates are definitively established. Ms. DuBois also requested that all in attendance provide their email address to allow for electronic notification as well. In response to a meeting attendee, she verified that the Settlement Agreement stipulates that the requested Future Land Use Map Amendment and PD rezoning petition must be considered concurrently. Therefore, all public notification will address both applications.



Commissioner Dunn thanked all in attendance for their participation. The meeting concluded at 7:15 p.m.

The tone of the meeting was **negative**.

ORDINANCE NO. 2020-\_\_\_\_\_

AN ORDINANCE PERTAINING TO COMPREHENSIVE PLANNING IN ORANGE COUNTY, FLORIDA; AMENDING THE ORANGE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE “2010-2030 COMPREHENSIVE PLAN,” AS AMENDED, BY ADOPTING SMALL SCALE DEVELOPMENT AMENDMENTS PURSUANT TO SECTION 163.3187, FLORIDA STATUTES; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY:

*Section 1. Legislative Findings, Purpose, and Intent.*

a. Part II of Chapter 163, Florida Statutes, sets forth procedures and requirements for a local government in the State of Florida to adopt a comprehensive plan and amendments to a comprehensive plan;

b. Orange County has complied with the applicable procedures and requirements of Part II of Chapter 163, Florida Statutes, for amending Orange County’s 2010-2030 Comprehensive Plan;

c. On December 19, 2019, the Orange County Local Planning Agency (“LPA”) held a public hearing at which it reviewed and made recommendations regarding the adoption of the proposed amendments to the Comprehensive Plan, as described in this ordinance;

d. On June 2, 2020, the Orange County Board of County Commissioners (“Board”) opened a public hearing on the adoption of the proposed amendments to the Comprehensive Plan, as described in this ordinance, and decided to continue the hearing on the adoption to August 11, 2020; and

31 e. On August 11, 2020, the Board opened a public hearing on the adoption of the  
32 proposed amendments to the Comprehensive Plan, as described in this ordinance, and decided to  
33 continue the hearing on the adoption again to September 1, 2020; and

34 f. On September 1, 2020, the Board opened a public hearing on the adoption of the  
35 proposed amendments to the Comprehensive Plan, as described in this ordinance, and decided to  
36 continue the hearing on the adoption again to September 22, 2020; and

37 g. On September 22, 2020, the Board held a public hearing on the adoption of the  
38 proposed amendments to the Comprehensive Plan, as described in this ordinance, and decided to  
39 adopt them.

40 **Section 2. Authority.** This ordinance is adopted in compliance with and pursuant to  
41 Part II of Chapter 163, Florida Statutes.

42 **Section 3. Amendments to Future Land Use Map.** The Comprehensive Plan is  
43 hereby amended by amending the Future Land Use Map designation as described at **Appendix**  
44 **“A,”** attached hereto and incorporated herein.

45 **Section 4. Amendments to Text of Future Land Use Element.** The Comprehensive  
46 Plan is hereby further amended by amending the text of the Future Land Use Element to read as  
47 follows, with underlines showing new numbers and words, and strike-throughs indicating repealed  
48 numbers and words. (Words, numbers, and letters within brackets identify the amendment number  
49 and editorial notes, and shall not be codified.)

50 \* \* \*

51 **[Amendment 2019-2-S-FLUE-3:]**

52 FLU8.1.4 The following table details the maximum densities and intensities for the Planned  
53 Development (PD) and Lake Pickett (LP) Future Land Use designations that have  
54 been adopted subsequent to January 1, 2007.

55 \* \* \*

<b>Amendment Number</b>	<b>Adopted FLUM Designation</b>	<b>Maximum Density/Intensity</b>	<b>Ordinance Number</b>
* * *	* * *	* * *	* * *
<u>2019-2-S-1-2 Townhomes at Westwood</u>	<u>Planned Development- Medium Density Residential (PD-MDR)</u>	<u>Up to 43 single-family attached dwelling units</u>	<u>2020- [insert ordinance number]</u>
* * *	* * *	* * *	* * *

56 Such policy allows for a one-time cumulative density or intensity differential of 5% based on  
57 ADT within said development program.

58 \* \* \*

59 ***Section 5. Effective Dates for Ordinance and Amendments.***

60 (a) This ordinance shall become effective as provided by general law.

61 (b) Pursuant to Section 163.3187(5)(c), Florida Statutes, the small scale development  
62 amendments adopted in this ordinance may not become effective until 31 days after adoption.  
63 However, if an amendment is challenged within 30 days after adoption, the amendment that is  
64 challenged may not become effective until the Department of Economic Opportunity or the  
65 Administration Commission issues a final order determining that the adopted amendment is in  
66 compliance.

67 (c) In accordance with Section 163.3184(12), Florida Statutes, any concurrent zoning  
68 changes approved by the Board are contingent upon the related Comprehensive Plan amendment  
69 becoming effective. Aside from any such concurrent zoning changes, no development orders,  
70 development permits, or land uses dependent on any of these amendments may be issued or  
71 commence before the amendments have become effective.

72 ADOPTED THIS 22nd DAY OF SEPTEMBER, 2020.

73

74

**ORANGE COUNTY, FLORIDA**

75

By: Board of County Commissioners

76

77

78

79

By: \_\_\_\_\_

80

Jerry L. Demings

81

Orange County Mayor

82

83 ATTEST: Phil Diamond, CPA, County Comptroller

84 As Clerk to the Board of County Commissioners

85

86

87

88

By: \_\_\_\_\_

89

Deputy Clerk

90  
91  
92  
93  
94

**APPENDIX "A"**  
**FUTURE LAND USE MAP AMENDMENT**

<b><i>Appendix A*</i></b>		
<b><i>Privately Initiated Future Land Use Map Amendments</i></b>		
<b>Amendment Number</b>	<b>Future Land Use Map Designation FROM:</b>	<b>Future Land Use Map Designation TO:</b>
<b>2019-2-S-1-2</b>	<b>Activity Center Residential (ACR)</b>	<b>Planned Development-Medium Density Residential (PD-MDR)</b>
<b>*The Future Land Use Map (FLUM) shall not depict the above designations until such time as they become effective.</b>		

95





## Community Meeting Memorandum

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