



Interoffice Memorandum

DATE: June 22, 2021

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

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

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

SUBJECT: July 13, 2021 – Public Hearing
Applicant: Jonathan Martin, Kimley-Horn & Associates, Inc.
AA Central Florida Holdings, LLC
Commercial Building Planned Development
Case # LUPA-20-09-255 / District 1

The Commercial Building Planned Development (PD) is generally located at 13651-13709 S. Apopka Vineland Road; or generally located on the east side of S. Apopka Vineland Road, south of Vistana Centre Drive. The existing PD development program allows for 33,541 square feet of commercial uses.

Through this Land Use Plan Amendment, the applicant is seeking to rezone the two subject parcels (2.31 acres) from A-2 (Farmland Rural District) to PD (Planned Development District), in order to aggregate the property with the existing 2.09-acre Commercial Building PD to the north. The proposed development program includes 199 hotel rooms with the flexibility to trade off the hotel uses in favor of up to 20,000 square feet of commercial development.

On April 14, 2021, the Development Review Committee (DRC) recommended approval of the request, subject to conditions. A community meeting was not required for this request.

Finally, the required Specific Project Expenditure Report and Relationship Disclosure Forms have been completed in accordance with the requirements of Article X, Chapter 2, Orange County Code, as may be amended from time to time, and copies of these and the PD/LUP may be found in the Planning Division for further reference.

ACTION REQUESTED: **Make a finding of consistency with the Comprehensive Plan (CP) and approve the Commercial Building Planned Development / Land Use Plan Amendment (PD/LUPA), dated “Received April 16, 2021”, subject to the conditions listed under the PZC Recommendation in the Staff Report. District 1**

Attachments
JVW/EPR/JAH

GENERAL INFORMATION

APPLICANT	Jonathan Martin, Kimley-Horn & Associates
OWNER	AA Central Florida Holdings, LLC
PROJECT NAME	Commercial Building Planned Development / Land Use Plan Amendment (PD/LUPA)
REQUEST	A-2 (Farmland Rural District) to PD (Planned Development District) <i>A request to rezone 2.32 gross acres from A-2 (Farmland Rural District) to PD (Planned Development District) in order to construct a hotel and commercial/restaurant development.</i>
LOCATION	13651-13709 S. Apopka Vineland Road; or generally located on the east side of S Apopka Vineland Road, south of Vistana Centre Drive.
PARCEL ID NUMBER	27-24-28-4336-00-090 (existing PD Parcel); 27-24-28-4336-00-101, and 27-24-28-4336-00-102 (Parcels to be rezoned to PD)
TRACT SIZE	4.40 gross acres (PD Acreage) 2.32 gross acres (affected portion)
PUBLIC NOTIFICATION	A notification area extending beyond 1,000 feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Two hundred seventy-four (274) notices were mailed to those property owners in the notification buffer area.
PROPOSED USE	199 hotel rooms with the flexibility to trade off hotel uses in favor of up to 20,000 square feet of commercial development

STAFF RECOMMENDATION

Development Review Committee – (April 14, 2021)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Commercial Building Planned Development / Land Use Plan Amendment (PD/LUPA), dated “Received April 16, 2021”, subject to the following conditions:

1. Development shall conform to the Commercial Building PD Land Use Plan Amendment dated "Received April 16, 2021" and shall comply with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. Accordingly, the PD may be developed in accordance with the uses, densities, and intensities described in such Land Use Plan, subject to those uses, densities, and intensities conforming with the restrictions and requirements found in the conditions of approval and complying with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. If the development is unable to achieve or obtain desired uses, densities, or intensities, the County is not under any obligation to grant any waivers or modifications to enable the developer to achieve or obtain those desired uses, densities, or intensities. In the event of a conflict or inconsistency between a condition of approval and the land use plan dated "Received April 16, 2021," the condition of approval shall control to the extent of such conflict or inconsistency.
2. This project shall comply with, adhere to, and not deviate from or otherwise conflict with any verbal or written promise or representation made by the applicant (or authorized agent) to the Board of County Commissioners ("Board") at the public hearing where this development received final approval, where such promise or representation, whether oral or written, was relied upon by the Board in approving the development, could have reasonably been expected to have been relied upon by the Board in approving the development, or could have reasonably induced or otherwise influenced the Board to approve the development. In the event any such promise or representation is not complied with or adhered to, or the project deviates from or otherwise conflicts with such promise or representation, the County may withhold (or postpone issuance of) development permits and / or postpone the recording of (or refuse to record) the plat for the project. For purposes of this condition, a "promise" or "representation" shall be deemed to have been made to the Board by the applicant (or authorized agent) if it was expressly made to the Board at a public hearing where the development was considered and approved.
3. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit, or any other development order, if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this land use plan to promptly disclose to the County any changes in ownership, encumbrances, or other matters of record affecting the property that is subject to the plan, and to resolve any issues that may be identified by the County as a result of any such changes. Developer / Applicant acknowledges and understands that any such changes are solely the Developer's / Applicant's obligation and responsibility to disclose and resolve, and that the Developer's / Applicant's failure to

disclose and resolve any such changes to the satisfaction of the County may result in the County not issuing (or delaying issuance of) development permits, not recording (or delaying recording of) a plat for the property, or both.

5. Property that is required to be dedicated or otherwise conveyed to Orange County (by plat or other means) shall be free and clear of all encumbrances, except as may be acceptable to County and consistent with the anticipated use. Owner / Developer shall provide, at no cost to County, any and all easements required for approval of a project or necessary for relocation of existing easements, including any existing facilities, and shall be responsible for the full costs of any such relocation prior to Orange County's acceptance of the conveyance. Any encumbrances that are discovered after approval of a PD Land Use Plan shall be the responsibility of Owner / Developer to release and relocate, at no cost to County, prior to County's acceptance of conveyance. As part of the review process for construction plan approval(s), any required off-site easements identified by County must be conveyed to County prior to any such approval, or at a later date as determined by County. Any failure to comply with this condition may result in the withholding of development permits and plat approval(s).
6. Approval of this plan does not constitute approval of a permit for the construction of a boat ramp. Any person desiring to construct a boat ramp shall apply to the Orange County Environmental Protection Division as specified in Orange County Code Chapter 15 Environmental Control, Article XV Boat Ramps, prior to installation, for an Orange County Boat Ramp Facility Permit, as well as to any other Orange County Division(s) for any other applicable permits.
7. Approval of this plan does not constitute approval of a permit for the construction of a boat dock, boardwalk, observation pier, fishing pier, community pier or other similar permanently fixed or floating structures. Any person desiring to construct any of these structures shall apply to the Orange County Environmental Protection Division, as specified in Orange County Code Chapter 15 Environmental Control, Article IX Dock Construction, prior to installation, for an Orange County Dock Construction Permit, as well as to any other Orange County Division(s) for any other applicable permits.
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. Prior to mass grading, clearing, grubbing or construction, the applicant is hereby noticed that this site must comply with habitat protection regulations of the U.S. Fish and Wildlife Service (USFWS) and the Florida Fish & Wildlife Conservation Commission (FWC).
10. 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 shall be conveyed concurrently at time of platting or dedicated to the County via separate instrument prior to Development Plan Approval.

11. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a capacity encumbrance letter prior to construction plan submittal and must apply for and obtain a capacity reservation certificate prior to approval of the plat. Nothing in this condition, and nothing in the decision to approve this land use plan/preliminary subdivision plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a capacity encumbrance letter or a capacity reservation certificate.
12. Pursuant to Section 30-552 (3) of the County's Code of Ordinances, any application for a planned development (PD) zoning is required to conduct a study to assess the traffic and capacity impacts of the proposed development. A traffic study is required prior to approval of this rezoning request.
13. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water, wastewater, and reclaimed water systems have been designed to support all development within the PD.
14. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
15. The final location of the access and cross-access points shown on the Land Use Plan shall be evaluated at the Development Plan phase of the project.
16. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated March 9, 1993, shall apply:
 - a. Minimum open space required is 25 percent of the gross land area.
 - b. To the extent required to comply with the consistency provision of the Growth Management Act, the following additional conditions shall be added to the conditions of approval:
 - 1) Uses limited to those stated in Policy 1.1.3 of the International Drive Activity Center Plan. Furthermore, Policy 1.1.6 of the International Drive Activity Center Plan dealing with prohibited uses shall apply to development approvals.
 - 2) The following densities shall apply:
 - a) Commercial uses limited to a maximum of 0.35 FAR.
 - b) Increased density/intensity may be allowed if it can be demonstrated an increase in traffic impacts on the adjoining road network does not occur.
 - 3) If the housing linkage program is in place prior to development plan approval, development of nonresidential development shall be conditioned upon the development of residential units within the area designated as Activity Center Residential on the Future Land Use Map.

- 4) The Development Guidelines of the International Drive Activity Center shall apply to the subject property if they are established prior to development plan submittal, including but not limited to lighting standards, sign regulations, open space regulations, trip reduction program, access management controls, transit access design standards, building orientation, and location of parking lots
 - 5) The property owner shall be required to participate in a property owners' association upon its creation.
 - 6) Stormwater management facilities shall be designed as an aesthetic feature, except in places determined by the county engineer to be technically unfeasible.
 - 7) The developer shall be responsible for the cost of installing electrical distribution lines underground from the existing point of distribution to and on the subject development.
 - 8) Participation in a shuttle service connecting area attractions, major transportation centers, and on-site development shall be required.
- c. Waiver of Section 38-1287(2) to reduce the side-yard setback from thirty feet (30') to ten feet (10') along the north boundary line is approved.

IMPACT ANALYSIS

Land Use Compatibility

The applicant is seeking to rezone the two subject parcels (2.31 acres) from A-2 (Farmland Rural District) to PD (Planned Development District), in order to aggregate the property with the existing 2.09-acre Commercial Building PD to the north. The proposed development program includes 199 hotel rooms with the flexibility to trade off hotel uses in favor of up to 20,000 square feet of commercial development (see table below).

	Original	Proposed
Acreage	2.09	4.40
Uses	Commercial	Hotel and Quick Service Restaurant (QSR)
Commercial Entitlements	33,541 sq.ft. Commercial	Up to 20,000 sq.ft. Commercial*
Hotel Entitlements	0	Up to 199 Hotel rooms*

* Proposed 199 units assumed total intensity of subject property without QSR use. Final unit count subject to change depending on inclusion of QSR and lot size utilized for each use.

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

Comprehensive Plan (CP) Consistency

The subject property has an underlying Future Land Use Map (FLUM) designation of Activity Center Mixed Use (ACMU) which allows for a maximum hotel intensity of sixty (60) rooms per net developable acre, and a floor area ratio of 3.0 for nonresidential uses. The proposed PD zoning district and development program is consistent with the ACMU FLUM designation; therefore, a CP amendment is not necessary. Additionally, the request is consistent with the following CP provisions:

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

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

GOAL FLU2 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.

OBJ FLU2.1 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 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.

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.

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

FLU8.2.11 Compatibility may not necessarily be determined to be a land use that is identical to those uses that surround it. Other factors may be considered, such as the design attributes of the project, its urban form, the physical integration of a project and its function in the broader community, as well its contribution toward the Goals and Objectives in the CP. The CP shall specifically allow for such a balance of considerations to occur.

Community Meeting Summary

A community meeting was not required for this request.

SITE DATA

Existing Use Undeveloped Land

Adjacent Zoning N: PD (Planned Development) (1993)
 E: PD (Planned Development) (1997)
 W: PD (Planned Development) (1971)
 S: PD (Planned Development) (2016)

Adjacent Land Uses N: Retail Commercial
 E: Lake Bryan
 W: Multi-Family Residential
 S: Gas station

APPLICABLE PD DEVELOPMENT STANDARDS

PD Perimeter Setback 25 feet

Maximum Building Height: 60 feet for commercial, 200 feet for hotel

Minimum Building Setbacks

Front Setback: 60 feet from ROW
Rear Setback: 20 feet
Side (South) Setback: 30 feet
Side (North) Setback: 10 feet, per previous waiver approval

SPECIAL INFORMATION

Subject Property Analysis

The existing PD allows for 33,541 square feet of commercial and was approved March 9, 1993. The applicant is seeking to rezone the two subject parcels (2.31 acres) from A-2 (Farmland Rural District) to PD (Planned Development District), in order to aggregate the property with the existing 2.09-acre Commercial Building PD to the north. The proposed development program includes 199 hotel rooms with the flexibility to trade off the hotel uses in favor of up to 20,000 square feet of commercial development. (see table below).

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Comprehensive Plan (CP) Amendment

The proposed PD zoning district and development program is consistent with the ACMU FLUM designation; therefore, a CP amendment is not necessary.

Overlay Ordinance

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

Rural Settlement

The subject property is not located within a Rural Settlement.

Joint Planning Area (JPA)

The subject property is not located within a JPA.

Environmental

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

Orange County Conservation Area Determination CAD-20-09-160 was issued on February 25, 2021.

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 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.

Community Meeting Summary

A community meeting was not required for this request.

Utilities

Water: Orange County Utilities

Wastewater: Orange County Utilities

Reclaim Water: Orange County Utilities

Schools

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

Parks and Recreation

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

Specific Project Expenditure Report and Relationship Disclosure Forms

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

PLANNING AND ZONING COMMISSION (PZC) FINDINGS

The staff report was presented to the PZC with the recommendation that they make a finding of consistency with the Comprehensive Plan and recommend approval of the Commercial Building Planned Development / Land Use Plan Amendment (PD/LUPA), subject to the sixteen (16) conditions in the staff report.

Staff indicated that two hundred seventy-four (274) notices were mailed to surrounding property owners within a buffer of 1,000 feet from the subject property, with one (1) commentary received in opposition, and one (1) in favor of the request. The reasons for opposition were related to oversupply of hotels in the area and traffic. The applicant was present for the hearing and concurred with staff's recommendation. No members of the public were present to speak on this request.

After a brief discussion, a motion was made by Commissioner Sorbo to find the request to be consistent with the Comprehensive Plan and recommend APPROVAL of the Commercial Building PD/ Land Use Plan Amendment, subject to sixteen (16) conditions. Commissioner Spears seconded the motion, which then carried on an 8-0 vote.

Motion / Second

Trevor Sorbo / Gordon Spears

Voting in Favor

Trevor Sorbo, Gordon Spears, Mohammed Abdallah, Sean McQuade, JaJa Wade, Eddie Fernandez, Carlos Nazario, Nelson Nazario

Voting in Opposition

None

Absent

Evelyn Cardenas

PZC RECOMMENDED ACTION

Planning and Zoning Commission (PZC) Recommendation – (May 20, 2021)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Commercial Building Planned Development / Land Use Plan Amendment (PD/LUPA), dated "Received April 16, 2021", subject to the following conditions:

1. Development shall conform to the Commercial Building PD Land Use Plan Amendment dated "Received April 16, 2021" and shall comply with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. Accordingly, the PD may be developed in accordance with the uses, densities, and intensities described in such Land Use Plan, subject to those uses, densities, and intensities conforming with the restrictions and requirements found in the conditions of approval and complying with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. If the development is unable to achieve or obtain desired uses, densities, or intensities, the County is not under any obligation to grant any waivers or modifications to enable the developer to achieve or obtain those desired uses, densities, or intensities. In the event of a conflict or inconsistency between a condition of approval and the land use plan dated "Received April 16, 2021," the condition of approval shall control to the extent of such conflict or inconsistency.
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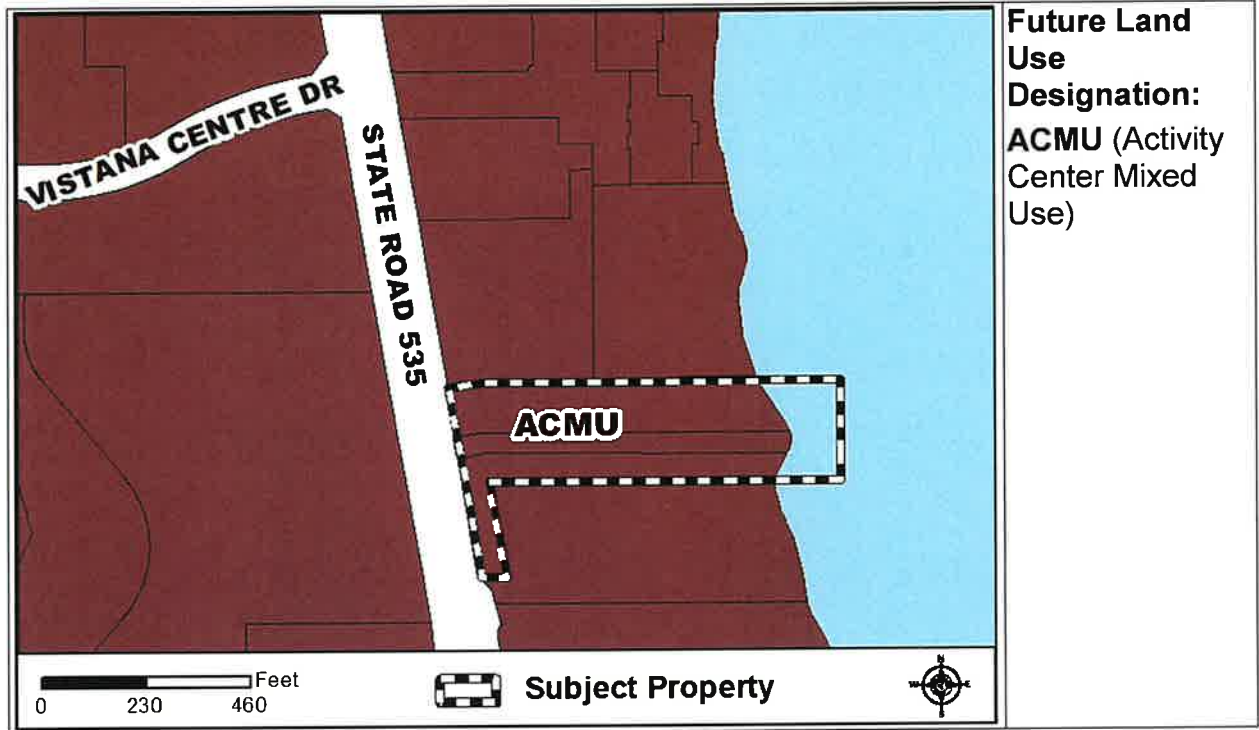
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- 4) The Development Guidelines of the International Drive Activity Center shall apply to the subject property if they are established prior to development plan submittal, including but not limited to lighting standards, sign regulations, open space regulations, trip reduction program, access management controls, transit access design standards, building orientation, and location of parking lots
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 - 7) The developer shall be responsible for the cost of installing electrical distribution lines underground from the existing point of distribution to and on the subject development.
 - 8) Participation in a shuttle service connecting area attractions, major transportation centers, and on-site development shall be required.
- c. Waiver of Section 38-1287(2) to reduce the side-yard setback from thirty feet (30') to ten feet (10') along the north boundary line is approved.

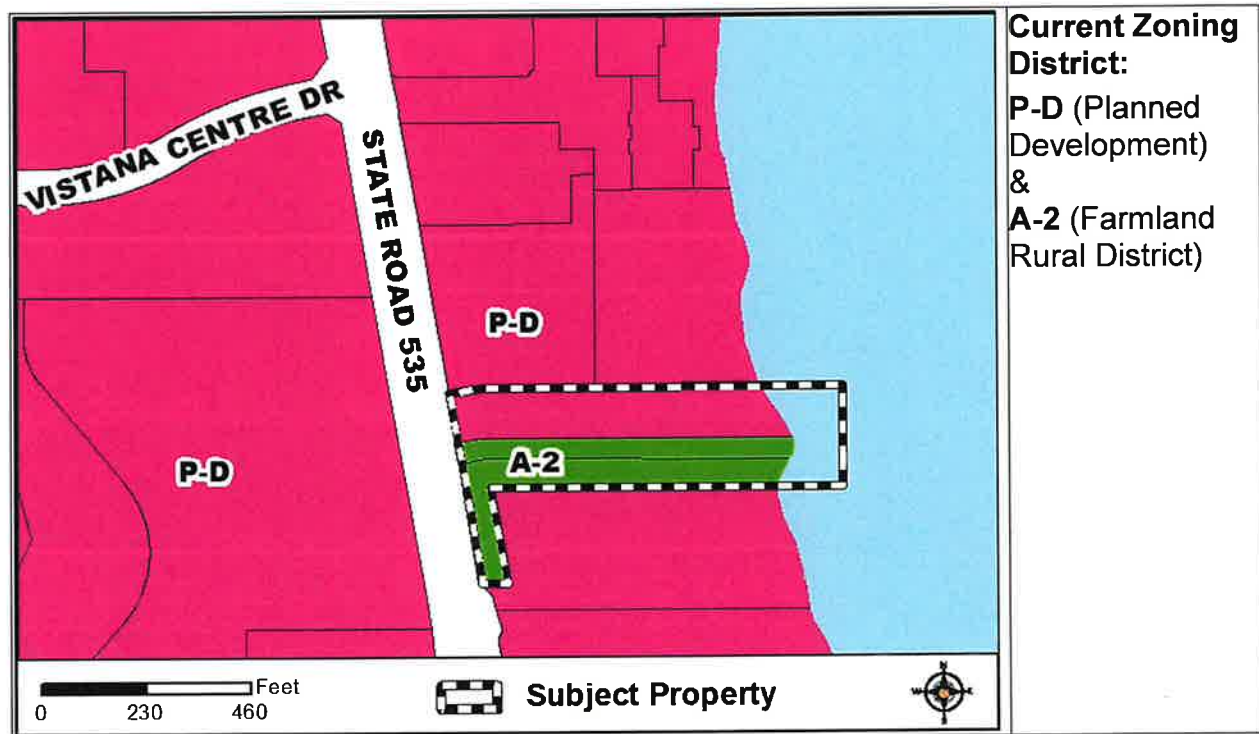
PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (March 9, 1993)

Upon a motion by commissioner Freeman, seconded by Commissioner Butler, and carried with all present commissioners voting AYE by voice vote; County Chairman Chapin was absent; the Board approved the request for a change in zoning classification from A-2 to PD on the above-described property subject to the eight (8) conditions of approval.

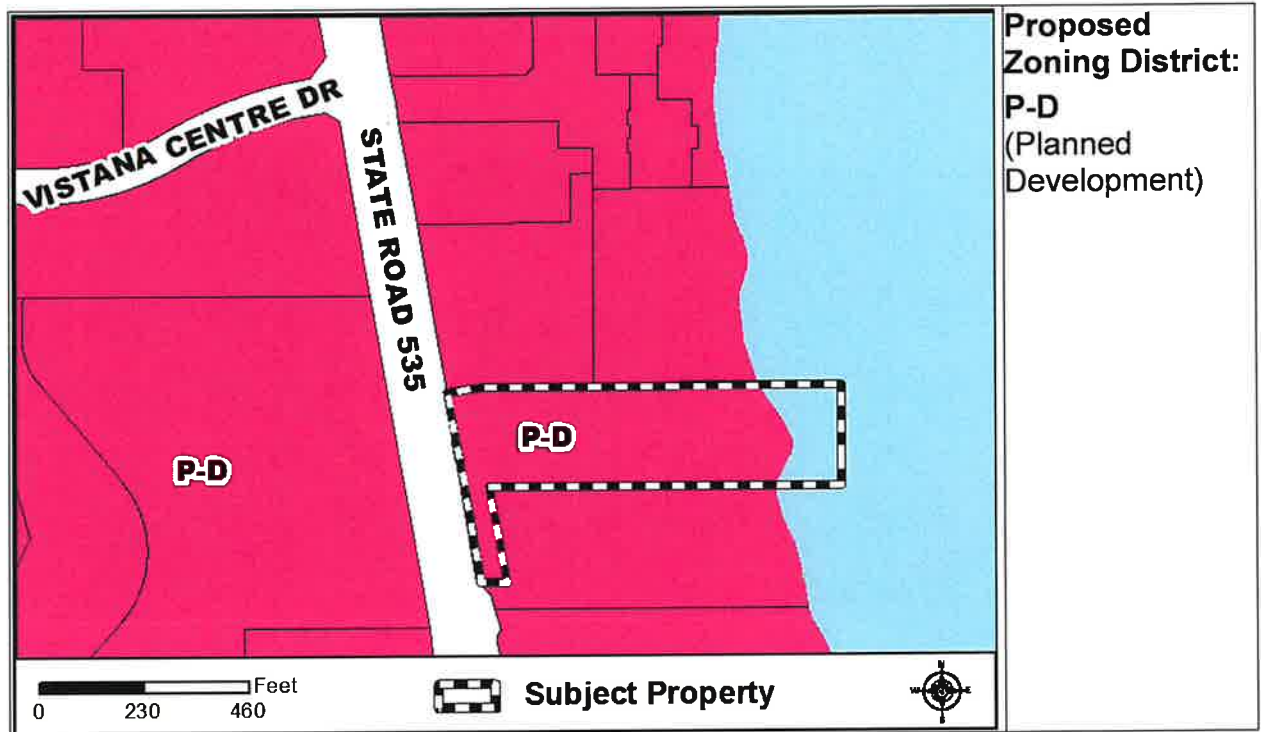
FUTURE LAND USE – CURRENT



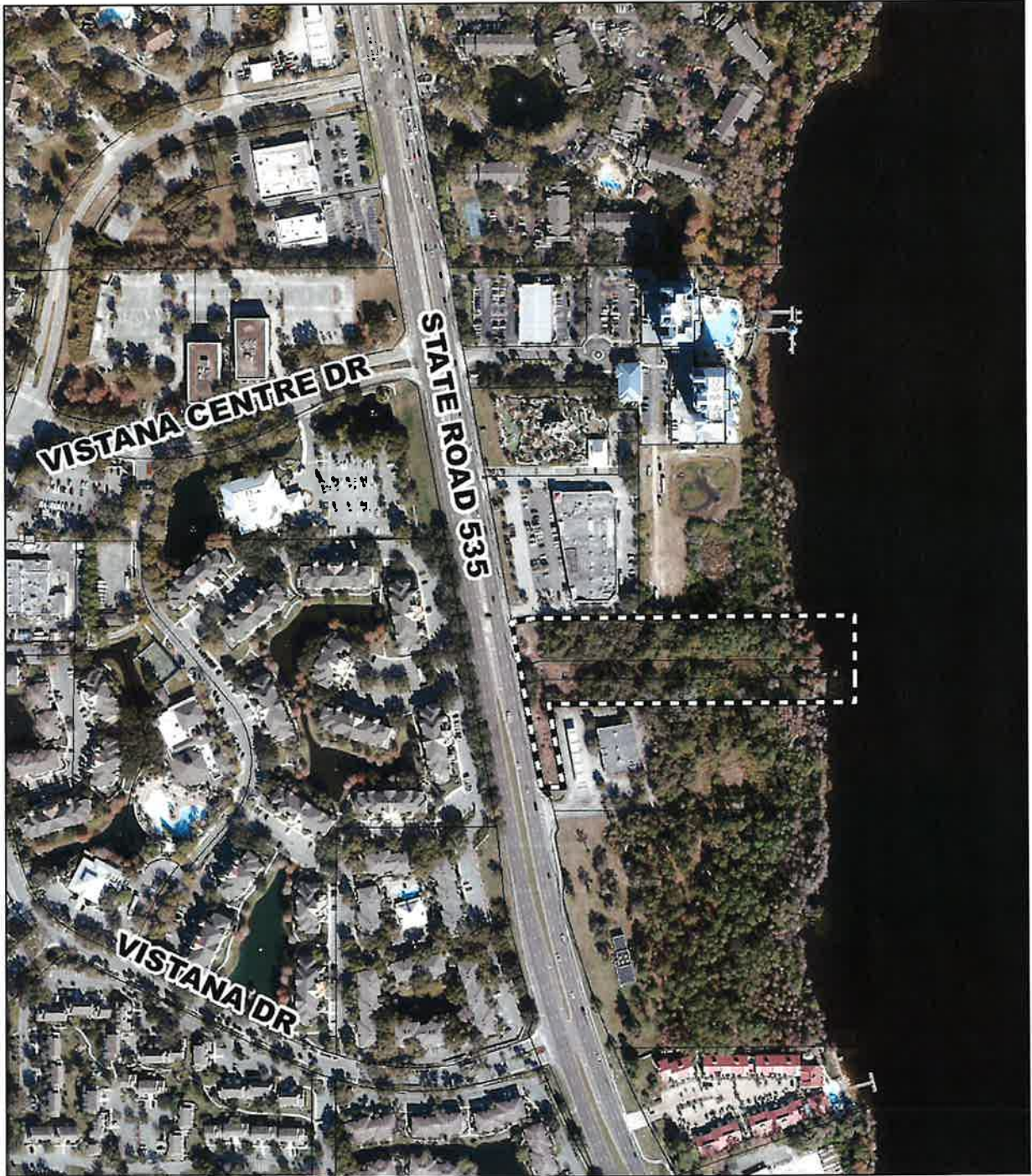
ZONING - CURRENT



ZONING - PROPOSED



LUPA-20-09-255



Subject Property

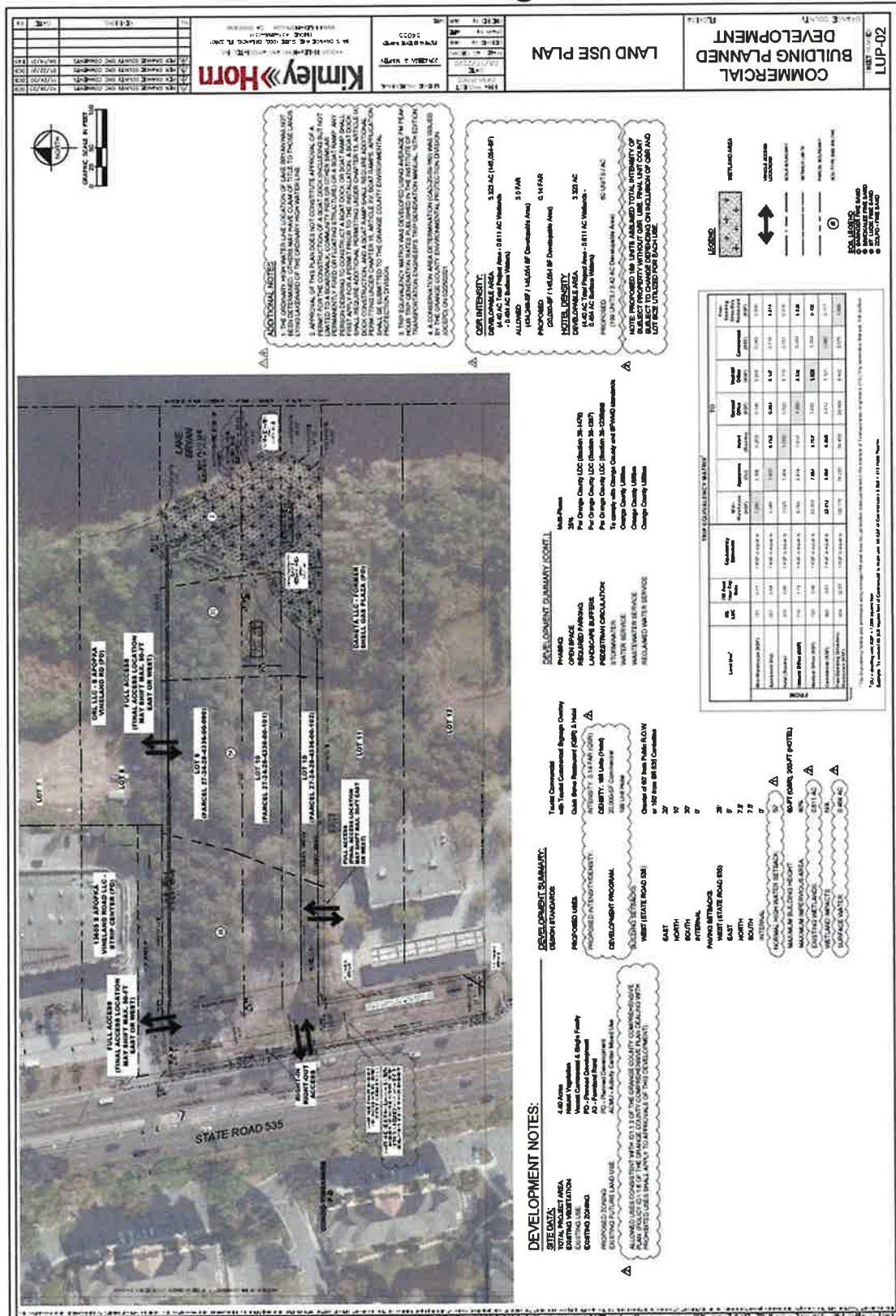


1 inch = 333 feet

Commercial Building PD / LUPA (Cover Sheet)

[illegible]

Commercial Building PD / LUPA



Notification Map

