### Interoffice Memorandum



DATE:

August 20, 2018

TO:

Mayor Teresa Jacobs

-AND-

**Board of County Commissioners** 

FROM:

Jon V. Weiss, P.E., Director

Community, Environmental and Development Services Department

**CONTACT PERSON:** 

John Smogor, Chairman

**Development Review Committee** 

Planning Division (407) 836-5616

SUBJECT:

September 11, 2018 - Public Hearing

Miranda Fitzgerald, Lowndes, Drosdick, Doster, Kantor, and

Reed, P.A.

Ruby Lake Planned Development Case # CDR-18-05-176 / District 1

The Ruby Lake Planned Development (PD) is generally located east of Palm Parkway and west of Interstate 4. The existing PD development program allows for 1,200 timeshare / villas; 160,834 square feet of office; 244 single-family residential units; 156 townhome units; 780 hotel units; and 15,538 square feet of commercial, and 100,000 square feet of self-storage uses.

Through this PD substantial change, the applicant is seeking to request three (3) waivers from Orange County Code for Lot 1C relating to canopy tree requirements of the Buena Vista North Overlay District, reduction of the PD perimeter setback and reduction of the setbacks of commercial buildings adjacent to residential uses.

On July 25, 2018, 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.

September 11, 2018 – Public Hearing Miranda Fitzgerald, Lowndes, Drosdick, Doster, Kantor, and Reed, P.A. Ruby Lake PD / Case # CDR-18-05-176 / District 1 Page 2 of 2

### **ACTION REQUESTED:**

Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Ruby Lake Planned Development / Land Use Plan (PD/LUP) dated "Received June 26, 2018", subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1

Attachments JVW/JS/stt

### **CASE # CDR-18-05-176**

Commission District: #1

### **GENERAL INFORMATION**

**APPLICANT** 

Miranda Fitzgerald, Lowndes, Drosdick, Doster, Kantor, and

Reed, P.A.

**OWNER** 

TD Orlando LBV, LLC

**PROJECT NAME** 

Ruby Lake Planned Development

PARCEL ID NUMBER

15-24-28-5120-00-010 (affected parcel only)

**TRACT SIZE** 

244.86 gross acres (overall PD)

2.75 gross acres (affected parcel only)

**LOCATION** 

Generally located east of Palm Parkway and west of Interstate

4.

REQUEST

A PD substantial change to request the following waivers from Orange County Code:

 A waiver from Section 38-1394.1(a)(2) to eliminate the requirement of providing one (1) canopy tree for each one hundred (100) square feet of green space within the building base landscape area for Lot 1C.

Applicant Justification: Due to the size of the subject property, there isn't enough area to provide the amount of canopy trees required within the minimum width of building base. If this Code provision were complied with, 135 canopy trees would be required around the building base. This number of trees would completely hide the building and would not survive in the limited space of the building base. To compensate for the loss in canopy trees, larger caliper trees than requires are being used, the spacing along the northeast building base is tightened from forty (40) foot on center to thirty-five (35) foot on enter, and additional trees are being provided than what is required by code.

2. A waiver from Section 38-1272(3) to allow for a minimum ten (10) foot setback along the perimeter of the PD, in lieu of twenty-five (25) feet for Lot 1C.

Applicant Justification: The subject property was adjacent to the previous Lot 10 of the Ruby Lake PD. Lot 10 was removed from the Ruby Lake PD and added to the Hannah Smith PD, thereby causing the subject property to

now be on the perimeter of the Ruby Lake PD. The size of the subject property is not large enough to incur additional setback requirements. While the adjacent parcel is being developed with a residential use, the stormwater for the multi-family is located adjacent to the subject property providing additional buffer area between each development.

3. A waiver from Section 38-1392.1 to allow for a minimum ten (10) foot setback when abutting residential zoned property, in lieu of thirty-five (35) feet for Lot 1C.

Applicant Justification: The subject property was adjacent to the previous Lot 10 of the Ruby Lake PD. Lot 10 was removed from the Ruby Lake PD and added to the Hannah Smith PD, and changed the use to multi-family development. The size of the subject property is not large enough to incur additional setback requirements. While the adjacent parcel is being developed with a residential use, the stormwater for the multi-family is located adjacent to the subject property providing additional buffer area between each development.

### **PUBLIC NOTIFICATION**

A notification area extending beyond one thousand (1,000) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. One hundred seventeen (117) notices were mailed to those property owners in the notification buffer area. A community meeting was not required for this application.

### **IMPACT ANALYSIS**

### **Special Information**

The Ruby Lake PD was originally approved on June 3, 1975 for residential resort recreation facilities and a recreation area. Subsequent PD amendments have resulted in a development program consisting of 1,200 timeshare / villas; 160,834 square feet of office; 244 single-family residential units; 156 townhome units; 780 hotel units; and 15,538 square feet of commercial, and 100,000 square feet of self-storage uses.

Through this PD Change Determination Request (CDR), the applicant is seeking three (3) waivers. The first waiver is to eliminate the canopy trees within the building base area due to difficulty meeting the canopy tree requirement of the Buena Vista North Overlay District. The second and third waivers are being requested to reduce the PD perimeter setback, and reduce the setback of commercial buildings located adjacent to residential uses. Those waivers are being requested because this property is affected by a previous amendment to the Ruby Lake PD where the adjacent northern property was removed from the PD, added to the Hannah Smith PD, and was converted from commercial to multi-family residential.

### Land Use Compatibility

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

### Comprehensive Plan (CP) Consistency

The subject property has an underlying Future Land Use Map (FLUM) designation of Activity Center Mixed Use (ACMU). The Ruby Lake PD was approved in 1975 and includes uses such as office, single-family residential, commercial, timeshare / villas, hotel, and townhomes. The proposed Change Determination Request (CDR) is consistent with the designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

### **Overlay District Ordinance**

The subject property is located within the Buena Vista North Overlay District.

### **Rural Settlement**

The subject property is not located within a Rural Settlement.

### Joint Planning Area (JPA)

The subject property is not located within a JPA.

### **Environmental**

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

### Transportation / Concurrency

This parcel is vested from transportation concurrency under Vested Rights Certificate 98-104. The applicant is required to provide a copy of this certificate along with the application for a building permit.

This parcel will have impacts to the Florida Department of Transportation (FDOT) I-4 Beyond the Ultimate project, Financial Management number 242484-8 Segment 1B. Coordination with FDOT will be required during development of the subject property.

### **Community Meeting Summary**

A community meeting was not required for this request.

### Schools

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

### Parks and Recreation

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

### Specific Project Expenditure Report and Relationship Disclosure Forms

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

### **ACTION REQUESTED**

Development Review Committee (DRC) Recommendation - (July 25, 2018)

Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Ruby Lake Planned Development / Land Use Plan (PD/LUP) dated "Received June 26, 2018", subject to the following conditions:

- 1. Development shall conform to the Ruby Lake Planned Development (PD) dated "Received June 26, 2018," and shall comply with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. Accordingly, the PD may be developed in accordance with the uses, densities, and intensities described in such Land Use Plan, subject to those uses, densities, and intensities conforming with the restrictions and requirements found in the conditions of approval and complying with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. If the development is unable to achieve or obtain desired uses, densities, or intensities, the County is not under any obligation to grant any waivers or modifications to enable the developer to achieve or obtain those desired uses, densities, or intensities. In the event of a conflict or inconsistency between a condition of approval and the land use plan dated "Received June 26, 2018," the condition of approval shall control to the extent of such conflict or inconsistency.
- 2. This project shall comply with, adhere to, and not deviate from or otherwise conflict with any verbal or written promise or representation made by the applicant (or authorized agent) to the Board of County Commissioners ("Board") at the public hearing where this development received final approval, where such promise or representation, whether oral or written, was relied upon by the Board in approving the development, could have reasonably been expected to have been relied upon by the Board in approving the development, or could have reasonably induced or otherwise influenced the Board to approve the development. In the event any such promise or representation is not complied with or adhered to, or the project deviates from or otherwise conflicts with such promise or representation, the County may withhold (or postpone issuance of) development permits and / or postpone the recording of (or refuse to record) the plat for the project. For purposes of this condition, a "promise" or "representation" shall be deemed to have been made to the Board by the applicant (or authorized agent) if it was expressly made to the Board at a public hearing where the development was considered and approved.
- 3. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to

Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

- 4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this land use plan to promptly disclose to the County any changes in ownership, encumbrances, or other matters of record affecting the property that is subject to the plan, and to resolve any issues that may be identified by the County as a result of any such changes. Developer / Applicant acknowledges and understands that any such changes are solely the Developer's / Applicant's obligation and responsibility to disclose and resolve, and that the Developer's / Applicant's failure to disclose and resolve any such changes to the satisfaction of the County may result in the County not issuing (or delaying issuance of) development permits, not recording (or delaying recording of) a plat for the property, or both.
- 5. Property that is required to be dedicated or otherwise conveyed to Orange County (by plat or other means) shall be free and clear of all encumbrances, except as may be acceptable to County and consistent with the anticipated use. Owner / Developer shall provide, at no cost to County, any and all easements required for approval of a project or necessary for relocation of existing easements, including any existing facilities, and shall be responsible for the full costs of any such relocation prior to Orange County's acceptance of the conveyance. Any encumbrances that are discovered after approval of a PD Land Use Plan shall be the responsibility of Owner / Developer to release and relocate, at no cost to County, prior to County's acceptance of conveyance. As part of the review process for construction plan approval(s), any required off-site easements identified by County must be conveyed to County prior to any such approval, or at a later date as determined by County. Any failure to comply with this condition may result in the withholding of development permits and plat approval(s).
- 6. 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 plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a capacity encumbrance letter or capacity reservation certificate
- A waiver from Section 38-1394.1(a)(2) is granted to eliminate the requirement of providing one (1) canopy tree for each one hundred (100) square feet of green space within the building base landscape area for Lot 1C. Canopy trees shall be planted 35-feet on center in lieu of 40-feet on center.
- 8. A waiver from Section 38-1392.1 is granted to allow for a minimum ten (10) foot setback when abutting residential zoned property, in lieu of thirty-five (35) feet for Lot 1C.

- A waiver from Section 38-1272(3) is granted to allow for a minimum ten (10) foot setback along the perimeter of the PD, in lieu of twenty-five (25) feet for Lot 1C.
- 10. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated June 16, 2015 shall apply:
  - a. The following Education Condition of Approval shall apply:
    - i. Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board on January 27, 2015, and as amended on May 26, 2015.
    - ii. Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Capacity Enhancement Agreement, the County shall immediately cease issuing building permits for any residential units in excess of the 0 residential units allowed under the zoning existing prior to the approval of the PD zoning. The County may again begin issuing building permits upon Orange County Public Schools' written notice to the County that the developer is no longer in breach or default of the Capacity Enhancement Agreement. The developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, shall indemnify and hold the County harmless from any third party claims, suits, or actions arising as a result of the act of ceasing the County's issuance of residential building permits.
    - iii. 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.
    - 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.

Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.

- b. 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.
- c. Construction plans within this PD shall be consistent with an approved and upto-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.

- d. The Developer shall obtain water, wastewater and reclaimed water service from Orange County Utilities.
- e. Prior to approval of any Lot 3 multifamily DP, the Utility Easement Agreement between the owners of Lot 3 and Lot 6 (the Hilton property) shall be updated to address access, ownership, and maintenance for the private water and reclaimed water mains extending from Palm Parkway across Lot 3 to Lot 6. The water and reclaimed water meters currently located at the property boundary between Lot 3 and Lot 6 shall be relocated to be adjacent to Palm Parkway as part of the multifamily construction project, or prior to the completion of the development of the multifamily properties.
- f. Outside sales, storage, and display shall be prohibited.
- g. 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.
- h. Signage shall comply with the Master Sign Plan.
- All development shall comply with Buena Vista North Standards as well as the Tourist Commercial Activity Center with the exception of waivers explicitly granted by the Board of County Commissioners.
- Length of stay for residential uses shall be 180 days or greater. Short term rental shall be prohibited for residential uses. Length of stay shall not exceed 179 days for commercial uses.
- k. A waiver is granted from Orange County Code Section 38-1258 (a, b, c, and d) to allow for a maximum building height of 75 feet (6 stories) for multi-family buildings within the PD with a separation of 20 feet from single-family uses, all internal to the PD only, in lieu of the proximity based requirements. All other requirements of that section will still apply.
- I. A waiver is granted from Orange County Code Section 38-1393 to allow for maximum building heights within the PD to be preserved as previously approved by the Board of County Commissioners for lots other than Lot 3, with a minimum separation of 20 feet from single family development within the PD, in lieu of the proximity based requirements as otherwise identified in Section 38-1393.
- m. A waiver is granted from Orange County Code Section 38-1300 to allow for a maximum building height of 75 feet (6 stories) for all multi-family residential; in lieu of 60 feet, or 35 feet when within 100 feet of single-family residential, or between 65-75 feet when within 300 feet of existing single family residential, all internal to the PD only. All other requirements of that section will still apply.

- n. A waiver is granted from Orange County Code Section 38-1258(f) to require no wall when a multi-family development is located adjacent to any single family zoned property internal to the project only, in lieu of a required 6 foot high masonry, brick or block wall.
- o. A waiver is granted from Orange County Code Section 38-12580) to require a minimum building separation of 20 feet between all multi-family buildings with no increase in proportion to additional structural height; in lieu of a minimum separation of 30 feet for two-story buildings, 40 feet for three-story buildings, and proportionate separation increases for additional building heights.
- p. A waiver is granted from Orange County Code Section 38-1392.1 to allow a 20-foot single family residential building setback from abutting residentially zoned property, external to the PD only; in lieu of a 35-foot building setback. All other requirements of that section will still apply.
- q. A waiver is granted from Orange County Code Section 38-1287(1)(b) to allow for a minimum 40-foot building setback from an abutting arterial right-of-way, in lieu of a minimum 60-foot building setback from an abutting arterial right-of-way.
- r. A waiver is granted from Orange County Code Section 38-1251(b) to allow the maximum coverage of all buildings to not exceed 75% of the gross land area, in lieu of the maximum coverage of all buildings not exceeding 30% of the gross land area.
- s. A waiver is granted from Orange County Code Section 38-1258(e) to allow parking and other paved areas for multi-family development to be located no closer than 7.5 feet from any single family zoned property internal to the project only, in lieu of the requirement that parking and other paved areas for multi-family development be located no closer than 25 feet from any single family zoned property. In addition, a minimum 7.5-foot landscape buffer consistent with Type C landscape buffer requirements shall be provided, in lieu of a minimum 25-foot landscape buffer.
- t. A waiver is granted from Orange County Code Sections 31.5-67(b), 31.5-166(b), and 38.1395.2(1) and to allow for a maximum height of twelve (12) feet for multitenant ground signs; in lieu of a maximum height of eight (8) feet.
- u. A waiver is granted from Orange County Code Section 31.5-166(d) to allow for up to three (3) ground signs on a parcel with right-of-way frontage in excess of five hundred (500) linear feet, in lieu of a maximum number of two (2) ground signs.
- v. Development shall comply with all provisions of the Developer's Agreement for the Activity Center Turkey Lake Road Network Agreement, approved by the BCC on September 24, 1996, and recorded in O.R. Book 5138, Page 1988, Public Records of Orange County, Florida.
- w. The following International Drive strategic conditions shall apply:

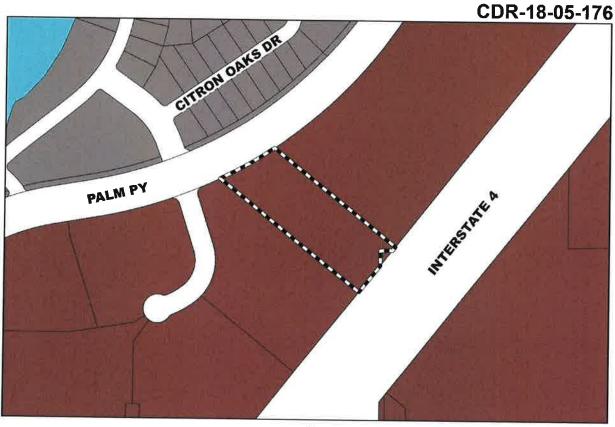
- x. Permitted and prohibited uses shall be those specified in Policies 1 .1 .3 and 1.1.6 of the International Drive Activity Center Plan.
- y. If the housing linkage program is in place prior to development plan approval, the development of nonresidential development shall be conditioned upon the development of residential units within the designated as Activity Center Residential on the Future Land Use Map.
- z. 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 standards, building orientation, and location of parking lots.
- aa. The property owners shall be required to participate in the International Drive Property Owners' Association upon its creation.
- bb. Stormwater management facilities shall be designed as an aesthetic feature except when determined by the County Engineer to be technically unfeasible.
- cc. The development plan shall provide for interconnection of adjacent developable parcels either by cross-access easement or public right-of-way. This shall include connection into a continuation of an area-wide transportation plan for the International Drive Activity Center.
- dd. Electrical distribution lines shall be underground.
- ee. Participation in a shuttle service connecting area attractions, major transportation centers, and on-site development shall be provided.
- ff. A Level One (1) Environmental Site Assessment (ESA) shall be submitted to the County for review, as part of any Preliminary Subdivision Plan (PSP) and I or Development Plan (DP) submittal.
- gg. Waivers from Chapter 38 related to landscaping requirements adjacent to road right-of-way may be requested at Preliminary Subdivision Plan (PSP) review. If approved by the Board of County Commissioners on the PSP, the waivers would constitute a non-substantial change to the PD Land Use Plan.

# PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (June 16, 2015)

Upon a motion by Commissioner Boyd, seconded by Commissioner Clarke, and carried by all members present, the Board made a finding of consistency with the Comprehensive Plan; and futher, approved the substantial change request by Jim Hall, VHB, Inc., for DFD One, LLC, to the Ruby Lake Planned Development / Land Use Plan (PD/LUP), Case #CDR-14-07-197, to introduce residential entitlements of 229 single-family residential dwelling units and 622 multifamily dwelling units (851 total units) on Lot 3; reduce commercial entitlements by 191,028 square feet on Lot 3; eliminate timeshares and villas from Lot 3; increase office entitlements by 5,679 square feet on Lot 3; update trip generation rates to ITE 9th edition; transfer and convert 300,000 square feet of office entitlements from Lot 2 to 974 hotel rooms on Lot 3; revise the Land Use Conversion Table to include residential land uses; and

DRC Staff Report Orange County Planning Division BCC Hearing Date: September 11, 2018

approved eleven (11) waivers from Orange County Code related to building height, building separation, setbacks, imprevious surface, paving/right-of-way, and the master sign plan; which constitutes a substantial change to the development on the described property, subject to the conditions listed under the DRC Receommendation in the Staff Report.









# **Future Land Use Map**

FLUM:

**Activity Center Mixed Use (ACMU)** 

APPLICANT: Miranda Fitzgerald, Lowndes, Drosdick, Doster, Kantor, and Reed, P.A.

LOCATION: Generally located east of Palm Parkway

and west of Interstate 4

TRACT SIZE: 244.68 gross acres (overall PD)

2.75 gross acres (affected parcel)

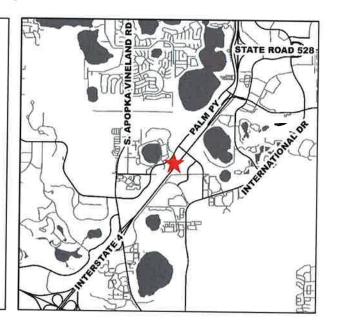
DISTRICT:

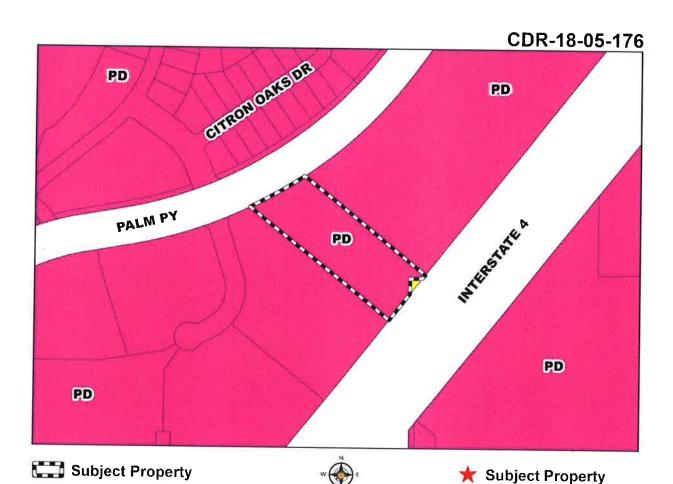
# 1

S/T/R:

15/24/28

1 inch = 275 feet





## **Zoning Map**

ZONING: PD (Planned Development District)

APPLICANT: Miranda Fitzgerald, Lowndes, Drosdick, Doster, Kantor, and Reed, P.A.

LOCATION: Generally located east of Palm Parkway

and west of Interstate 4

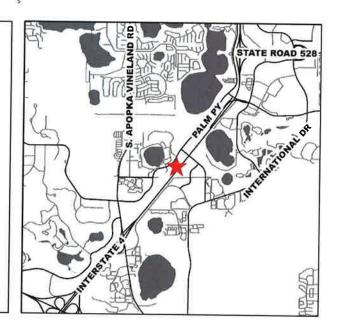
TRACT SIZE: 244.68 gross acres (overall PD)

2.75 gross acres (affected parcel)

DISTRICT: #1

S/T/R: 15/24/28

1 inch = 275 feet



# Ruby Lake PD / LUP (Cover Sheet)

# Land Use Plan

levo		
PD Rezoning Approval	Date Issued February 4, 2016	atest Issue June 25, 2018
Issued for	Date Issued	Latest Issue

Sheet	Index	
Number	Drawing Title	Latest Issue
e	Environmental Conditions	6/25/2018
m	Future Land Use Map	6/25/2018
4	Land Use Plan	6/25/2018
2 30	Site Datum Conditions of Approval	6/25/2018 4/11/2016
1	Master Sign Plan	12/28/2017

Request waivers from the Orange County Land Development Code for Lot 1C.

RECEIVED
By DRC OFFICE at 1:38 pm, Jun 26, 2018

**RUBY LAKE PD** 

I-4, S Apopka Vineland Rd, & Lake St Orange County, Florida Parcel ID: 15-24-28-5120-00-010 (affected parcel)

CDR 18-05-176 Case No:

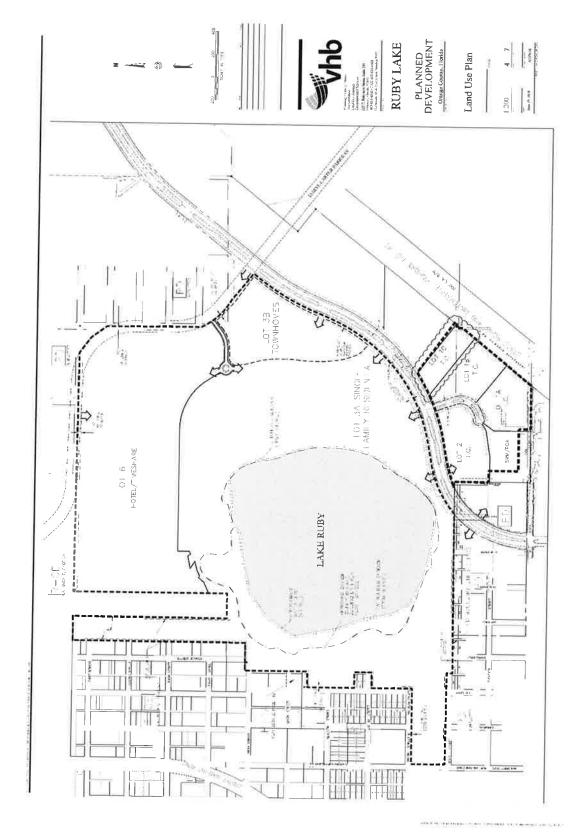


Legal Description





# Ruby Lake PD / LUP



# **Notification Map**

