



## Interoffice Memorandum

DATE: September 17, 2021

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

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

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

SUBJECT: September 28, 2021 – Public Hearing  
Applicant: Jonathan Martin, Kimley-Horn & Associates  
Waterstar Orlando Planned Development  
Case # CDR-21-03-075 / District 1

The Waterstar Orlando PD is located approximately 1,000 feet east of East Orange Lake Boulevard, on the north side of U.S. 192 (W. Irlo Bronson Memorial Highway). The PD was approved on April 21, 2020, and it is currently entitled for up to 250,000 square feet of commercial, 250 hotel rooms, and 320 residential units.

Through this PD Change Determination Request, the applicant is seeking to reduce the commercial entitlements from 250,000 square feet to 167,322 square feet; increase multi-family entitlements from 320 units to 695 units; and add multi-family residential as a permitted use on Parcel B. Additionally, the applicant is requesting four (4) waivers, related to building coverage, setbacks, height, and internal paving setbacks. Similar waivers were previously approved, but are now revised and requested again as result of the new residential uses on Parcel B.

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

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

**ACTION REQUESTED:**    **Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Waterstar Orlando Planned Development / Land Use Plan (PD/LUP) dated “Received July 29, 2021”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1**

JVW/EPR/JAH  
Attachment

**CASE # CDR-21-03-075**

Commission District: # 1

**GENERAL INFORMATION**

<b>APPLICANT</b>	Jonathan Martin, Kimley-Horn and Associates, Inc.
<b>OWNERS</b>	Waterstar Orlando, LLC; Waterstar Orlando II, LLC
<b>PROJECT NAME</b>	Waterstar Orlando Planned Development (PD)
<b>PARCEL ID NUMBERS</b>	33-24-27-0000-00-006; 33-24-27-0000-00-010; 33-24-27-0000-00-011; 33-24-27-0000-00-012; 33-24-27-0000-00-024; 34-24-27-1000-01-001, and 33-24-27-0000-00-025
<b>TRACT SIZE</b>	33.63 acres
<b>LOCATION</b>	Generally north of Irlo Bronson Memorial Highway and 1,000 feet east of the East Orange Lake Boulevard intersection
<b>REQUEST</b>	A PD Substantial Change to reduce the commercial entitlements from 250,000 square feet to 167,322 square feet; increase multi-family entitlements from 320 units to 695 units; and add multi-family as a permitted use on Parcel B. In addition, the applicant has requested the following waivers from Orange County Code:

**Chapter 38:**

1. A waiver from Section 38-1251(b) is requested to allow a maximum building coverage of all buildings up to thirty five percent (35%) for residential portions of the project in lieu of thirty percent (30%).

***Applicant Justification:*** This property is located in a mixed-use development surrounded by commercial uses.

2. A waiver from Section 38-1251(d) is requested to allow multi-family buildings within residential portions of the project, a maximum height of seventy-five (75) feet / five (5) stories in lieu of a maximum height of 35 feet.

***Applicant Justification:*** This property is located in a mixed-use development is intended to be integrated into the overall PD and surrounded by commercial uses.

3. A waiver from Section 38-1254 (1) to allow no increase in the twenty-five-foot (25') PD boundary building setback for structures in excess of two (2) stories for residential portions of the project in lieu of increase to reflect additional structural height.

***Applicant Justification:*** *This property is located in a mixed-use development surrounded by commercial uses.*

4. A waiver is requested from Section 38-1272 (3), to allow all building setbacks reduced to zero (0) feet between internal parcels of the PD in lieu of a 10' side and rear setback for commercial abutting commercial and a 25' setback for commercial abutting residential.

***Applicant Justification:*** *This waiver will allow for the utilization of shared driveways and promote inter-access passage between lots, as well as limit the total impervious area of the project. No harm or undesirable effects will occur to the neighboring properties or general public because of this waiver.*

#### **PUBLIC NOTIFICATION**

A notification area extending beyond one thousand five hundred (1500) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Twenty five (25) notices were mailed to those property owners in the notification buffer area.

#### **IMPACT ANALYSIS**

##### **Overview**

The Waterstar Orlando PD was approved April 21, 2020, for a mixed use, commercial and residential development, with waivers from Orange County Code to reduce buffers, reduce internal building and paving setbacks, increase building height, increase impervious coverage, allow recreation areas to be on a separate parcel from the multi-family parcel, and to reduce parking.

The existing development program for the Waterstar Orlando PD is as follows:

<b>Approved Development Program</b>			
<b>Parcel</b>	<b>Commercial</b>	<b>Hotel</b>	<b>Residential</b>
<b>A</b>	0 SF	0 units	320 units
<b>B</b>	250,000 SF	250 units	0 units
<b>Total</b>	250,000 SF	250 units	320 units

Through this PD Change Determination Request, the applicant is seeking to reduce the commercial entitlements, and add residential units on Parcel B. Additionally, the applicant is requesting four waivers, related to building coverage, setbacks, height, and internal paving setbacks. Similar waivers were previously approved, but are now revised and requested again as result of the proposed residential uses on Parcel B.

The proposed development program is as follows:

Approved Development Program			
Parcel	Commercial	Hotel	Residential
A	0 SF	0 units	320 units
B	167,322 SF	250 units	375 units
Total	167,322 SF	250 units	695 units

**Land Use Compatibility**

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

**Comprehensive Plan (CP) Amendment**

The subject property has an underlying Future Land Use Map (FLUM) designation of Planned Development – Commercial/Medium-High Density Residential (PD-C/MHDR). The Waterstar PD was approved April 21, 2020 and includes uses such as Commercial, Hotel, and Multi-Family Residential. The proposed Change Determination Request (CDR) is consistent with the designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

**Community Meeting Summary**

A community meeting was not required for this application.

**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 not located within an Overlay District.

**Environmental**

Conservation Area Determination CAD-19-05-176 was issued August 6, 2019, and expires August 6, 2024. Conservation Area Impact Permit CAI-19-08-047, authorizing impacts to 4.1 acres of onsite Class III wetlands and .20 acre of offsite Class III wetlands, was issued February 12, 2020, and expires February 12, 2025.

**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.

Based on the Concurrency Management database (CMS) dated March 11, 2021, there are multiple failing roadway segments within the project's impact area along Avalon Road from U.S. 192 to Seidel Road (4 segments).

#### **Schools**

Per the April 12, 2021 School Capacity Determination issued by OCPS for Application OC-21-010, capacity is expected to be available at the elementary, middle, and high schools that will serve the development.

#### **Parks**

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 14, 2021)**

**Make a finding of consistency with the Comprehensive Plan (CP) and approve the PD Substantial Change to the Waterstar Orlando Planned Development / Land Use Plan (PD/LUP) dated "Received July 29, 2021", subject to the following conditions, including four waivers from Orange County Code:**

1. Development shall conform to the Waterstar Orlando Land Use Plan (LUP) dated "Received July 29, 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 July 29, 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 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 (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.

7. The multi-family residential entitlements shall not be co-mingled with commercial entitlements. Short term / transient rental is prohibited within the area designated on the PD as multi-family residential and length of stay shall be for 180 consecutive days or greater. Within the area designated on the PD as commercial short-term rental, length of stay shall not exceed 179 consecutive days.
8. The following waivers from Orange County Code are granted:
  - a. A waiver from Section 38-1251(b) is requested to allow a maximum building coverage of all buildings up to thirty five percent (35%) for residential portions of the project in lieu of thirty percent (30%).
  - b. A waiver from Section 38-1251(d) is requested to allow multi-family buildings within residential portions of the project, a maximum height of seventy-five (75) feet / five (5) stories in lieu of a maximum height of 35 feet.
  - c. A waiver from Section 38-1254 (1) to allow no increase in the twenty-five-foot (25') PD boundary building setback for structures in excess of two (2) stories for residential portions of the project in lieu of increase to reflect additional structural height.
  - d. A waiver is requested from Section 38-1272 (3), to allow all building setbacks reduced to zero (0) feet between internal parcels of the PD in lieu of a 10' side and rear setback for commercial abutting commercial and a 25' setback for commercial abutting residential.
9. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated April 21, 2020 shall apply:
  - a. 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).
  - b. 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.
  - c. 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.

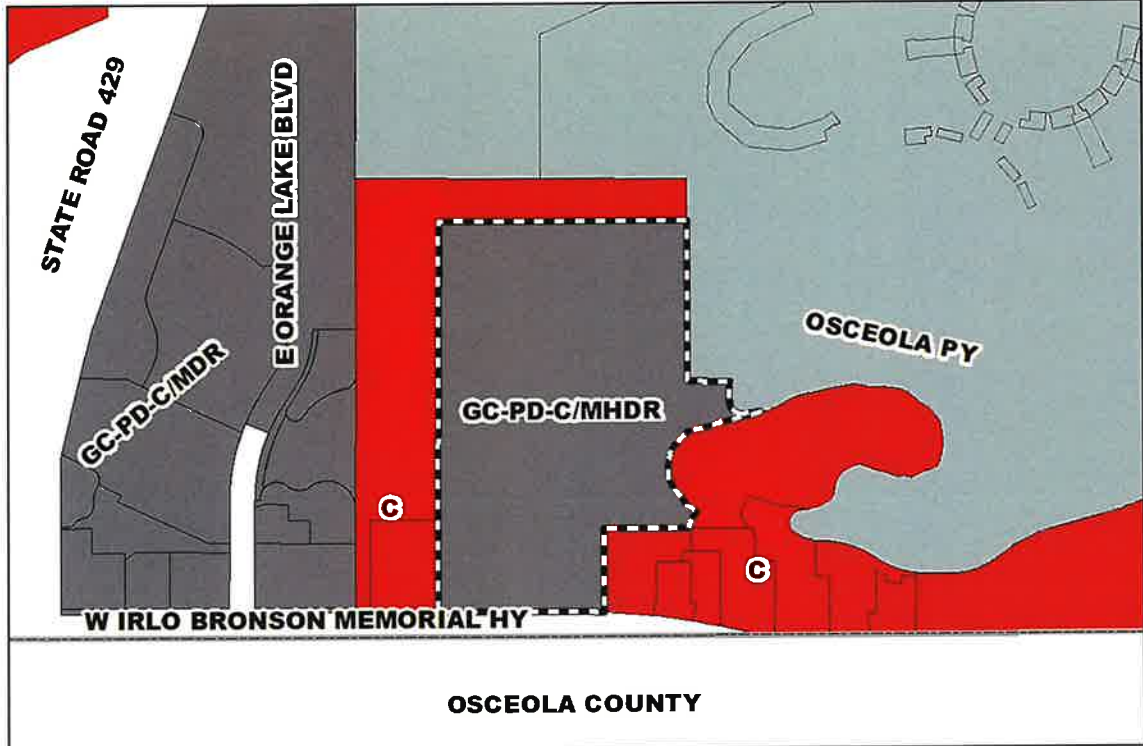


- d. For the portions of the PD that are located within Orange County Utilities service areas, Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP). MUP updates shall be submitted to Orange County Utilities at least thirty (30) days prior to the corresponding construction plan submittal. The updated MUP must be approved prior to construction plan approval for the portions of the PD that are located within Orange County Utilities service areas.
- e. 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.
- f. Pole signs and billboards shall be prohibited. All other signage shall comply with Chapter 31.5, unless otherwise approved by the BCC.
- g. Outside sales, storage, and display shall be prohibited.
- h. Short term/transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater within Parcel A.
- i. The following waivers from Orange County Code are granted
  - i. A waiver is requested from Section 24-4(a)(2), to allow all landscape buffer widths reduced to zero (0) feet between internal parcels of the PD in lieu of a 7' wide landscape buffer for Parcels A and B.
  - ii. A waiver from Section 24-5(a)(3) to allow for no buffer between internal uses within the PD in lieu of the requirement for a Type C, opaque buffer.
  - iii. A waiver from Section 38-1253 to allow all of the Parcel B plaza adjacent to Parcel A to be used as a portion of the required Active and Passive recreation facilities for Parcel A in lieu of being located solely on the Multi-Family Parcel A.
  - iv. A waiver from Section 38-1258(j) to allow no increase in building separation for Parcel A in lieu of proportional increase due to increased structural height and allow minimum setbacks between three (3) story buildings be twenty feet (20') for Parcel A in lieu of forty feet (40').
  - v. A waiver from Section 38-1272 (a)(1) to allow eighty (80) percent impervious coverage for Parcel B in lieu of seventy (70) percent.
  - vi. A waiver is requested from Section 38-1476 (A) to allow for multi-family parking at a ratio of one and six-tenths (1.6) spaces per multi-family unit regardless of bedroom count, in lieu of one and one-half (1.5) spaces for efficiencies and one-bedroom units and two (2) spaces for two (2) and three (3) bedroom units

**PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (April 21, 2020):**

Upon a motion by Commissioner VanderLey, seconded by Commissioner Uribe, and carried by all present members voting AYE by voice vote, the Board approved the request by Waterstar Orlando LLC, for the rezoning request from PD (Black Lake Parcel PD), PD (Imported Gifts PD), and PD (Samuel Grimes PD) to PD in order to create the Waterstar Orlando PD with a development program consisting of 250,000 square feet of commercial uses, 250 hotel rooms, and 320 multi-family dwelling units, subject to the eighteen (18) conditions.

CDR-20-03-075



Subject Property



Subject Property

### Future Land Use Map

**FLUM:** Growth Center-Planned Development  
-Commercial/Medium High Density  
Residential

**APPLICANT:** Jonathan Martin, Kimley-Horn  
& Associates

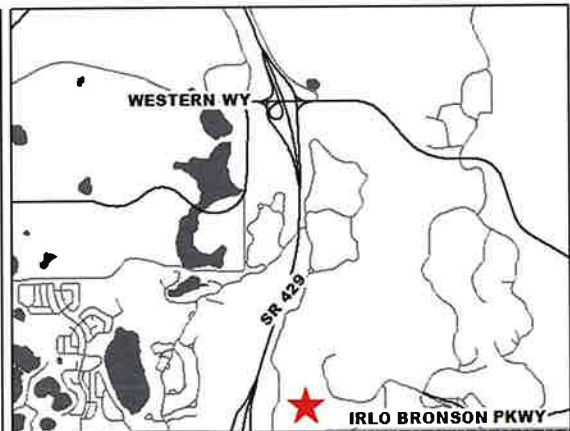
**LOCATION:** Generally north of Irlo Bronson Memorial  
Highway and 1,000 feet east of the East  
Orange Lake Boulevard intersection

**TRACT SIZE:** 33.63 gross acres

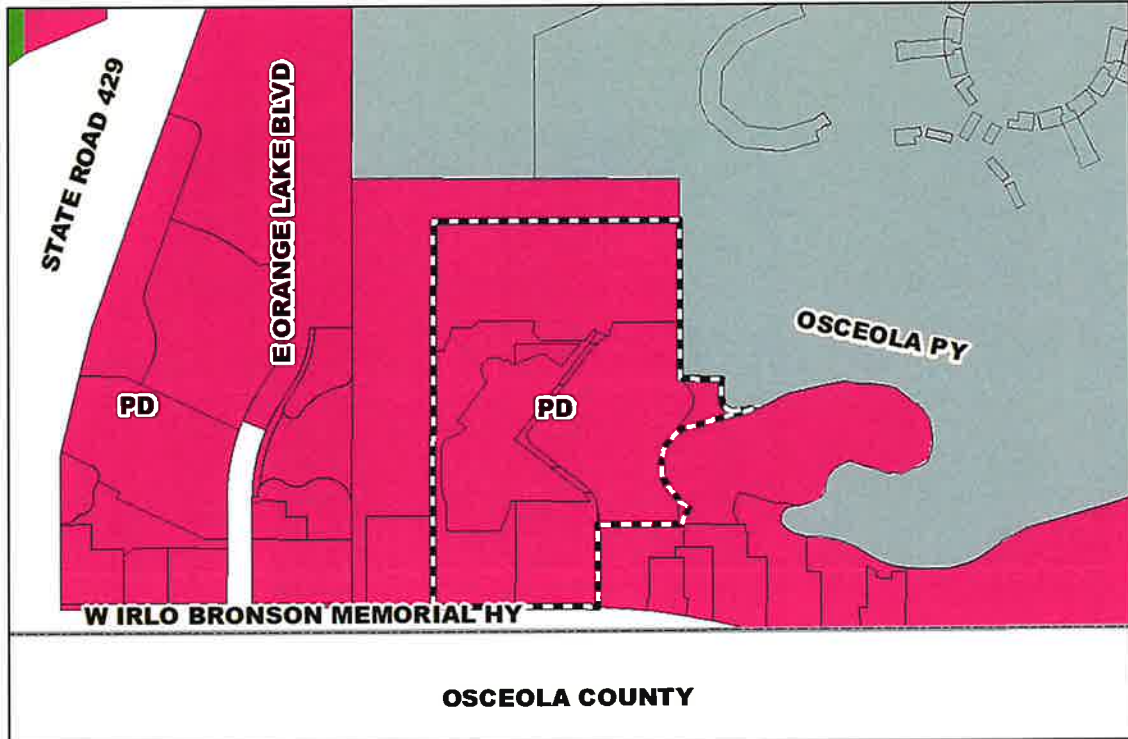
**DISTRICT:** # 1

**S/T/R:** 33/24/27

1 inch = 583 feet



CDR-20-03-075



 Subject Property



 Subject Property

### Zoning Map

**ZONING:** Planned Development

**APPLICANT:** Jonathan Martin, Kimley-Horn  
& Associates

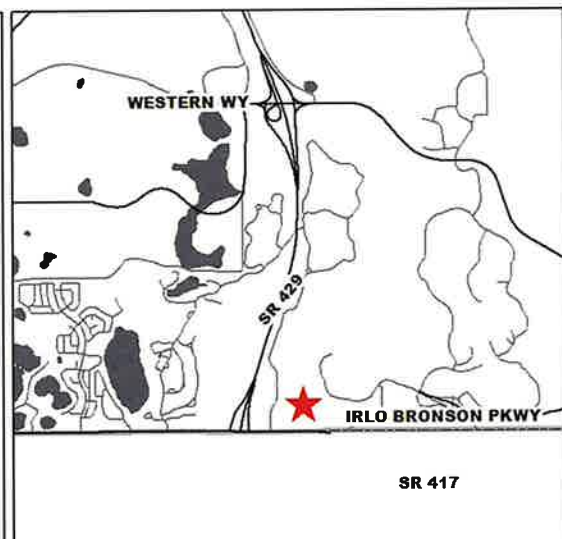
**LOCATION:** Generally north of Irlo Bronson Memorial  
Highway and 1,000 feet east of the East  
Orange Lake Boulevard intersection

**TRACT SIZE:** 33.63 gross acres

**DISTRICT:** # 1

**S/T/R:** 33/24/27

1 inch = 583 feet





CDR-21-03-075



 Subject Property



1 inch = 750 feet



# Waterstar Orlando PD / LUP (Cover Sheet)

**LAND USE PLAN**

**WATERSTAR ORLANDO PD**

CDR-21-03-075

Orange County, Florida

MAY 6, 2021

**PARCEL ID'S:**

33-24-27-0000-00-006, 33-24-27-1000-01-001,  
33-24-27-0000-00-010, 33-24-27-1000-00-011,  
33-24-27-0000-00-012 & 33-24-27-0000-00-024,  
33-24-27-0000-00-25

**PROJECT LOCATION**

**VICINITY MAP**

**PROJECT TEAM**

**OWNER/DEVELOPER:**  
WATERSTAR ORLANDO PD  
10000 W. BOULEVARD AVE, SUITE 110  
ORLANDO, FL 32837  
PHONE: (407) 361-1111  
FAX: (407) 361-1111  
EMAIL: info@waterstarorlando.com

**CONSULTING ENGINEER:**  
KIMLEY-HORN AND ASSOCIATES, INC.  
10000 W. BOULEVARD AVE, SUITE 110  
ORLANDO, FL 32837  
PHONE: (407) 361-1111  
FAX: (407) 361-1111  
EMAIL: info@kimley-horn.com

**PD CHANGE DETERMINATION REQUEST**

**PARCEL B DEVELOPMENT PROGRAM TO 167,322 SQUARE FEET COMMERCIAL, 375 MULTI-FAMILY RESIDENTIAL UNITS AND 250 HOTEL ROOMS TO BE CONSISTENT WITH THE PROPOSED FLUM.**

**PD NARRATIVE**

1. The Waterstar Orlando PD is all parcels of a group of parcels located in the City of Orlando, Florida, within the Orange County Planning Division's jurisdiction. The PD is currently in the process of being updated to reflect the proposed development program. The PD is currently in the process of being updated to reflect the proposed development program. The PD is currently in the process of being updated to reflect the proposed development program.

**LEGAL DESCRIPTION**

The legal description of the property is as follows: [Detailed legal description of the property, including references to the Orange County Public Deeds and the City of Orlando's jurisdiction.]

**PD CHANGE DETERMINATION REQUEST**

**PARCEL B DEVELOPMENT PROGRAM TO 167,322 SQUARE FEET COMMERCIAL, 375 MULTI-FAMILY RESIDENTIAL UNITS AND 250 HOTEL ROOMS TO BE CONSISTENT WITH THE PROPOSED FLUM.**

**WAIVERS FROM ORANGE COUNTY CODE**

1. The City of Orlando, Florida, is hereby waiving the following provisions of the Orange County Code, Chapter 15, which are applicable to the proposed development program: [List of waived provisions]

2. The City of Orlando, Florida, is hereby waiving the following provisions of the Orange County Code, Chapter 15, which are applicable to the proposed development program: [List of waived provisions]

3. The City of Orlando, Florida, is hereby waiving the following provisions of the Orange County Code, Chapter 15, which are applicable to the proposed development program: [List of waived provisions]

4. The City of Orlando, Florida, is hereby waiving the following provisions of the Orange County Code, Chapter 15, which are applicable to the proposed development program: [List of waived provisions]

5. The City of Orlando, Florida, is hereby waiving the following provisions of the Orange County Code, Chapter 15, which are applicable to the proposed development program: [List of waived provisions]

6. The City of Orlando, Florida, is hereby waiving the following provisions of the Orange County Code, Chapter 15, which are applicable to the proposed development program: [List of waived provisions]

7. The City of Orlando, Florida, is hereby waiving the following provisions of the Orange County Code, Chapter 15, which are applicable to the proposed development program: [List of waived provisions]

8. The City of Orlando, Florida, is hereby waiving the following provisions of the Orange County Code, Chapter 15, which are applicable to the proposed development program: [List of waived provisions]

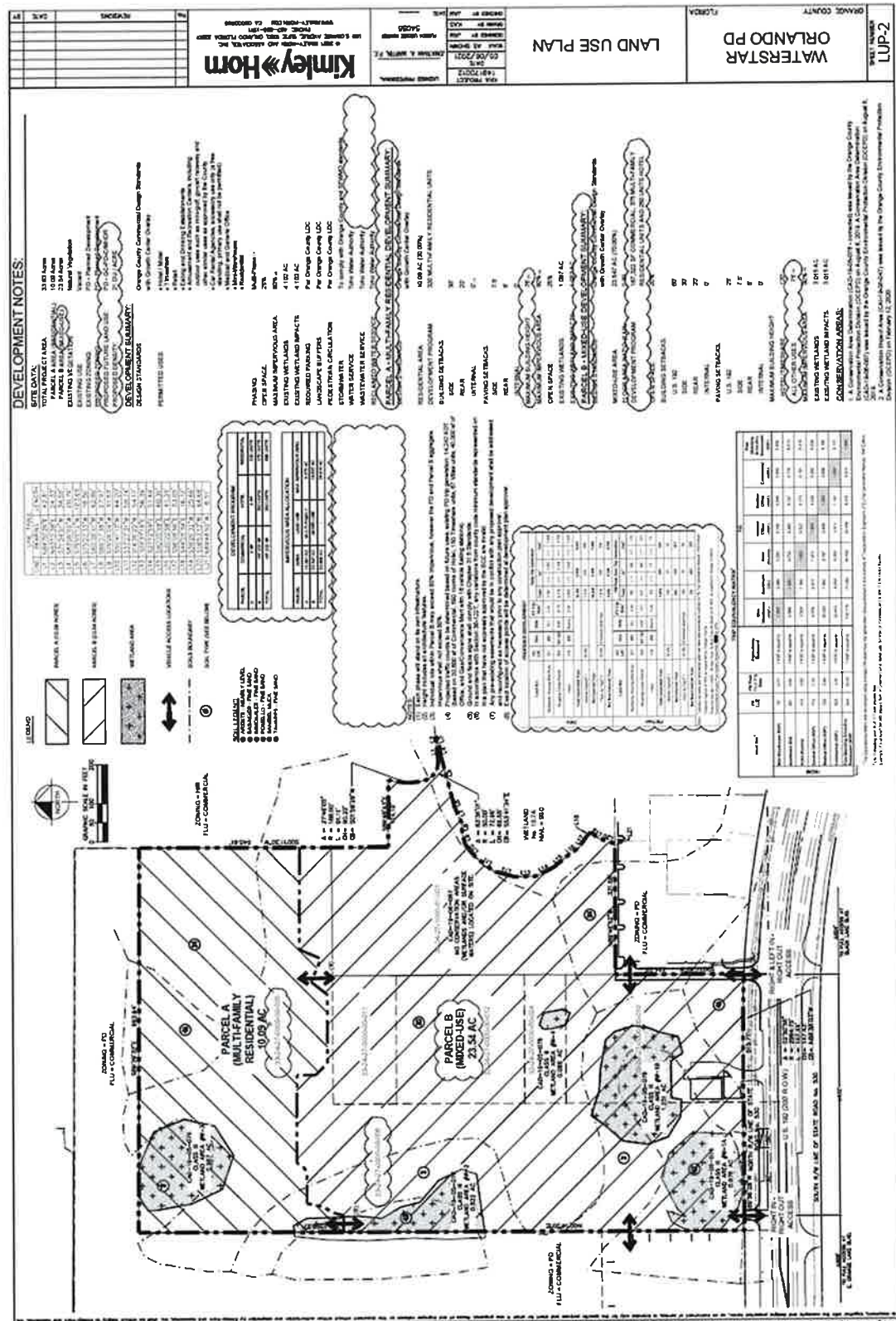
9. The City of Orlando, Florida, is hereby waiving the following provisions of the Orange County Code, Chapter 15, which are applicable to the proposed development program: [List of waived provisions]

10. The City of Orlando, Florida, is hereby waiving the following provisions of the Orange County Code, Chapter 15, which are applicable to the proposed development program: [List of waived provisions]

**Kimley-Horn**

CONSULTING ENGINEER

10000 W. BOULEVARD AVE, SUITE 110  
ORLANDO, FL 32837  
PHONE: (407) 361-1111  
FAX: (407) 361-1111  
EMAIL: info@kimley-horn.com



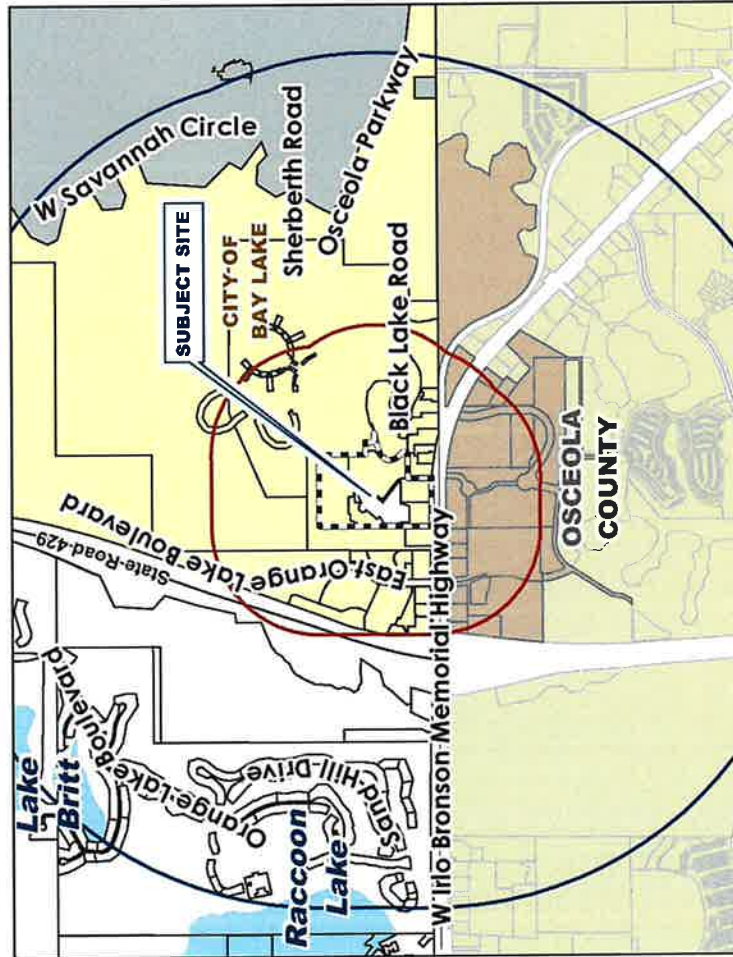


## Notification Map

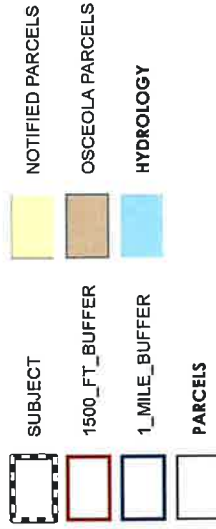


# Public Notification Map

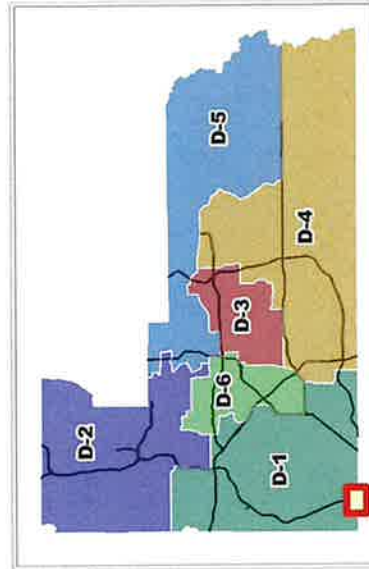
Waterstar\_CDR-21-03-075



### MAP LEGEND



BUFFER DISTANCE: 1500  
# OF NOTICES: 25



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