Interoffice Memorandum



DATE: October 14, 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: October 26, 2021 – Public Hearing

Applicant: Robert Paymayesh, PE Group, LLC

Ten Acres International Orlando Planned Development

Case # LUPA-21-03-110 / District 1 (Related to Case #DO-21-04-125)

The Ten Acres International Orlando Planned Development (PD) is generally located south of State Road 536 and east of Interstate 4. The applicant is seeking rezone a portion of one parcel containing 19.23 gross acres from PD (World Gateway PD) to PD (Ten Acres International Orlando PD), in order to transfer the acreage and associated 372 hotel room entitlements from the World Gateway PD into the Ten Acres International Orlando PD. The request also includes two waivers from Orange County Code related to setbacks.

On August 25, 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 Ten Acres International Orlando Planned Development / Land Use Plan (PD/LUP) dated "Received August 27, 2021", subject to the conditions listed under the DRC Recommendation in the

Staff Report. District 1

Attachments JVW/EPR/nsw

DRC Recommendation Staff Report Commission District: # 1

GENERAL INFORMATION

APPLICANT Robert Paymayesh, PE Group, LLC

OWNERS GCB Associates, LLC (parcel to be aggregated)

World Gateway Investments, Inc. (existing PD)

PROJECT NAME Ten Acres International Orlando Planned Development

(PD)

HEARING TYPE Planned Development / Land Use Plan (PD / LUP)

REQUEST PD (Planned Development District) to PD (Planned Development District)

A request to rezone a portion of one parcel containing 19.23 gross acres from PD to PD, in order to transfer the acreage and associated 372 hotel room entitlements from the World Gateway PD into the Ten Acres International Orlando PD. The request also includes the following waivers from Orange County Code:

1. A waiver from Section 38-1272(a)(3)(b) to allow a minimum thirty-five (35) foot arterial road setback adjacent to International Drive, in lieu of a forty (40) foot arterial road setback.

Applicant Justification: This request applies only to the front setback from International Drive. The justification stems from the current PD zoning for World Gateway having the 20' as do all the lands on both sides of International Drive for over 10,500 feet, thereby giving a competitive advantage to surrounding properties.

2. A waiver from Section 38-1287(2) to allow the minimum side setback from the property line to be twenty-five (25) feet, in lieu of thirty (30) feet.

Applicant Justification: This 30' side setback comes from a code section for internal lots within a PD, which is greater than the required 25' PD perimeter setback.

Generally located south of State Road 536 and east of Interstate 4

LOCATION

PARCEL ID NUMBERS 33-24-28-0000-00-007 (portion of) (to be aggregated)

33-23-28-5844-00-810 (existing PD)

TRACT SIZE 19.23 gross acres (to be aggregated)

10.03 (existing PD) 29.26 (proposed PD)

PUBLIC NOTIFICATION The notification area for this public hearing extended beyond

1,000 feet [Chapter 30-40(c)(3)(a) of Orange County Code requires 300 feet]. Two hundred twenty-eight (228) notices were mailed to those property owners in the mailing area. A

community meeting was not required for this request.

PROPOSED USE 850 hotel rooms (proposed PD)

STAFF RECOMMENDATION

Development Review Committee – (August 25, 2021)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Ten Acres International Orlando Planned Development / Land Use Plan (PD/LUP), dated "Received August 27, 2021", subject to the following conditions:

- Development shall conform to the Ten Acres International Orlando PD Land Use 1. Plan Amendment (LUPA) dated "Received August 27, 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 August 27, 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.

- Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit, or any other development order, if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
- 4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this land use plan to promptly disclose to the County any changes in ownership, encumbrances, or other matters of record affecting the property that is subject to the plan, and to resolve any issues that may be identified by the County as a result of any such changes. Developer / Applicant acknowledges and understands that any such changes are solely the Developer's / Applicant's obligation and responsibility to disclose and resolve, and that the Developer's / Applicant's failure to disclose and resolve any such changes to the satisfaction of the County may result in the County not issuing (or delaying issuance of) development permits, not recording (or delaying recording of) a plat for the property, or both.
- 5. Property that is required to be dedicated or otherwise conveyed to Orange County (by plat or other means) shall be free and clear of all encumbrances, except as may be acceptable to County and consistent with the anticipated use. Owner / Developer shall provide, at no cost to County, any and all easements required for approval of a project or necessary for relocation of existing easements, including any existing facilities, and shall be responsible for the full costs of any such relocation prior to Orange County's acceptance of the conveyance. Any encumbrances that are discovered after approval of a PD Land Use Plan shall be the responsibility of Owner / Developer to release and relocate, at no cost to County, prior to County's acceptance of conveyance. As part of the review process for construction plan approval(s), any required off-site easements identified by County must be conveyed to County prior to any such approval, or at a later date as determined by County. Any failure to comply with this condition may result in the withholding of development permits and plat approval(s).

- 6. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a capacity encumbrance letter prior to construction plan submittal and must apply for and obtain a capacity reservation certificate prior to approval of the plat. Nothing in this condition, and nothing in the decision to approve this land use plan shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a capacity encumbrance letter or a capacity reservation certificate.
- 7. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
- 8. 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. 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 MUP and updates must be approved prior to Construction Plan approval.
- 9. Wetland Conservation Areas shall be designated as tracts with development rights dedicated to the County at the time of platting. Ownership shall remain with the Developer or the property owners association. Upland buffer areas shall be encumbered by a conservation easement and may be included within individual parcels in accordance with Condition #15.
- 10. Buffer areas of native upland vegetation within Parcel 2 of the Ten Acres International PD shall be retained around all regionally significant wetlands as more particularly described in Exhibit A of that certain Deed of Conservation Easement recorded at OR BK 5756, PG 1323, Public Records of Orange County, Florida. Upland buffers between on-site wetlands/marshes/lakes and any type of development or land alteration shall be delineated with temporary construction fencing prior to construction to allow these areas to be maintained with existing native vegetation. Use of these buffers shall be limited to nature trails and other passive recreation. Components of the stormwater management system with these buffers are limited to ten percent (10%) of the perimeter of each wetland. The use of pesticides, herbicides, or fertilizers shall be prohibited in these buffers and the existing wetlands they protect.
- 11. 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). Site development related activities shall not result in the harming, pursuit, or harassment of wildlife species classified as endangered, threatened, or a species of special concern by either the state or federal government in contravention of applicable state or federal laws. Should such species be determined to be residing on, or be otherwise significantly dependent on, the project site, the Developer shall cease all activities which might negatively affect that individual or population and immediately notify the Florida Game and Freshwater Fish Commission ("FGFWFC"), the United States Fish and Wildlife Service ("USFWS"), and Orange County. Proper protection and habitat management, to the satisfaction of all agencies, shall be provided by the

<u>Developer. "Harming" and "harassment" as used in this condition shall be defined in the same manner as "harm" and "harass," respectively, are defined in 50 CFR Section 17.3.</u>

- 12. To minimize dependence on ground irrigation and to promote retention of wildlife habitat, xeriscape principles landscaping (see xeriscape plant guide published by the South Florida Water Management District) shall be utilized to the maximum extent possible. Ecologically viable portions of natural upland plant communities should be preserved and maintained in their original state to the greatest extent practical and shall not be irrigated. Reuse water, if available, should be used in concert with xeriscaping techniques so that the reuse water will be more widely available.
- 13. Proposed wetland impacts shall require approval by the applicable permitting agencies, as appropriate according to their jurisdiction, and shall meet Orange County, South Florida Water Management District, U.S. Army Corps of Engineers, and Florida Department of Environmental Regulation criteria in effect at the time of permit application.
- 14. Unavoidable losses of viable wetlands shall be mitigated through restoration of wetlands, creation of wetlands, preservation of functional wetlands, or preservation of uplands contiguous to wetlands and in accordance with adopted rules and policies of Orange County, South Florida Water Management District, U.S. Army Corps of Engineers, and Florida Department of Environmental Regulation. Wetlands to be created or uplands to be retained as mitigation shall be located coterminously with one or more major habitat areas to be preserved so as to provide a continuity or expansion of natural habitat areas. Detention ponds, preservation of viable on-site wetlands, lakes, or open water areas shall not be acceptable in part as mitigation. However, littoral zone plantings created around detention ponds and lakes may be acceptable as part of mitigation. The approved site plan shall include a full description, including maps, of the manner in which this condition will be addressed along with a monitoring program and schedule. In addition to the aforementioned forms of mitigation, payment into an established mitigation bank shall also be acceptable if any such bank has been created and approved by the applicable governmental agencies having jurisdiction over wetlands.
- 15. The on-site wetlands systems, upland buffers, other conservation tracts, and mitigation areas shall be regarded as preservation areas for the purpose of protecting their natural attributes and shall have their development uses restricted by conservation easement that is conveyed to the South Florida Water Management District, Orange County, or other agency acceptable to the ECFRPC and Orange County.
- 16. All of the site's retained wetlands to the greatest extent practicable shall be integrated with the stormwater management system, where appropriate to maintain or restore natural hydroperiods in the wetlands.
- 17. The following minimum distances to adjacent wetland areas shall be adhered to in project design and construction:

Stormwater wet detention ponds/flowways = no closer than 200 feet, and

Roadways with underdrains = no closer than 50 feet, unless one or more of the following conditions are met:

- a. Adverse impacts on affected wetland vegetative communities from excessive drying out in part to lateral subsurface seepage from the wetland area(s) into the pond(s) during drought or low water periods have been determined not to be an applicable issue of concern by the South Florida Water Management District and Orange County; or
- b. The SFWMD and Orange County accept tests, calculations, or other information furnished by the Developer through the permitting and project review processes which demonstrate that deviations from the 50 and 200 foot distances are appropriate; or
- c. The elevations of the bottoms of the stormwater wet/detention lakes/ponds, flowways or roadway underdrains are higher than the ordinary low water elevation in each potentially impacted wetland.
- 18. Any shoreline banks created along on-site stormwater wet detention lakes greater than five (5) acres in area shall include littoral zones constructed on slopes no steeper than a 5:1 horizontal to vertical ratio and shall be planted in, or allowed to be colonized by, native emergent and submergent vegetation, excluding cattails. Colonization by cattails shall not exceed ten percent (10%) of the surface area. The Developer shall ensure, by replanting if necessary, that at least 80 percent (80%) cover by native aquatic vegetation is established within the littoral zone (to include at minimum the area between ordinary high water and ordinary low water) for the duration of the project.
- 19. Any structure sixty (60) feet or less in height shall maintain a minimum thirty-five (35) foot setback from International Drive right-of-way. Any structure greater than sixty (60) feet, but no taller than three hundred (300) feet in height, shall maintain a minimum forty-five (45) foot setback from International Drive right-of-way.
- 20. The following waivers from Orange County Code are granted:
 - A waiver from Section 38-1272(a)(3)(b) to allow a minimum thirty-five (35) foot arterial road setback adjacent to International Drive, in lieu of a forty (40) foot arterial road setback.
 - b. A waiver from Section 38-1287(2) to allow the minimum side setback from the property line to be twenty-five (25) feet, in lieu of thirty (30) feet.
- 21. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated November 29, 2011 shall apply:

- a. A waiver from Section 38-1300 is granted to allow for a maximum building height of 300 feet in lieu of 200 feet for hotel or timeshare uses only. The Tourist Commercial uses shall have a maximum of 60 feet.
- b. The total amount of parking stalls provided shall not exceed 110% of the minimum required per Orange County Code.
- c. All acreages regarding 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. Outdoor sales, storage, and display shall be prohibited.
- e. Billboards and pole signs shall be prohibited. <u>All other signage</u> shall comply with Chapter 31.5.
- f. Tree removal/Earthwork shall not occur unless and until construction plans for the first Preliminary Subdivision and/or Development Plan with a tree removal and mitigation plan have been approved by Orange County.

IMPACT ANALYSIS

Land Use Compatibility

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

Comprehensive Plan (CP) Consistency

The subject property has an underlying Future Land Use Map (FLUM) designation of Activity Center Mixed Use (ACMU) which allows for a maximum residential density of thirty (30) dwelling unit per one (1) net developable acre, a maximum hotel density of sixty (60) dwelling unit per one (1) net developable acre, and a maximum commercial Floor Area Ratio (FAR) intensity of 3.0. 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 polices 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	Und	Undeveloped Land		
Adjacent Zoning	N:	PD (Planned Development District) (1983) (World Gateway PD)		
	E:	PD (Planned Development District) (1983) (World Gateway PD)		
	W:	PD (Planned Development District) (1983) (World Gateway PD)		
	S:	PD (Planned Development District) (1983) (World Gateway PD)		
Adjacent Land Uses	N:	Undeveloped Land		
	E:	Undeveloped Land		
	W:	Undeveloped Land		

S: Undeveloped Land

APPLICABLE PD DEVELOPMENT STANDARDS

PD Perimeter Setback: 25 feet

35 feet (International Drive) (See Waiver Request 1)

Maximum Building Height: 300 feet (Hotel Use Only)

60 feet (All Other Uses)

Minimum Building Setbacks

Front Setback: 35 feet Rear Setback: 25 feet

Side Setback: 25 feet (See Waiver Request 2)

SPECIAL INFORMATION

Subject Property Analysis

The applicant is seeking to rezone the subject parcels from PD (Planned Development District) to PD (Planned Development District) in order to transfer the acreage and associated 372 hotel room entitlements from the World Gateway PD into the Ten Acres International Orlando PD. The applicant is also seeking approval of two (2) waivers from Orange County Code to reduce setbacks.

Comprehensive Plan (CP) Amendment

The property has an underlying Future Land Use Map (FLUM) designation Activity Center Mixed Use (ACMU). The proposed use is consistent with this designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

	Yes	No	Information
Rural Settlement		\boxtimes	
Joint Planning Area (JPA)		\boxtimes	
Overlay District Ordinance	\boxtimes		The subject property is located within the Tourist Commercial Signage Overlay District.
Airport Noise Zone		\boxtimes	
Code Enforcement		\boxtimes	

Environmental

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

Transportation Planning

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 April 15, 2021, there is roadway capacity available within the project's impact area. This information is dated and subject to change.

There are possible transportation concurrency entitlements for this project under TCVRC-06-037. Prior discussion with the Concurrency Management Attorney is strongly advised. Vested entitlements stay with the land. Any change to the vested parcels may result in losing vested rights entitlements. Furthermore, this vested rights certificate had a total of 70,377 vested trips. Applicant will be required to submit proof that the 70,377 vested trips have not been exceeded. A Transportation Capacity Analysis will also be required. Otherwise, please plan on obtaining a Capacity Encumbrance Letter (CEL) application to obtain transportation concurrency entitlements.

Water / Wastewater / Reclaim

Existing service or provider

Water: Orange County Utilities

Wastewater: Orange County Utilities

Reclaimed: Orange County Utilities

Schools

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

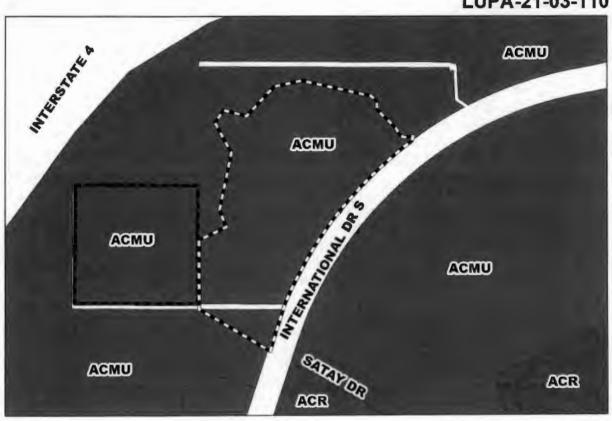
Parks and Recreation

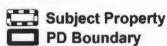
Orange County Parks and Recreation staff reviewed the Land Use Plan Amendment but did not identify any issues or concerns.

Specific Project Expenditure Report and Relationship Disclosure Forms

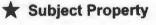
The original Specific Project Expenditure Report and Relationship Disclosure Form are currently on file with the Planning Division.

LUPA-21-03-110









Future Land Use Map

FLUM: Activity Center Mixed Use (ACMU)

APPLICANT: Robert Paymayesh, PE Group, LLC

LOCATION: Generally located south of State

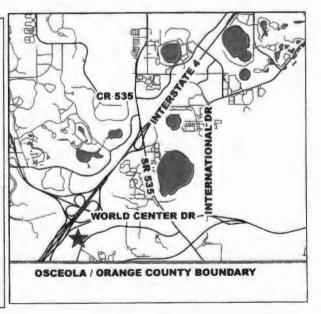
Road 536 and west of Interstate 4.

TRACT SIZE: 19.23 gross acres

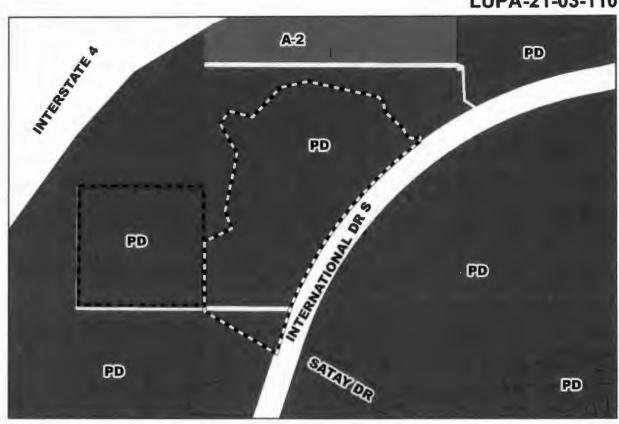
DISTRICT: #1

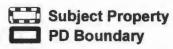
S/T/R: 33/24/28

1 inch = 425 feet



LUPA-21-03-110







★ Subject Property

Zoning Map

ZONING: PD (Planned Development District)

APPLICANT: Robert Paymayesh, PE Group, LLC

LOCATION: Generally located south of State

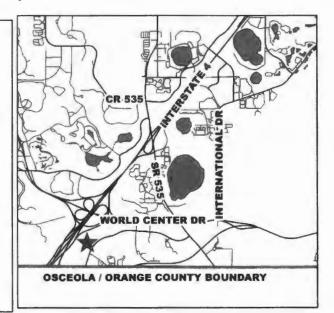
Road 536 and west of Interstate 4.

TRACT SiZE: 19.23 gross acres

DISTRICT: #1

S/T/R: 33/24/28

1 inch = 425 feet



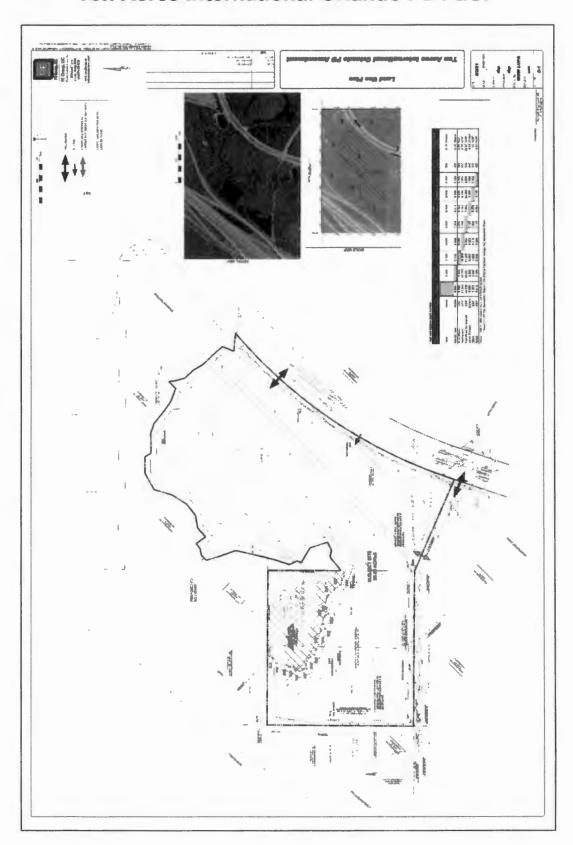
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BCC

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Ten Acres International Orlando PD / LUP



Notification Map

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