

# Star Communications

Legislative Appeal of GMP2015-00031 and

ANX2015-00015

Quasi-Judicial Appeal of ZON2015-00028

(QJ2015-006)

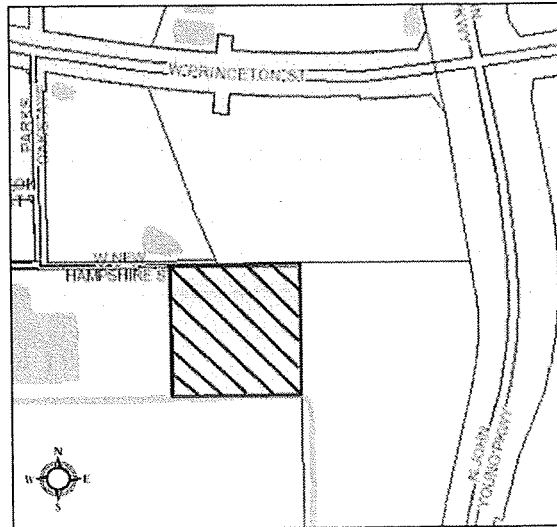
Presented by:

Dean Grandin Jr., AICP

March 14, 2016

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## Project Location



Located south of  
W. New  
Hampshire Street,  
east of Parks Oaks  
Avenue, and west  
of N. John Young  
Parkway.  
(approximately  
9.6 acres)

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## Requested Actions

The applicant has proposed the following.

1. Annex the property into the City of Orlando.
2. Assign the Industrial future land use designation.
3. Assign initial Zoning of I-P/W.

Due to residents' concerns, the initial zoning was altered by the MPB on October 20, 2015 to a proposed PD/W in order to restrict for the development on the site to only two communication towers.

## Legislative and QJ Appeal Parties

- Petitioner- Dr. Wanda Jones, resident of the surrounding area.
- Respondent/Applicant- Carl Tutera, Oates Creek, LLC.
- Respondent- Economic Development Department, City Planning Division, City of Orlando, Florida.

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## Legislative Appeal Process

- The GMP and ANX cases are the subject of a legislative appeal, which is being heard now. The ZON case has also been appealed through a separate quasi-judicial appeal process.
- Council Consideration of the GMP and ANX Appeals are governed by Section 2.179, Orlando City Code.
  - In this case, the two appellants and the applicant will each be given ten minutes to present the appeals and response.
- If the GMP and ANX legislative appeal is upheld, the cases will be denied and there will be no need to vote on the Recommended Order from the quasi-judicial appeal hearing for the zoning application.
- If the GMP and ANX legislative appeal is denied, the Recommended Order from the quasi-judicial case shall be voted upon separately, thereafter.

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## Quasi-Judicial Appeal Process

- The hearing took place on January 20, 2016.
- Hearing Officer Recommendation: Petition's request to overturn the MPB's recommended approval of the application in Case No. ZON2015-00028 be denied in its entirety, and the MPB's recommended approval of the application in Case No. ZON2015-00028 be approved.
- Council Consideration of the Recommended Order
  - Sec. 2.209, Orlando City Code:
    - No obligation to entertain further public comment
    - May ask questions of staff or the parties
    - No new evidence may be submitted
    - Council may not change findings of fact made by the Hearing Officer without stating reasons for such changes

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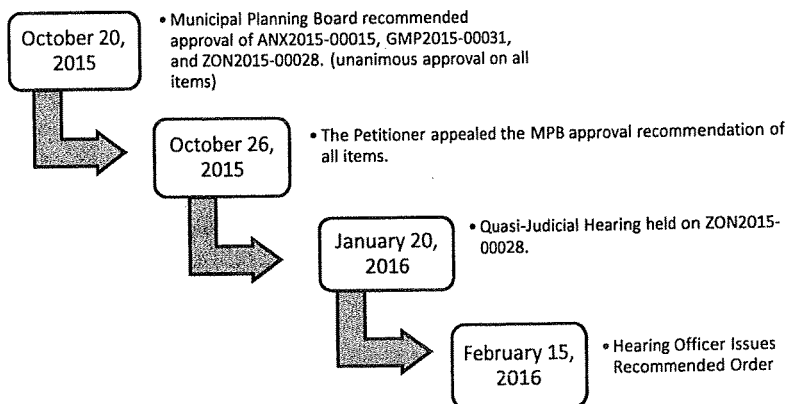
## Site History

- 2003 – Site acquired by Carl Tutera, now Oates Creek, LLC.
- Orange County Zoning of R-1A.
- Orange County Future Land Use Designation of Medium Density Residential.

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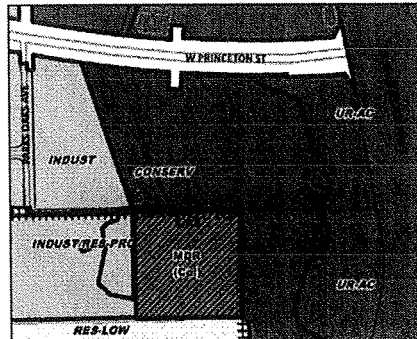
## Project History



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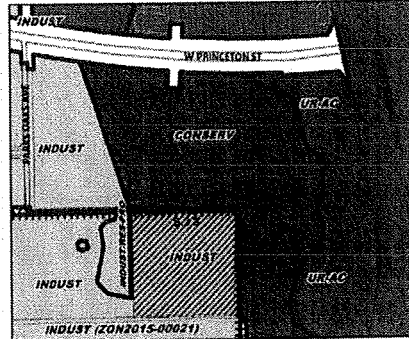
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## Future Land Use



Future Land Use - Existing GMP2015-00031

**Existing Future Land Use**  
 Medium Density Residential (County)

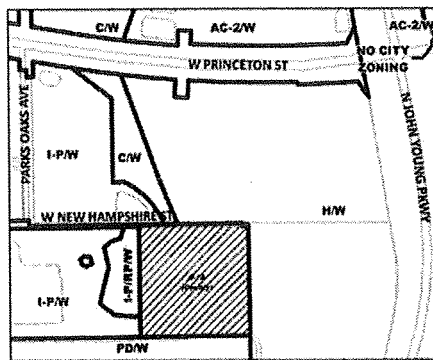


Future Land Use - Proposed GMP2015-00031

**Proposed Future Land Use**  
 Industrial (City)

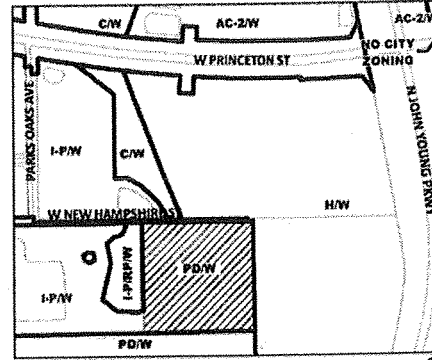
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## Zoning



Zoning - Existing ZON2015-00028

**Existing Zoning**  
 Single Family Dwelling  
 (R-1A)(County)



Zoning - Proposed ZON2015-00028

**Proposed Zoning**  
 Planned Development with the  
 Wekiva Overlay (PD/W) (City)

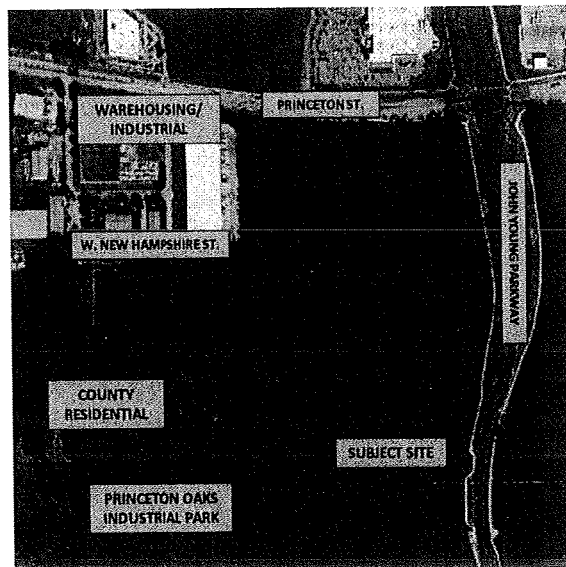
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## Future Land Use and Neighborhood Compatibility

1. The existing Future Land Use in Orange County is Medium Density Residential which would allow 192 dwelling units. Residential uses at this location would not be adjacent to any other residential property.
2. The proposed development program is compatible with the existing neighborhood. The property to the south has been approved for an industrial park and the property directly west of the subject site is vacant with a retention pond with the Industrial Future Land Use designation. Northwest of the subject site is currently used for warehousing and has a Future Land Use designation of Industrial.

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Aerial Photo

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## Summary of Public Comment to Date

- Comments were received at the MPB hearing on October 20, 2015.
- Major concerns raised have been:
  1. Communication towers radio frequency emissions that could harm wildlife and natural habitat
  2. Incompatibility with surrounding environment
  3. Traffic and construction noise

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## Consistency with the Growth Management Plan

- FLU Policy 1.1.1, In its consideration of land development applications and final development orders, the City shall protect viable and stable neighborhoods from uses not in keeping with their established character and use. The City's Land Development Regulations shall include standards which protect such neighborhoods from uses not in keeping with their established character and use, such as landscaping and buffering requirements, building height and bulk restrictions, and standards requiring setbacks and separation between uses.
- FLU Policy 1.7.2, GMP amendments, rezones and development proposals shall be reviewed for compatibility with existing uses and those of surrounding neighborhoods.

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## Consistency with the Growth Management Plan

- Conservation Policy 1.4.1, "The City of Orlando shall protect Environmentally Sensitive Lands within its jurisdiction... Specifically, all projects requiring Municipal Planning Board and City Council review within the City shall include an Environmental Assessment. This shall include annexation areas."
- Applicant provided preliminary environmental assessment for the quasi-judicial hearing on January 20, 2016.
- Level C Environmental Assessment due at the time of final site plan review.

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## Staff Findings and Recommendation for Legislative Appeal

- The proposed project is consistent with the surrounding character of the area.
- Some of the concerns raised by the public are issues that cannot be governed by the City including the potential effects of communication towers.
- Some of the concerns raised by the public are issues that should be addressed in the PD and not within the Future Land Use designation such as noise from traffic or construction.
- Therefore, staff recommends denial of the legislative appeal and approval of ANX2015-00028 and GMP2015-00031 subject to the conditions in the staff report and the addendums, consistent with the October 20, 2015 MPB recommendation.

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## Quasi-Judicial Conclusion of Law

- The Petitioner failed to produce the required competent substantial evidence necessary to justify overturning the MPB's approval of the applications, and failed to meet her burden of proof.
- Uncontroverted evidence and expert testimony showed the Owner's proposed plan results in substantially less intense development under the City's Planned Development District Designation than currently allowed.
- The MPB approvals are not in violation of any other local, state or federal act cited by Petitioner at the hearing or in the papers filed by the petitioner.
- The competent substantial evidence submitted by the Applicant and the City at the hearing demonstrates that applications are consistent with the State Comprehensive Plan, Chap. 187, Fla. Stat, the East Central Florida Strategic Regional Policy Plan, Part II, Chap. 163, Fa. Stat., the City's Growth Management Plan and the City's Land Development Code. Additionally, the Applicant and the City have established that the applications are consistent with the surrounding land use and development pattern.

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## Council Options for QJ Appeal

1. Adopt the Hearing Officer's Recommended Order.
2. Adopt the Hearing Officer's Recommended Order with changes.
3. Direct staff to return a revised Recommended Order to Council at a future Council meeting.

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