



## Interoffice Memorandum

August 3, 2023

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

FROM: J. Andres Salcedo, P.E., Acting Director  
Planning, Environmental, and Development  
Services Department

A handwritten signature in blue ink that reads "Andres".

**CONTACT PERSON: Joe Kunkel, P.E., DRC Chairman  
Development Review Committee  
Public Works Department  
(407) 836-7971**

SUBJECT: August 22, 2023 – Public Hearing  
Applicant: Joseph Kovecses, Lowndes Law Firm  
Buena Vista Commons Planned Development  
Case # CDR-23-02-070 / District 1

The Buena Vista Commons Planned Development (PD) is located West of S. Apopka Vineland Road, south of Daryl Carter Parkway, and north of Lake Street. The existing PD development program allows for 57,161 square feet of professional office uses, including church, restaurant (no drive-thru), child day care facility, community center, fitness center, and temple priest residence.

Through this PD substantial change, the applicant is seeking to add private school as a permitted use for building 4, Lot 1. The proposed school use will occupy an existing commercial building on the property.

On July 26, 2023, the Development Review Committee (DRC) recommended approval of the request, subject to conditions. A community meeting was required for this request and was held on July 19, 2023. Eighteen (18) area residents attended the meeting and expressed support for the proposed use.

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 Buena Vista Commons Planned Development / Land Use Plan (PD/LUP) dated “Received May 3, 2023”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1**

JAS/NT

Attachment

**CASE # CDR-23-02-070**

Commission District: # 1

**GENERAL INFORMATION**

<b>APPLICANT</b>	Joseph Kovecses, Lowndes Law Firm
<b>OWNER</b>	Buena Vista Commons LLC
<b>PROJECT NAME</b>	Buena Vista Commons Planned Development (PD)
<b>PARCEL ID NUMBER(S)</b>	15-24-28-1080-01-000
<b>TRACT SIZE</b>	8.52 gross acres (overall PD) 5.47 gross acres (affected area)
<b>LOCATION</b>	West of S. Apopka Vineland Road, south of Daryl Carter Parkway, and north of Lake Street.
<b>REQUEST</b>	A Change Determination Request (CDR) to add private school as a permitted use.
<b>PUBLIC NOTIFICATION</b>	A notification area extending beyond twelve hundred (1,200) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. One hundred thirty-three (133) notices were mailed to those property owners in the notification buffer area. A community meeting was required for this application.

**IMPACT ANALYSIS**

**Special Information**

The Buena Vista Commons PD was originally approved May 24, 2011. Today, the PD consists of 8.52 acres with development entitlements for 57,161 square feet of professional office uses, including church, restaurant (no drive-thru), child day care facility, community center, fitness center, and temple priest residence.

Through this PD Change Determination Request (CDR), the applicant is seeking to add private school as a permitted use for building 4, Lot 1. The proposed school use will occupy an existing commercial building on the property.

**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 is designated on the Future Land Use Map (FLUM) as O (Office) and ACMU (Activity Center Mixed Use). The subject property is currently designated PD (Planned Development) on the zoning map. This project is located with the Buena Vista

North Overlay District. The proposed Change Determination Request (CDR) is consistent with the designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

**Overlay 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 and did not identify any issues or concerns.

**Transportation Planning**

Buena Vista Commons, LLC entered into a Proportionate Share Agreement with Orange County for the subject parcel and obtained approval for a 13,000 SF Professional Office under CEL-21-03-035, Buena Vista Commons PD (Building 4). Therefore, a CMO/CEL Revision is required to amend the development program to the new use (13,126 SF Private School). The Owner will be required to provide evidence that the new use will not generate more trips than the current development program. Otherwise, an amendment to the approved Proportionate Share Agreement is needed. Please contact the Concurrency Management Office at 407-836-6110 to discuss the required CMO/CEL Revision process to the existing CEL.

**Community Meeting Summary**

A community meeting was held on July 19, 2023, at the St. Luke's Methodist Church. The meeting was attended by 18 area residents, who expressed support for the private school rather than retail/office uses. At the meeting, the applicant stated the maximum capacity of the school will be 100 students and 10 staff.

**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 and 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 26, 2023)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Buena Vista Commons Planned Development / Land Use Plan (PD/LUP), dated “May 3, 2023”, subject to the following conditions:**

1. Development shall conform to the Buena Vista Commons Planned Development dated "Received May 3, 2023," 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 May 3, 2023," the condition of approval shall control to the extent of such conflict or inconsistency.
2. This project shall comply with, adhere to, and not deviate from or otherwise conflict with any verbal or written promise or representation made by the applicant (or authorized agent) to the Board of County Commissioners ("Board") at the public hearing where this development received final approval, where such promise or representation, whether oral or written, was relied upon by the Board in approving the development, could have reasonably been expected to have been relied upon by the Board in approving the development, or could have reasonably induced or otherwise influenced the Board to approve the development. In the event any such promise or representation is not complied with or adhered to, or the project deviates from or otherwise conflicts with such promise or representation, the County may withhold (or postpone issuance of) development permits and / or postpone the recording of (or refuse to record) the plat for the project. For purposes of this condition, a "promise" or "representation" shall be deemed to have been made to the Board by the applicant (or authorized agent) if it was expressly made to the Board at a public hearing where the development was considered and approved.
3. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit, or any other development order, if the applicant fails to obtain requisite approvals or fulfill the



obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this land use plan to promptly disclose to the County any changes in ownership, encumbrances, or other matters of record affecting the property that is subject to the plan, and to resolve any issues that may be identified by the County as a result of any such changes. Developer / Applicant acknowledges and understands that any such changes are solely the Developer's / Applicant's obligation and responsibility to disclose and resolve, and that the Developer's / Applicant's failure to disclose and resolve any such changes to the satisfaction of the County may result in the County not issuing (or delaying issuance of) development permits, not recording (or delaying recording of) a plat for the property, or both.
5. Property that is required to be dedicated or otherwise conveyed to Orange County (by plat or other means) shall be free and clear of all encumbrances, except as may be acceptable to County and consistent with the anticipated use. Owner / Developer shall provide, at no cost to County, any and all easements required for approval of a project or necessary for relocation of existing easements, including any existing facilities, and shall be responsible for the full costs of any such relocation prior to Orange County's acceptance of the conveyance. Any encumbrances that are discovered after approval of a PD Land Use Plan shall be the responsibility of Owner / Developer to release and relocate, at no cost to County, prior to County's acceptance of conveyance. As part of the review process for construction plan approval(s), any required off-site easements identified by County must be conveyed to County prior to any such approval, or at a later date as determined by County. Any failure to comply with this condition may result in the withholding of development permits and plat approval(s).
6. If applicable, an Acknowledgement of Contiguous Sustainable Agricultural Land pursuant to Section 163.3163, Florida Statutes, must be executed and recorded in the Public Records of Orange County, Florida, prior to final approval of this plan and a copy of such Acknowledgment shall be submitted with all future permit applications for this project.
7. Pursuant to Article XII, Chapter 30, Orange County Code, unless documentation to the County's satisfaction has been provided proving that a property is exempt or vested, each property must apply for and obtain concurrency. Unless required at a different time (by agreement, condition of approval, etc.), residential, and non-residential properties which are required to plat, must obtain concurrency prior to approval of the plat and non-residential properties that are not required to plat must obtain concurrency prior to obtaining the first building permit. Concurrency may be obtained earlier than plat or building permit, but it is ultimately the responsibility of the applicant to obtain concurrency, including any proportionate share agreement, as applicable, in a timely fashion. Should an applicant wait to obtain concurrency until later in the development process, the

County will not be responsible for any delays caused by the applicant's failure to obtain concurrency in a timely fashion.

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. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
10. Pole signs and billboards shall be prohibited. All other signage shall comply with Chapter 31.5 of the Orange County Code.
11. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated July 28, 2020 shall apply:
  - a. The following ACMU uses shall be prohibited:
    1. Hotel / Motel / Timeshare
    2. Residential
    3. Liquor Stores
    4. Pawn Shops
    5. Sporting Goods
    6. Firearm Sales
    7. Tabaco Shops
    8. Fuel Dealers
    9. News Stands
    10. Furniture / Appliance / Carpet Stores
    11. Muffler Shops
    12. Cocktail Lounges / Pubs / Bars
    13. Crematories
    14. Amusement Centers
    15. Night Clubs
    16. Conference Centers
    17. Health Spas
    18. Car Rental Agency
    19. Automotive Service Stations
    20. Car Wash
    21. Warehouse
    22. Maid Services
    23. Appliance Rental
    24. Auto / Lube Shops
    25. Miscellaneous Repair Services
    26. Pest Control
12. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated July 19, 2016 shall apply:

- a. The following waivers from Orange County Code are granted:
    - 1) A waiver from Section 38-1272(d) to permit sixty-six (66) grass (unimproved) parking spaces on PD Lot 3 for Religious Institutions and Religious Institution Ancillary uses; however, the drive isles shall be paved.
    - 2) A waiver from Section 38-1477 to allow for shared parking between Lots 1, 2 and 3 of the PD, in lieu of the requirement that parking spaces for a land use be provided on the same lot or within 300 feet of the principal entrance as measured along the most direct pedestrian route.
    - 3) A waiver from Section 38-1479(a) to permit sixty-six (66) grass (unimproved) parking spaces on PD Lot 3 for Religious Institutions and Religious Institution Ancillary uses; however, the drive isles shall be paved.
  - b. PD Lot 3 shall be used for ancillary religious uses and shared parking only.
13. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated April 21, 2015, shall apply:
- a. The following waivers from Buena Vista North District Standards found in Orange County Code Chapter 38, Division 9, Subdivision II (Site Development) and Subdivision V (Signage) are granted:
    - 1) A waiver from Orange County Code Section 38-1392.1 to allow a minimum zero (0) foot side setback (internal to the PD) from a thoroughfare roadway facility for existing building #1 only as identified on the Master Sign Plan; in lieu of the required ten (10) foot side setback and twenty (20) foot setback from a thoroughfare roadway facility;
    - 2) A waiver from Orange County Code Section 38-1395.2(1) to allow monument Ground Sign #1 as identified on the Master Sign Plan to have a maximum copy area of one-hundred fifty-two (152) square feet; in lieu of a maximum copy area of ninety-six (96) square feet; and
    - 3) A waiver from Orange County Code Section 38-1385.2(2) to allow wall signage on both the eastern and western side of buildings #1 and #2 as identified on the Master Sign Plan, by considering both sides to be primary facades; in lieu of only allowing wall signage on the western side of the buildings, where the customer entrances are located.



- b. The following waivers from Orange County Code Section 31.5-67(g) related to minimum ground sign right-of-way setbacks are granted:
    - 1) A waiver to allow Ground Sign #1 as identified on the Master Sign Plan to have a minimum one (1) foot right-of-way setback from 3rd Street and a minimum eight (8) foot right-of-way setback from S. Apopka Vineland Road; in lieu of a minimum ten (10) foot right-of-way setback;
    - 2) A waiver to allow the relocated temple sign as identified on the Master Sign Plan to have a minimum eight (8) foot right-of-way setback from S. Apopka Vineland Road; in lieu of a minimum ten (10) foot right-of-way setback; and
    - 3) A waiver to allow Ground Sign #3 as identified on the Master Sign Plan to have a minimum five (5) foot right-of-way setback from 3rd Street, in lieu of a minimum ten (10) foot right-of-way setback.
    - 4) A waiver from Orange County Code Section 31.5-67(i) is granted to allow multi-tenant Ground Sign #1 as identified on the Master Sign Plan to have a minimum of ten (10) square feet of copy area per tenant; in lieu a minimum of twelve (12) square feet of copy area per tenant.
  - c. Wall signage shall only be externally lit by goose neck type lighting fixtures on buildings 1 and 2 facing Apopka Vineland Road.
  - d. Wall signage on Apopka-Vineland Road shall be limited to eighteen (18) inch letter size.
  - e. All internal lit signs shall only be lit from dusk to 11:00 p.m.
  - f. There shall be no wall signage allowed on the west face of building 4 (side facing residential Hidden Valley).
  - g. Approval of this PD/LUP (lot reconfiguration) will constitute approval of a lot split.
  - h. No permits shall be issued for sign #1 until the property has been re-configured through Orange County Property Appraiser's office to match the lot split that adjusts the lot line for the existing temple building back from the right-of-way line and the existing Temple sign relocation.
14. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated January 14, 2014, shall apply:
- a. The restaurant shall not be occupied before 6:00 a.m. and after 11:00 p.m. (7 days per week). The hours of operation for any child care facility shall be limited to 6:00 am - 8:00pm (7 days per week).

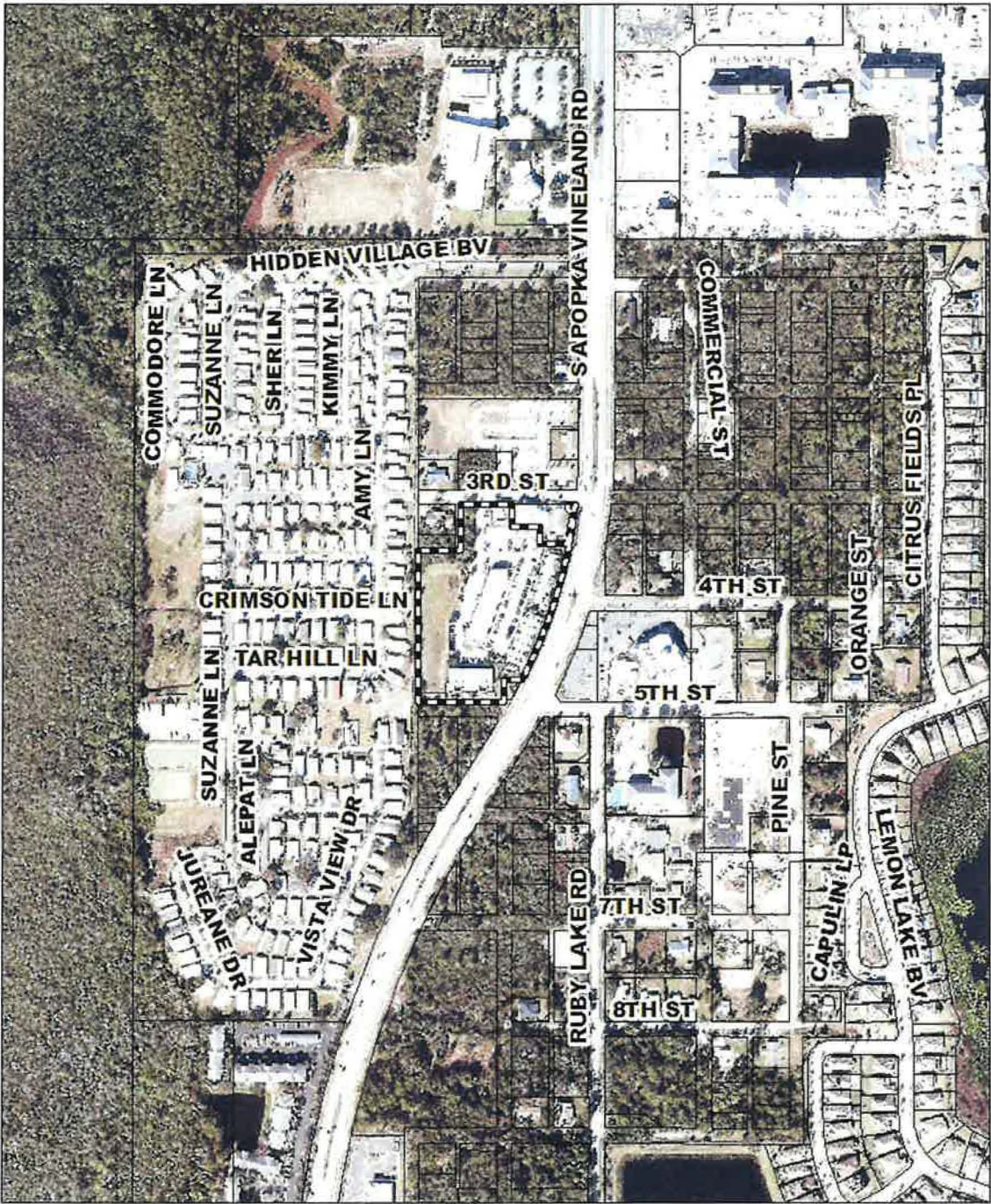
- b. With the exception of Buildings 1 and 2, development shall be limited to Professional Office (PO) uses and the following four (4) uses: Church, Restaurant (no drive-thru), Community Center, Fitness Center, Martial Arts and Miscellaneous Aerobic Type Instruction.
  - c. A 6' PVC fence (on the berm) 10' from the west property line next to the Hidden Valley Mobile Home Park. The 10' buffer shall be planted with a hedge 30" in height at planting, and canopy trees (not oak trees) planted 40' on center. A 6' PVC fence shall be provided along the north property line next to the residential and planted with canopy trees planted 40' on center. A 6' PVC fence shall be provided along 5<sup>th</sup> Street. Landscaping shall be irrigated and maintained by the owner or Property Owners' Association of this center.
15. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated May 24, 2011, shall apply:
- a. 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.'
  - b. Outdoor sales, storage and display shall be prohibited.
  - c. Developer to provide a fifty (50) foot natural buffer to be maintained along the existing residence located to the northwest of the subject property and south of 3<sup>rd</sup> Street, until the said residential is rezoned to a non-residential use.
  - d. Full access shall be maintained at 5th Street and Apopka-Vineland Road.
  - e. Developer shall work with the property owner to the west (on 3rd Street) to limit access issues.

**PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (July 28, 2020)**

Upon a motion by Commissioner VanderLey, seconded by Commissioner Gomez Cordero, and carried by all members present voting AYE by voice vote, the Board approved the substantial change to add Activity Center Mixed Use uses for Buildings 1 and 2 in the PD.



CDR-23-02-070



 Subject Property



0 380 760 Feet



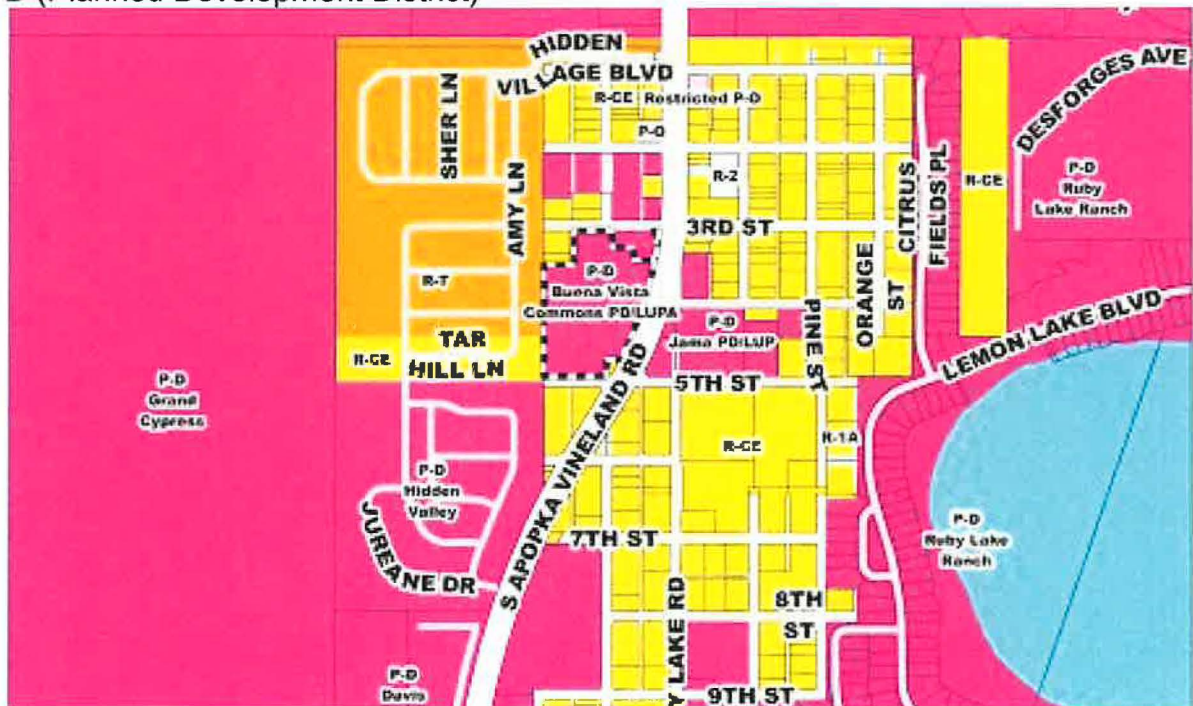
## FUTURE LAND USE

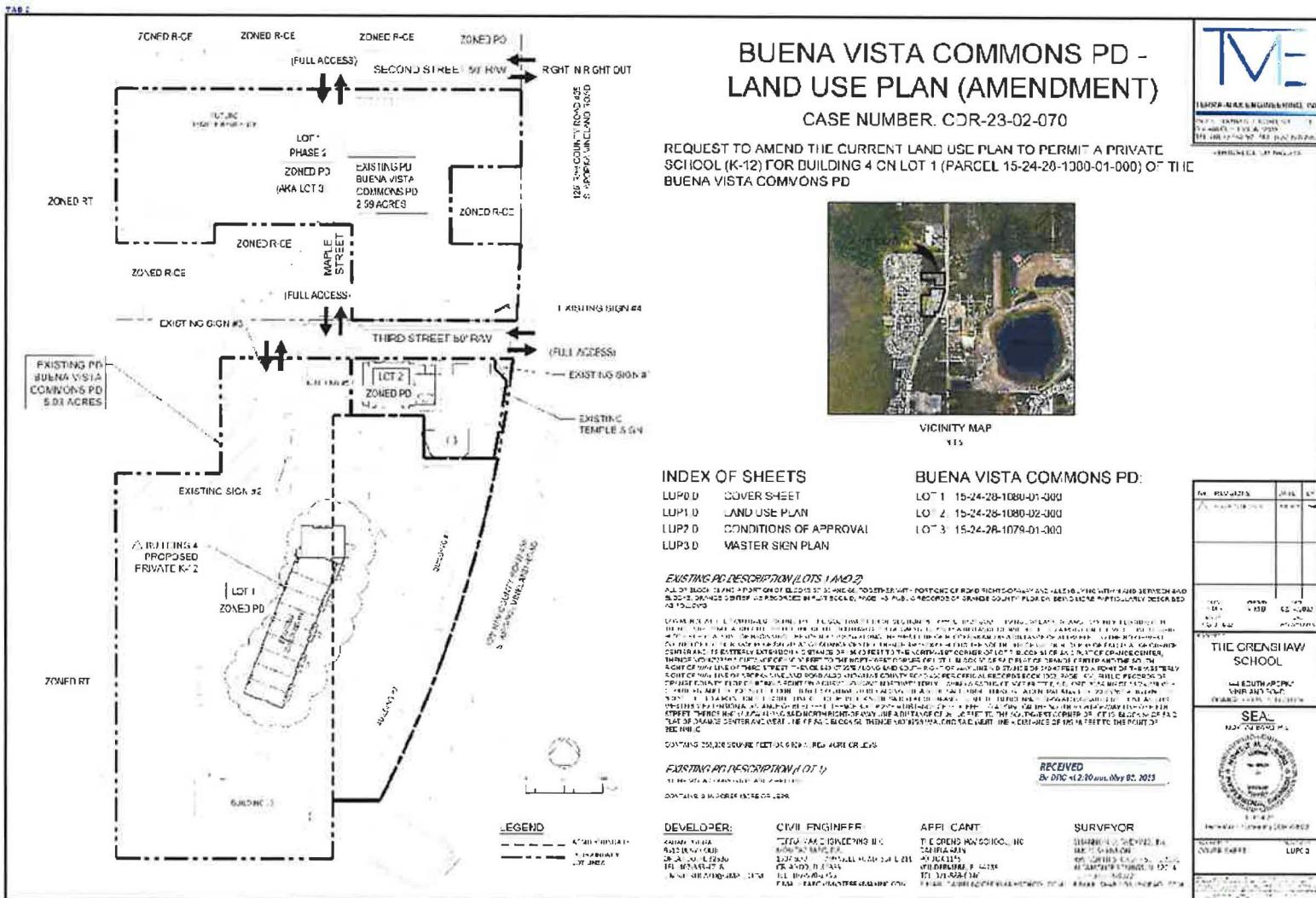
O (Office) and ACMU (Activity Center Mixed Use)



## Zoning - Current

PD (Planned Development District)







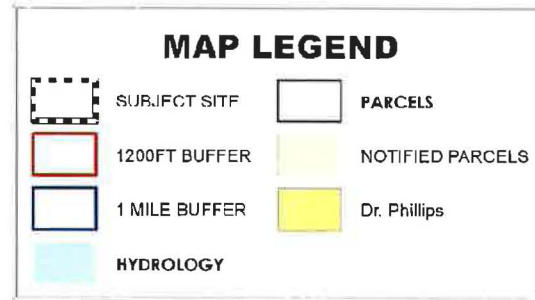
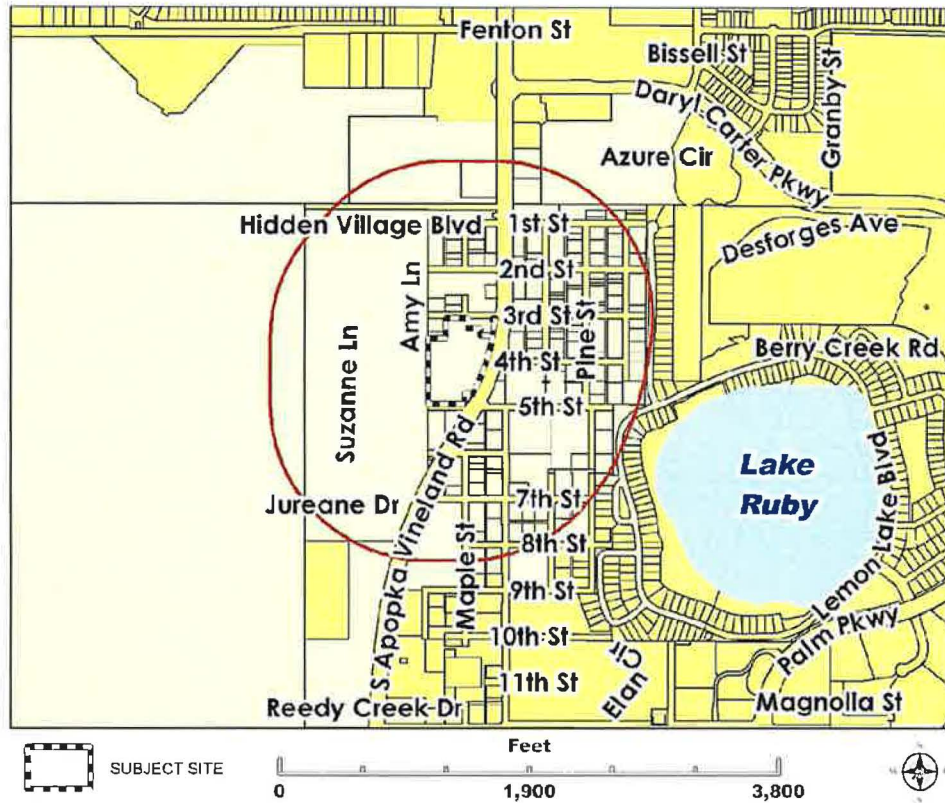




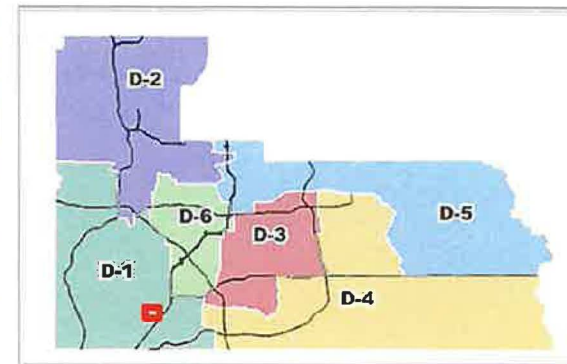


# Public Notification Map

CDR-23-02-070



**BUFFER DISTANCE:** 1200  
**# OF NOTICES:** 133



## Notification Map

DRC Staff Report  
Orange County Planning Division  
BCC Hearing Date: August 22, 2023

\\ocwork\gim\dep\mgt\business\systems\GIS\workspace\CDR-23-02-070\Buenavista Commons CDR-23-02-070\CDR-23-02-070