

## Interoffice Memorandum

**DATE:** January 9, 2025

**TO:** Mayor Jerry L. Demings and County Commissioners

**THROUGH:** N/A

**FROM:** Tanya Wilson, AICP, Director Planning, Environmental, and Development Services Department

**CONTACT:** Nicolas Thalmueller, AICP, DRC Chairman



**PHONE:** (407) 836-5523

**DIVISION:** Development Review Committee

**ACTION REQUESTED:**

Make a finding of consistency with the Comprehensive Plan and approve an amendment to the Lake Bryan Square Planned Development (PD) dated "Received September 6, 2024", subject to the conditions listed under the Development Review Committee (DRC) Recommendation in the Staff Report. District 1.

**PROJECT:** Lake Bryan Square PD (CDR-24-06-145)

**PURPOSE:** This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of October 23, 2024, to approve the amendment to the Lake Bryan Square Planned Development (PD), generally located east of State Road 535, west of Lake Bryan, and north of World Center Drive, in order to use the trip conversion matrix to convert the approved entitlements for 280 hotel rooms for Phase 2 to entitlements to 298 multi-family units. In addition, one waiver from Orange County Code, Section 38-1300, is requested to allow a maximum height of 125' (11 stories) for multi-family development, in lieu of a maximum height of 60'.

This item was continued from the December 3, 2024 Board of County Commissioners public hearing, to hold a community meeting.

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 documents and the plans may be found in the Planning Division for further reference.

**BUDGET:** N/A

**CASE # CDR-24-06-145**

Commission District: # 1

**GENERAL INFORMATION**

**APPLICANT** Robert Paymayesh, PE Group, LLC

**OWNER** ORL, LLC

**PROJECT NAME** Lake Bryan Square Planned Development (PD)

**PARCEL ID NUMBER(S)** 27-24-28-4336-00-050 (affected parcel)

**TRACT SIZE** 5.52 acres (affected area)

**LOCATION** East of State Road 535 / West of Lake Bryan / North of World Center Drive

**REQUEST** A PD substantial change to use the trip conversion matrix to convert the approved entitlements for 280 hotel rooms for Phase 2 to entitlements to 298 multi-family units.

In addition, one waiver from Orange County Code is requested:

1. A waiver from Orange County Code Section 38-1300 to allow a maximum height of 125' (11 stories) for multi-family development, in lieu of a maximum height of 60'.

***Applicant Justification:*** *The increased maximum height allows for the residential units to stay within the 30% use requirement of Orange County Comp Plan policy ID.1.1.7. Additionally, the increased height provides for utilization of a varying roof height design (between 7 stories and 11 stories). The request is compatible with the tourist commercial and activity center uses and precedence has been set for granting building height waivers. The adjacent towers constructed in phase 1 of this PD are higher than the requested 11 stories.*

**PUBLIC NOTIFICATION** The notification area for this public hearing extended beyond 1,500 feet. Chapter 30-40(c)(3)(a) of Orange County Code requires the owners of the property within three hundred (300) feet of the subject property to be notified at least 10 days prior to the date of the hearing. Six hundred and sixty-seven (667) notices were mailed to those property owners in the mailing area.

## **IMPACT ANALYSIS**

### **Project Overview**

The Lake Bryan Square PD consists of 10.33 gross acres / 8.98 net acres and is generally located on the east side of SR 535, on the west shore of Lake Bryan. The PD was originally approved in 1989 for tourist commercial uses and amended in 2001 to add 10.37 acres and hotel uses. The current development program consists of 563 hotel rooms and 10,000 square feet of retail uses. A portion of the hotel entitlements have been constructed.

Through this substantial Change Determination Request (CDR) to the PD, the applicant is seeking to convert unbuilt entitlements for 280 hotel room entitlements to 298 multi-family units to be constructed on the 3.26-acre undeveloped portion of the site. In addition, a waiver is being requested from Orange County Code for building height.

### **Land Use Compatibility**

The proposed development program is compatible with existing development in the area and would not adversely affect 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) on the Future Land Use Map and is zoned Planned Development (PD). As described in the International Drive Element of the Comp Plan, ACMU is a mixture of tourist-related development and supportive residential activity. Per Comprehensive Plan Policy FLU1.1.4 The ACMU FLUM designation allows uses up to a maximum FAR of 3.0, hotel/motel lodging uses up to a maximum of 60 rooms/acre, and residential uses at a minimum of 12 and up to a maximum of 30 units per developable acre. Per Comprehensive Plan Policy ID1.1.7, no more than 30% of a site designated ACMU shall be used for residential purposes (note: plan currently calculates this as 2.81 acres of the total developable area).

### **Overlay Ordinance**

The subject property is located within the Tourist Commercial Signage 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**

Motorized watercrafts are prohibited on Lake Bryan.

Development of the subject property shall comply with all state and federal regulations regarding wildlife and plants listed as imperiled species (endangered, threatened, or species of special concern). The applicant is responsible to determine the presence of these concerns and to verify and obtain, if necessary, any required habitat permitting of the U.S. Fish and Wildlife Service (USFWS) and the Florida Fish & Wildlife Conservation Commission (FWC).

No construction, clearing, filling, alteration or grading is allowed within or immediately adjacent to a wetland/surface water, or within an upland buffer, without first obtaining a Natural Resource Impact Permit (NRIP) approved by the County and obtaining other applicable jurisdictional agency permits.

### **Transportation Planning**

Pursuant to Article XII, Chapter 30, Orange County Code, as may be amended, 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 properties must obtain concurrency prior to approval of the plat; non-residential properties that are required to plat must obtain concurrency for any lot with an assigned use prior to approval of the plat (lots without an assigned use shall be labeled as "future development") 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.

ORL, LLC holds transportation concurrency entitlement for 280 Tourist Hotel Rooms under Transportation Capacity Reservation Certificate (TCRC-13-319). This reservation will need to be amended to change the development program to 350 MFUs. Contact the Concurrency Management Office at 407-836-6110 for further questions.

Based on the recently approved Standard Procedures Manual for Specific Transportation Analysis Methodology Plan (STAMP), published February 27, 2024 (Sec.30-562-2 of the Code of Ordinances), an operational traffic analysis study (intersection analysis) will be required at DP level for proposed developments projected to generate 50 or more net PM peak hour vehicle trips (not including pass-by and internal capture). The operational traffic study will be based on the most updated STAMP.

Based on the Concurrency Management database (CMS) dated 6/27/2023, there are multiple failing roadway segments within the project's impact area. Vineland Ave, from Winter Garden-Vineland Rd to Little Lake Bryan Bkwy (1 segment), Winter Garden-Vineland Rd, from Interstate 4 to Apopka Vineland Rd (1 segment), Winter Garden-Vineland Rd / SR 535 from Osceola County Line to SR 536/World Center Pkwy (1 segment) are failing. This information is dated and subject to change.

### **Community Meeting Summary**

A community meeting was not required for this request.

### **Schools**

In the Orange County Public Schools "Formal School Capacity Determination Capacity Letter" (OC-24-017) dated September 11, 2024, it was found that school capacity for this development is **NOT AVAILABLE**. This capacity letter expires March 10, 2025.

### **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 – (October 23, 2024)**

**Make a finding of consistency with the Comprehensive Plan and approve the substantial change to the Lake Bryan Square Planned Development (PD) dated "Received September 6, 2024", subject to the following conditions:**

1. Development shall conform to the Lake Bryan Square Planned Development (PD) dated "Received September 6, 2024," 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 September 6, 2024," 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 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, as may be amended, 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, as may be amended, must be executed and recorded in the Public Records of Orange County, Florida, prior to issuance of any permits associated with this plan and a copy of such Acknowledgment shall be submitted with all future permit applications for this project.
7. Approval of this plan does not constitute approval of a permit for the construction of a boat ramp. Any person desiring to construct a boat ramp shall apply to the Orange County Environmental Protection Division as specified in Orange County Code Chapter 15 Environmental Control, Article XV Boat Ramps, prior to installation, for an Orange County Boat Ramp Facility Permit, as well as to any other Orange County Division(s) for any other applicable permits.
8. 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 and Wildlife Conservation Commission (FWC).
9. Motorized watercrafts are prohibited on Lake Bryan.

10. Unless a Natural Resource Impact Permit (NRIP) is approved by Orange County consistent with Orange County Code Chapter 15, Article X, "Wetland and Surface Water Protection", prior to Construction Plan approval, no wetland, surface water or buffer encroachments shall be permitted. Approval of this plan does not authorize any direct or indirect wetland and surface water impacts.
11. Approval of this plan does not constitute approval of a permit for the construction of a boat dock, boardwalk, observation pier, fishing pier, community pier or other similar permanently fixed or floating structures. Any person desiring to construct any of these structures shall apply to the Orange County Environmental Protection Division, as specified in Orange County Code Chapter 15 Environmental Control, Article IX Dock Construction, prior to installation, for an Orange County Dock Construction Permit, as well as to any other Orange County Division(s) for any other applicable permits.
12. In compliance with Section 19 of the Orange County Code, the property owner / engineer may be required to provide a series of FEMA Letter of Map Changes (LOMC). For development within the 1% annual chance flood (100-year flood) floodplain without an established Base Flood Elevations (BFE), depicted as Zone A, the owner/engineer must perform a study to establish the BFE and obtain a FEMA LOMR (Letter of Map Revision) prior to site construction plan submittal. For modifications to a determined BFE (Zone AE), floodway, or flood hazard area boundaries on the Flood Insurance Rate Maps (FIRMs), a FEMA Conditional Letter of Map Revision (CLOMR) must be obtained prior to site construction plan approval; a subsequent FEMA Letter of Map Revision (LOMR) reflecting final construction will be required. Said FEMA LOMR approval must be obtained by the owner / engineer and must be submitted to the Floodplain Administrator prior to the release of the Certificate of Occupancy and / or Certificate of Completion. Compensation Storage for all projects within the 1% annual chance flood (100-year flood) floodplain shall be provide on a "cup for cup" basis in accordance with Chapter 19-107(1).
13. Pursuant to Article XII, Chapter 30, Orange County Code, as may be amended, 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 properties must obtain concurrency prior to approval of the plat; non-residential properties that are required to plat must obtain concurrency for any lot with an assigned use prior to approval of the plat (lots without an assigned use shall be labeled as "future development") 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.
14. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.



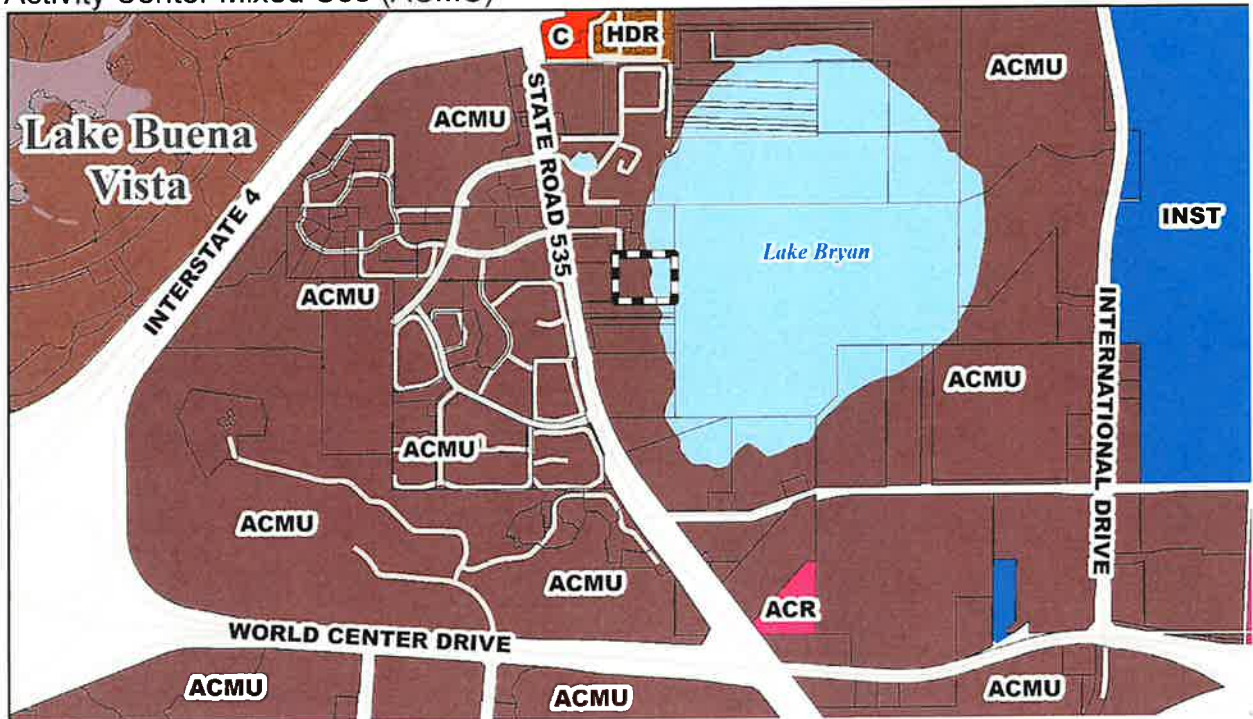
15. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water, wastewater, and reclaimed water systems have been designed to support all development (including hydraulically dependent development) within the PD.
16. Within multifamily developments, short term rental shall be prohibited. Length of stay shall be for a minimum of 180 consecutive days.
17. Hotel / timeshare length of stay shall not exceed 179 consecutive days.
18. Pole signs and billboards shall be prohibited. All other signage shall comply with Chapter 31.5 of the Orange County Code, as may be amended.
19. Prior to DP approval, an internal vehicular and pedestrian connection between the Phase 1 condo / hotel & retail parcel and the Phase 2 multi-family parcel shall be made via cross-access easement agreement.
20. A geotechnical report shall be submitted concurrently with the Development Plan application, to demonstrate functionality of the previously permitted stormwater management system
21. A waiver from Orange County Code Section 38-1300 is granted to allow a maximum height of 125' (11 stories) for multi-family development, in lieu of a maximum height of 60'.
22. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated February 10, 1998, shall apply:
  - a. To the extent required to comply with the consistency provisions of the Growth Management Act. The following conditions shall be added to the conditions of approval:
    - 1) Permitted and prohibited uses shall be those specified in Policies 1.1.3 and 1.1.6 of the International Drive Activity Center Plan.
    - 2) 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 area designated Activity Center Residential on the future land use map.
    - 3) 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 regulations, trip reduction programs, access management controls, transit access design standards, building orientation, and location of parking lots.



- 4) The property owner shall be required to participate in an International Drive property owners' association upon its creation.
- 5) Stormwater management facilities shall be designed as an aesthetic feature except where determined by the County engineer to be technically unfeasible.
- 6) The development plan shall provide for interconnection of adjacent developments either by cross-access easement of public right-of-way. This shall include connection into the continuation of an area-wide transportation plan for the International Drive Activity Center.
- 7) Electrical distribution lines shall be underground.
- 8) Participation in shuttle service connecting area attractions, major transportation centers, and on-site development shall be provided.

## FUTURE LAND USE

Activity Center Mixed Use (ACMU)



## ZONING

PD (Planned Development District)



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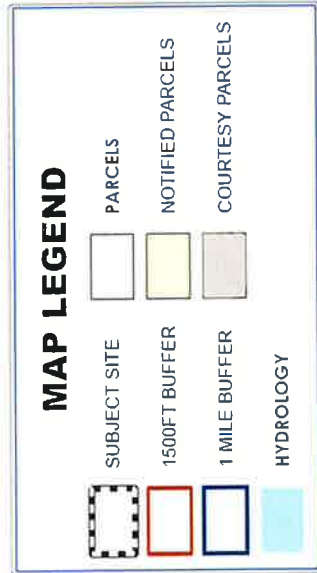
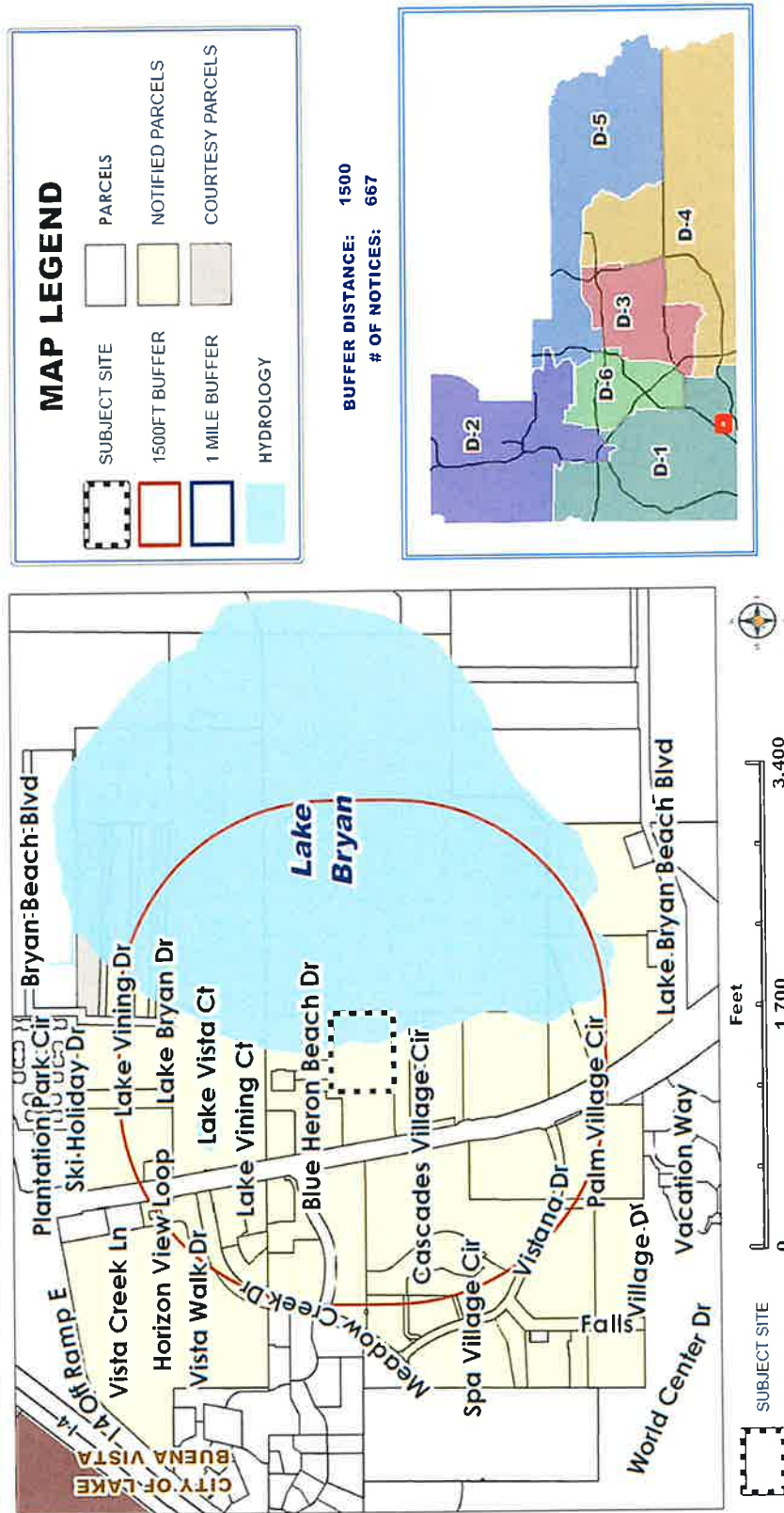


# Notification Map

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## Public Notification Map

CDR-24-06-145



BUFFER DISTANCE: 1500  
 # OF NOTICES: 667

