



Interoffice Memorandum

DATE: January 27, 2023

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

FROM: Tim Boldig, Interim Director
Planning, Environmental and Development
Services Department

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

SUBJECT: February 21, 2023 – Public Hearing
Erika Hughes, VHB, Inc.
Lake Bryan Condos Planned Development
Case # CDR-22-04-133 / District 1

The Lake Bryan Condos Planned Development (PD) is located on the east side of State Road 535 and north of Vistana Drive. The existing PD development program allows for a total of 1,186 hotel rooms.

Through this PD substantial change, the applicant is seeking to amend the development program to convert 555 hotel rooms into 588 multi-family units and 23,530 square feet of commercial use. In addition, the applicant has requested a waiver from Orange County Code Section 38-1300 to allow a maximum height of 136' for multi-family development, in lieu of a maximum height of 60'.

On December 21, 2022, the Development Review Committee (DRC) recommended approval of the request, subject to conditions. A community meeting was not required for this request.

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 Lake Bryan Condos Planned Development / Land Use Plan (PD/LUP) dated “Received December 26, 2022”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1.**

Attachments
TB/NT/JK

CASE # CDR-22-04-133

Commission District: # 1

GENERAL INFORMATION

APPLICANT Erika Hughes, VHB, Inc.

OWNER Lake Bryan Development LLC, Daneta LLC

PROJECT NAME Lake Bryan Condos Planned Development

PARCEL ID NUMBER(S) 27-24-28-4336-00-110; 27-24-28-0000-00-054

TRACT SIZE 14.20 gross acres (overall PD)

LOCATION Generally located east of SR 535, west of Lake Bryan.

REQUEST A PD substantial change to amend the development program to convert 555 hotel rooms into 588 multi-family units and 23,530 square feet of commercial use. In addition, the applicant has requested the following waiver from Orange County Code:

1. A waiver is being requested from Orange County Code Section 38-1300 to allow a maximum height of 136' for multi-family development, in lieu of a maximum height of 60'.

Applicant Justification: The increased maximum height allows for the residential use to stay within the 30% use requirement of Orange County Comp Plan policy ID1.1.7. Additionally, the increased height provides for the utilization of a varying roof height design. The proposed plan reduces the building height at the ends and middle mass of the building. The maximum height of 136' occurs approximately 90 feet from the property line and is a decorative parapet, the main building volume reaches a height of 129' at the same area. The main building volume remains at a height of 130' the added building height is parapets for decoration and for more variation.

PUBLIC NOTIFICATION A notification area extending beyond one thousand one hundred (1100) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Four hundred seventeen (417) notices were mailed to those property owners in the notification buffer area. A community meeting was not required for this application.

IMPACT ANALYSIS

Special Information

The Lake Bryan Condos Planned Development (PD) was originally approved in 1974. It was combined with the South County PD in 2016 (LUPA-16-02-046). The development program currently allows for a total of 1,186 hotel rooms. A waiver was previously approved from Section 38-1300 to allow for a maximum height of 295 feet above the building finished floor elevation for a hotel and timeshare only, in lieu of a maximum height of 200 feet for a hotel or timeshare.

Through this PD substantial change, the applicant is seeking to amend the development program to convert 555 hotel rooms into 588 multi-family units and 23,530 square feet of commercial use. In addition, the applicant has requested a waiver from Orange County Code Section 38-1300 to allow a maximum height of 136' for multi-family development, in lieu of a maximum height of 60'.

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 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 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. 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 in the Tourist Commercial Signage overlay. Signage for new development must comply with the requirements for signs found in Section 31.5, Division 2 of the County Code.

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

An Orange County Conservation Area Determination CAD-15-10-127 was completed with a certified survey of the conservation area boundary approved by the Environmental Protection Division (EPD). This determination was issued an extension to 7/13/23. An updated CAD survey is currently under review for CAD-15-10-127. Once the survey is approved, the plan should be revised to match. This may include wetland/surface water acreages, acreage calculations, survey/project boundary, CAD labels, and CAD notes.

No construction, clearing, filling, alteration or grading is allowed within or immediately adjacent to a conservation area or easement (includes the conservation area and the wetland setback/buffer) without first obtaining a wetland impact permit approved by the county and obtaining other applicable jurisdictional agency permits. Reference Orange County Code 15-376 (see condition 8).

Transportation Planning

This project shall comply with the County's International Drive Activity Center Comprehensive Plan requirement for a 15-foot transit easement and a separate 20-foot landscape, pedestrian and utility easement needed for future roadway improvements. The easement areas required shall be shown on the plan as a revised plan and conveyed concurrently at time of platting or dedicated to the County via separate instrument prior to Development Plan Approval. (see condition 9)

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.

Community Meeting Summary

A community meeting was not required for this application.

Schools

School capacity determination OC-22-093 was issued for this property on December 9, 2022, showing no available capacity at the elementary, middle and high schools. This determination expires on June 4th, 2023.

Unless otherwise vested, the development is still required to submit for concurrency review and, if necessary, enter into a Concurrency Mitigation Agreement. Unless otherwise vested, the Development is required to submit for concurrency review and, if necessary, enter into a Concurrency Mitigation Agreement.

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 – December 21, 2022

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Lake Bryan Condos Planned Development / Land Use Plan (PD/LUP), dated “December 26, 2022”, subject to the following conditions:

1. Development shall conform to the Lake Bryan Condos Planned Development / Land Use Plan (PD / LUP) dated "Received December 26, 2022" 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 December 26, 2022," 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. 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.

7. Unless a Conservation Area Impact (CAI) permit is approved by Orange County consistent with Orange County Code Chapter 15, Article X, "Wetland Conservation Areas", prior to Construction Plan approval, no conservation area or buffer encroachments shall be permitted. Approval of this plan does not authorize any direct or indirect conservation area impacts.
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 & Wildlife Conservation Commission (FWC).
9. This project shall comply with the County's International Drive Activity Center Comprehensive Plan requirement for a 15-foot transit easement and a separate 20-foot landscape, pedestrian and utility easement needed for future roadway improvements. The easement areas required shall be shown on the plan as a revised plan and conveyed concurrently at time of platting or dedicated to the County via separate instrument prior to Development Plan Approval.
10. 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.
11. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
12. In accordance with FEMA requirements, a Letter of Map Change (LOMC) may be required from the owner/engineer. New development within the 100-year floodplain where no established Base Flood Elevations (BFE) have been identified must perform a study to establish the BFE prior to construction plan review and approval. Compensation storage must be provided for all floodwater displaced by development within 100-year floodplain in accordance with Orange County Ordinance 2021-37, and as may be amended from time to time.
13. Prior to any site construction plan approval and any filling within the 100-year flood zone, the applicant must obtain the required permit(s) and approval(s) from the Orange County Floodplain Administrator authorizing any fill pursuant to Chapter 19, Orange County Code. Review and approval of compensating storage calculations must accompany the above permit as provided for in Chapter 19-107.
14. Within multifamily developments, short term rental shall be prohibited. Length of stay shall be for a minimum of 180 consecutive days.

15. The West Elevation of the parking garage, facing Apopka Vineland Road, shall be wrapped by active uses including commercial on the first story, and commercial or dwelling units at or above the 2nd story.
16. A waiver from Orange County Code Section 38-1300 is granted to allow a maximum height of 136' for multi-family development, in lieu of a maximum height of 60'.
17. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated June 22, 2016, shall apply:
 - a. 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.
 - b. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed water, wastewater, and reclaimed water systems have been designed to support the PD.
 - c. 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.
 - d. Outside sales, storage, and display shall be prohibited.
 - e. Pole signs and billboards shall be prohibited. All other signage shall comply with Chapter 31.5 Tourist Commercial standards of the Orange County Code.
18. Except as amended, modified, and/ or superseded, the following South County PD BCC Conditions of approval, dated November 28, 2000, shall apply:
 - a. A waiver is approved to reduce the westerly setback not fronting S.R. 535 to 30 feet.
19. Except as amended, modified, and/ or superseded, the following BCC Conditions of Approval, dated January 10, 1995, shall apply:
 - a. With the exception of the water ski school operated by Water Sports Management, Inc. (d/b/a Buena Vista Water Sports and Paradise Cove), which, pursuant to that certain agreement entered into on June 25, 2015, by and between Lake Bryan Development, LLC and Water Sports Management, Inc., has been operating on a portion of Lake Bryan not previously subject to the prohibition on motorized

water craft, motorized water craft (i.e., power boats, jet skis, etc.) shall be prohibited on Lake Bryan.

- b. Side-yard building setbacks shall be a minimum of 30 feet per Section 38-1287(2) of the PD district.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (August 2, 2016)

Upon a motion by Commissioner Boyd, seconded by Commissioner Nelson, and carried by all present members The Board approved the substantial change to aggregate the South County PD (one parcel) into the existing Lake Bryan Condos PD in order to allow a total of 1,186 hotel rooms.



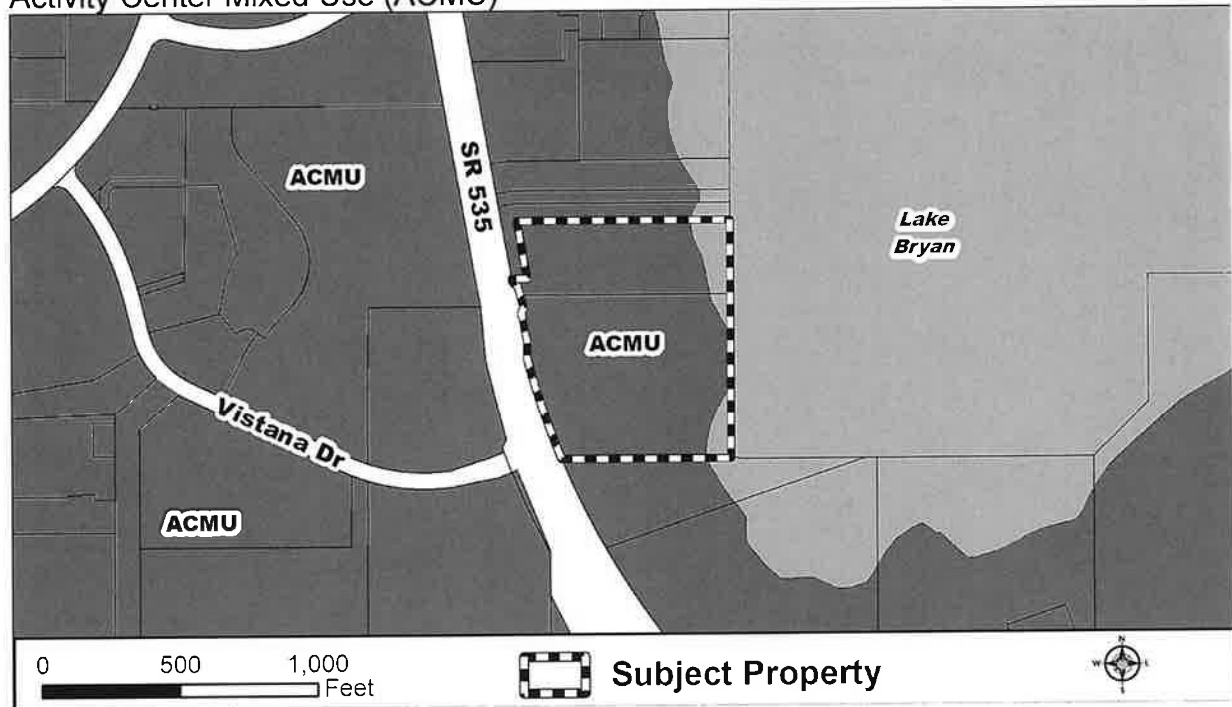
 Subject Property



1 inch = 500 feet

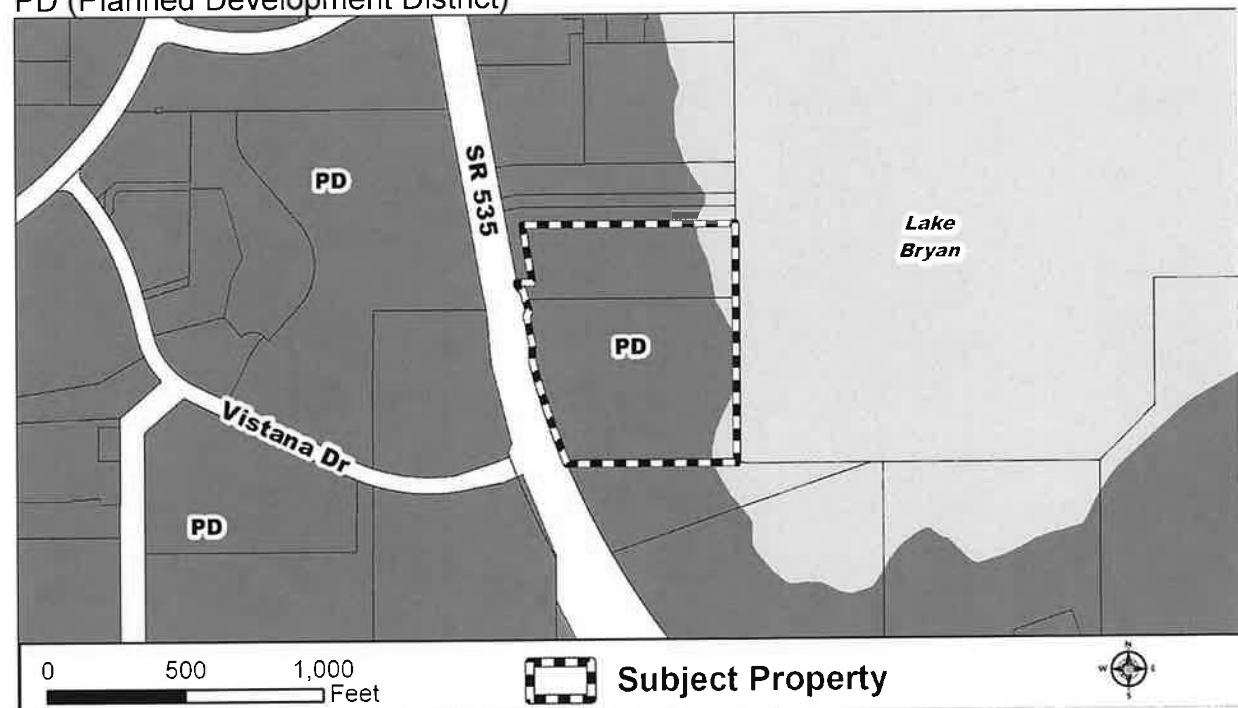
FUTURE LAND USE

Activity Center Mixed Use (ACMU)



ZONING

PD (Planned Development District)





Lake Bryan Condos PD

CDR-22-04-133

Developer
Silver Hills Development Inc
72 Wychwood Drive
Moreland Hills, OH 44022

[illegible]

vhib.com

225 E. Robinson Street
Suite 300
Orlando, FL 32801
407.839.4006
Certificate of Authorization on
File with FL 83932

No.	Drawing Title	Latest Issue
C-2	Existing Condition	December 13, 2022
C-3	Land Use Plan	December 13, 2022
C-4	Previous DCC Conditions of Approval	April 18, 2022

Community Planner/Civil Engineer
VHB
225 E. Robinson Street
Suite 300
Orlando, Florida 32801
P 407-839-4066 • F 407-839-4068

No.	Drawing Title	Latest Issue
SV-1	Survey	December 9, 2022

RECEIVED
By DRC Office at 10:18 am, Dec 28, 2023

VIB Project: 6170820
Issued for: DRC A (contn.)

Lake Bryan Condos PD / LUP

