



Interoffice Memorandum

DATE: November 16, 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: November 30, 2021 – Public Hearing
Applicant: Erika Hughes, VHB, Inc.
Ward Property Planned Development
Case # CDR-20-08-238 / District 4

The Ward Property Planned Development (PD) is located south of Lake Nona Boulevard and west of Boggy Creek Road. The existing PD development program allows for 184 townhome units, 865 multi-family units, and 36,000 square feet of retail commercial uses.

Through this PD substantial change, the applicant is seeking to update the entitlements to include 188 townhome units; 762 multi-family units; 150,000 square feet of retail commercial uses; 58 senior housing units; and 150,000 square feet of office uses; and adjust lot acreages. Additionally, six waivers are included with this request related to building height, building placement, and multi-family compatibility.

On October 6, 2021, the Development Review Committee (DRC) recommended approval of the request, subject to conditions. A community meeting was not required.

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 Ward Property Planned Development / Land Use Plan (PD/LUP) dated "Received September 17, 2021", subject to the conditions listed under the DRC Recommendation in the Staff Report. District 4

Attachments
JVW/EPR/jsh

CASE # CDR-20-08-238

Commission District: #4

GENERAL INFORMATION

APPLICANT	Erika Hughes; VHB, Inc.
OWNER	Advent Health System/Sunbelt, Inc.
PROJECT NAME	Ward Property Planned Development
PARCEL ID NUMBER	33-24-30-0000-00-021
TRACT SIZE	114.70 gross acres
LOCATION	South of Lake Nona Boulevard / West of Boggy Creek Road
REQUEST	<p>A PD substantial change to update the entitlements to include 762 multi-family units; 188 townhome units; 58 senior housing units; 150,000 square feet of retail uses; and 150,000 square feet of office uses; and adjust lot acreages. Additionally, the following waivers from Orange County Code are requested:</p>

1. A waiver from Section 38-1254(1) to allow multi-family buildings at a maximum building height of five (5) stories/sixty (60) feet to provide a minimum twenty-five (25) feet setback, in lieu of structures in excess of two (2) stories increasing this setback to reflect the additional structural height.

Applicant Justification: *The project will consist of multifamily buildings at a maximum building height of 5-stories. The project to the south is approved for multi-family buildings at a height of forty-five (45) feet and a hotel building height of seventy-five (75) feet; the proposed building height is compatible to the surrounding area projects.*

2. A waiver from Section 38-1258(a) to allow multi-family buildings located within one hundred (100) feet of single-family residential property internal to the PD to have a maximum building height of five (5) stories/sixty (60) feet, in lieu of being restricted to a single story in height.

Applicant Justification: *The proposed PD is for a mix of uses that include town homes and multi-family residential. Both residential uses are intended to be integrated in the overall design but provide adequate buffers between each use. All internal townhomes shall be notified of possible multi-family adjacency at the time of sale. The proposed building*

height for this multi-family development is compatible to the surrounding area projects.

3. A waiver from Section 38-1258(b) to allow multi-family buildings located within one hundred plus (100+) feet to one hundred fifty (150) feet of a single-family residential property internal to the PD to have a maximum building height of five (5) stories/sixty (60) feet, in lieu of having varying building heights with a maximum of fifty (50) percent of the buildings being three (3) stories (not to exceed forty (40) feet in height and the remaining buildings being one (1) story or two (2) stories in height.

Applicant Justification: *The proposed multi-family is intended to be integrated into the overall mixed-use zoning of the PD. The PD to the south is approved with a maximum building height of forty-five (45) feet for multi-family buildings and seventy-five (75) feet for non-residential buildings. The proposed building height is compatible to the surrounding area project.*

4. A waiver from Section 38-1258(j) is requested to allow for a minimum building separation of twenty (20) feet between multi-family buildings internal to the PD where doors, windows or other openings in the wall of a living unit back up to a wall of another building with doors, windows or other openings, in lieu of providing thirty (30) feet for two-story buildings and forty (40) feet for three-story buildings.

Applicant Justification: *The reduced building separation will assist in minimizing environmental impacts and allow for a more compact and urban design.*

5. A waiver from Section 38-1272(a)(5) is requested to allow a maximum building height of sixty (60) feet, in lieu of fifty (50) feet, for any portion of the proposed Senior Housing/Assisted Living Facility which is not within one hundred (100) feet of any residential. The maximum building height shall remain at the code maximum of thirty-five (35) feet for any portion of the proposed Senior Housing/Assisted Living Facility which is within one hundred (100) feet of any residential.

Applicant Justification: *The additional height request is for a small portion of the overall development that is designed to blend in with the overall project area. The PD to the south is approved with a maximum building height of 75 feet for nonresidential development. Therefore, the proposed building height is compatible to the surrounding area projects.*

6. A waiver from Section 38-1258(d) is requested to allow multi-family buildings to have a maximum building height of sixty (60) feet or five (5) stories in lieu of forty (40) feet or three (3) stories in height.

Applicant Justification: *The additional height will blend in with the surrounding area as the PD to the south is approved with a maximum building height of forty-five (45) feet for multi-family buildings and seventy-five (75) feet for nonresidential buildings.*

PUBLIC NOTIFICATION A notification area extending beyond one thousand two hundred (1,200) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Three hundred twenty-five (325) 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 Ward Property PD was originally approved on August 21, 2007. The existing development program allows for 184 townhome units, 865 multi-family units, and 36,000 square feet of commercial uses.

Through this PD substantial change, the applicant is seeking to update the entitlements to include 762 multi-family units; 188 townhome units; 58 senior housing units; 150,000 square feet of retail uses; and 150,000 square feet of office uses; and adjust lot acreages. Additionally, waivers are requested that address building height, building separation, and multifamily compatibility.

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 currently designated Planned Development – C/O/MDR/CONS on the Future Land Use Map. This designation was adopted by the Board on November 17, 2020 and that amendment also included a change to policy FLU8.1.4 to reflect the development program that is proposed with this substantial change. The proposed PD substantial change is consistent with this designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

Overlay Ordinance

The subject property is not located within an 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

Conservation Area Impact Permit CAI-21-01-004 was issued for this project on October 14, 2021. The permit authorizes impacts to 0.11 acres of Class III wetlands and 0.06 acres of Class III surface waters. This permit also authorizes 0.01 acre of secondary impacts to a Class I surface water. Mitigation consists of the purchase of 0.07 UMAM credits from the TM Econ Mitigation bank, Phases 1-3.

Transportation Planning

Transportation / Concurrency staff has reviewed the request, but did not identify any issues or concerns.

Community Meeting Summary

A community meeting was not required for this request.

Schools

Orange County Public Schools (OCPS) reviewed the request, but did not identify any issues or concerns.

Parks and Recreation

Orange County Parks and Recreation staff reviewed the request 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.

ACTION REQUESTED

Development Review Committee (DRC) Recommendation – (October 6, 2021)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Ward Property Planned Development / Land Use Plan (PD/LUP), dated "Received September 17, 2021", subject to the following conditions:

1. Development shall conform to the Ward Property PD dated "Received September 17, 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 September 17, 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.
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. 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.
7. 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).
8. No activity will be permitted on the site that may disturb, influence, or otherwise interfere with: areas of soil or groundwater contamination, or any remediation activities, or within the hydrological zone of influence of any contaminated area, unless prior approval has been obtained through the Florida Department of Environmental Protection (FDEP) and such approval has been provided to the Environmental Protection Division of Orange County. An owner/operator who exacerbates any existing contamination or does not properly dispose of any excavated contaminated media may become liable for some portion of the contamination pursuant to the provisions in section 376.308, F.S.
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/preliminary subdivision 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.
10. 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.
11. The developer shall obtain wastewater service from Orange County Utilities subject to County rate resolutions and ordinances.
12. Short term/transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater.
13. A current Phase I Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any Preliminary Subdivision Plan (PSP) and/or Development Plan (DP) submittal and must be approved prior to PSP and /or DP approval for any streets or tracts anticipated to be dedicated to the County or to the perpetual use of the public.

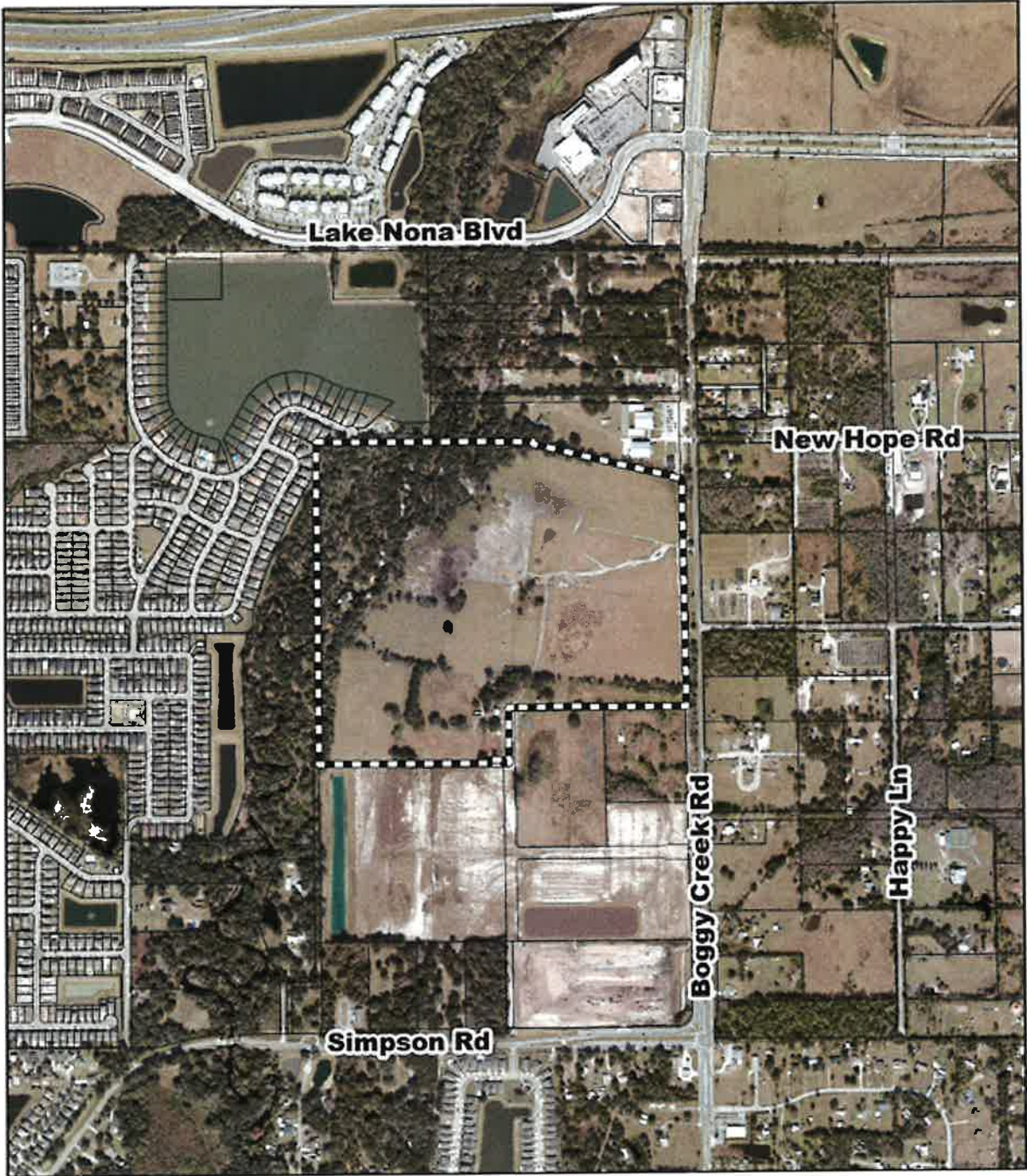
14. The project shall comply with the terms and conditions of that certain Road Impact Fee Agreement Ward Property PUD Boggy Creek Road approved on August 21, 2007, and recorded at Official Records Book 9431/Page 3516 in the Public Records of Orange County, Florida, as may be amended.
15. The following waivers from Orange County Code are granted:
 - a. A waiver from Section 38-1254(1) to allow multi-family buildings at a maximum building height of five (5) stories/sixty (60) feet to provide a minimum twenty-five (25) feet setback, in lieu of structures in excess of two (2) stories increasing this setback to reflect the additional structural height.
 - b. A waiver from Section 38-1258(a) to allow multi-family buildings located within one hundred (100) feet of single-family residential property internal to the PD to have a maximum building height of five (5) stories/sixty (60) feet, in lieu of being restricted to a single story in height.
 - c. A waiver from Section 38-1258(b) to allow multi-family buildings located within one hundred plus (100+) feet to one hundred fifty (150) feet of a single-family residential property internal to the PD to have a maximum building height of five (5) stories/sixty (60) feet, in lieu of having varying building heights with a maximum of fifty (50) percent of the buildings being three (3) stories (not to exceed forty (40) feet in height and the remaining buildings being one (1) story or two (2) stories in height.
 - d. A waiver from Section 38-1258(j) is requested to allow for a minimum building separation of twenty (20) feet between multi-family buildings internal to the PD where doors, windows or other openings in the wall of a living unit back up to a wall of another building with doors, windows or other openings, in lieu of providing thirty (30) feet for two-story buildings and forty (40) feet for three-story buildings.
 - e. A waiver from Section 38-1272(a)(5) is requested to allow a maximum building height of sixty (60) feet, in lieu of fifty (50) feet, for any portion of the proposed Senior Housing/Assisted Living Facility which is not within one hundred (100) feet of any residential. The maximum building height shall remain at the code maximum of thirty-five (35) feet for any portion of the proposed Senior Housing/Assisted Living Facility which is within one hundred (100) feet of any residential.
 - f. A waiver from Section 38-1258(d) is requested to allow multi-family buildings to have a maximum building height of sixty (60) feet or five (5) stories in lieu of forty (40) feet or three (3) stories in height.
16. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated August 21, 2007, shall apply:
 - a. Outdoor storage and display shall be prohibited.

- b. Billboards and pole signs shall be prohibited. All other signage shall comply with CH. 31.5.
- c. This property lies within Airport Noise Level "E" and is subject to the Airport Noise Zoning Ordinance. All plats associated with the property shall note in twelve (12)-point font types the following: "The properties delineated on this plat are subject to aircraft noise that may be objectionable". In addition, all Covenant and Restriction documents associated with the plats must state the following in bold-face type: "NOTICE OF AIRPORT NOISE – This property is located within an airport noise zone. Residents will be subject to aircraft noise that may be objectionable."
- d. Developer shall comply with all provisions of the Public Education Agreement (CEA #05- 032) entered into with the Orange County School Board as of 10/25/2005 (executed 03/26/2006)
 - Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Public Education Agreement, the County shall immediately cease issuing building permits for any residential units in excess of the eleven (11) residential units allowed under the zoning existing prior to the approval of the PD zoning. The County shall again begin issuing building permits upon Orange County Public Schools' written notice to the County that the developer is no longer in breach or default of the Public Education Agreement. The developer and its successor or assign under the Public Education Agreement, shall indemnify and hold the County harmless from any third-party claims, suits, or actions arising as a result of the act of ceasing the County's issuance of residential building permits.
 - Developer, or its successor or assign under the Public Education Agreement, agrees that it shall not claim in any future litigation that the County's enforcement of any of these conditions are illegal, improper, unconstitutional, or a violation of developer's property rights.
 - Orange County shall be held harmless by the developer and its assigns under the Public Education Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Public Education Agreement.
 - At the time of platting, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (August 21, 2007)

Upon a motion by Commissioner Stewart, seconded by Commissioner Moore, and carried by all, the Board made a finding of consistency with the Comprehensive Policy Plan; and further, approved the request by Ralph Singleton for Ward Property Planned Development (PD) to rezone from A-2 (Farmland Rural District) (1957) to PD District, on the described property; subject to nine conditions.

CDR-20-08-238

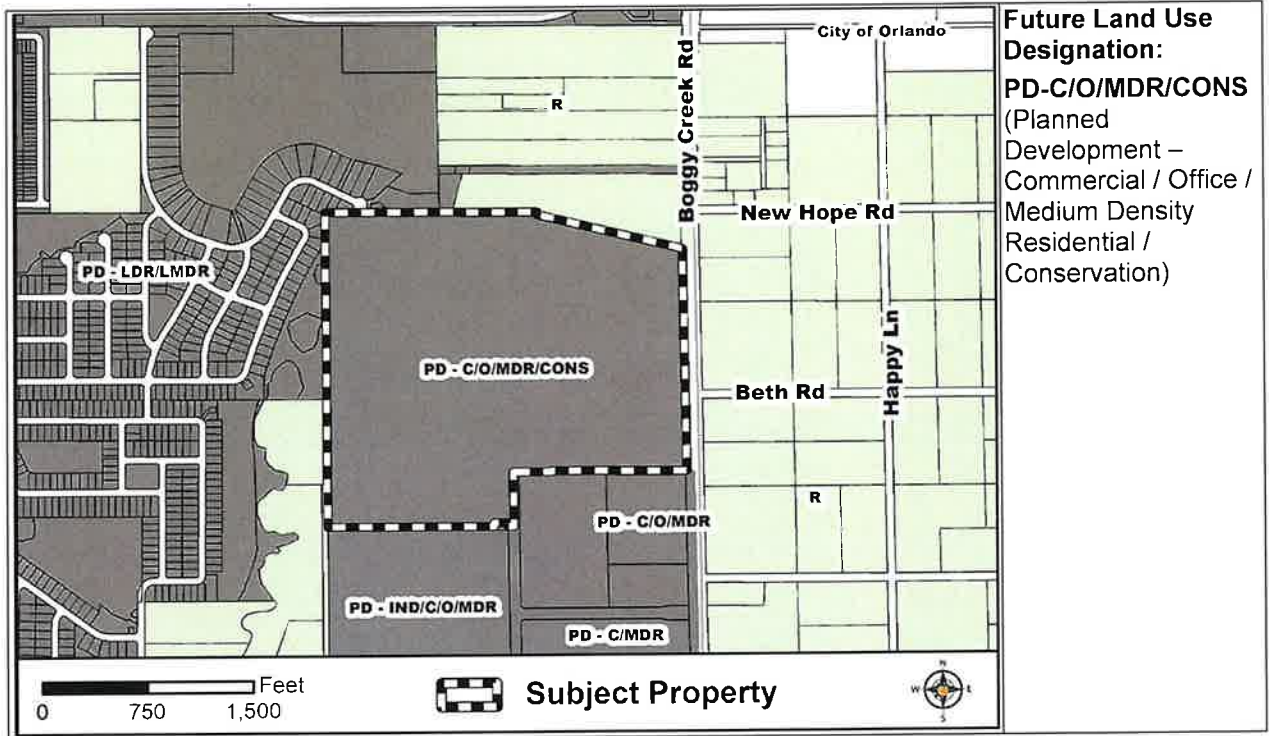


 Subject Property

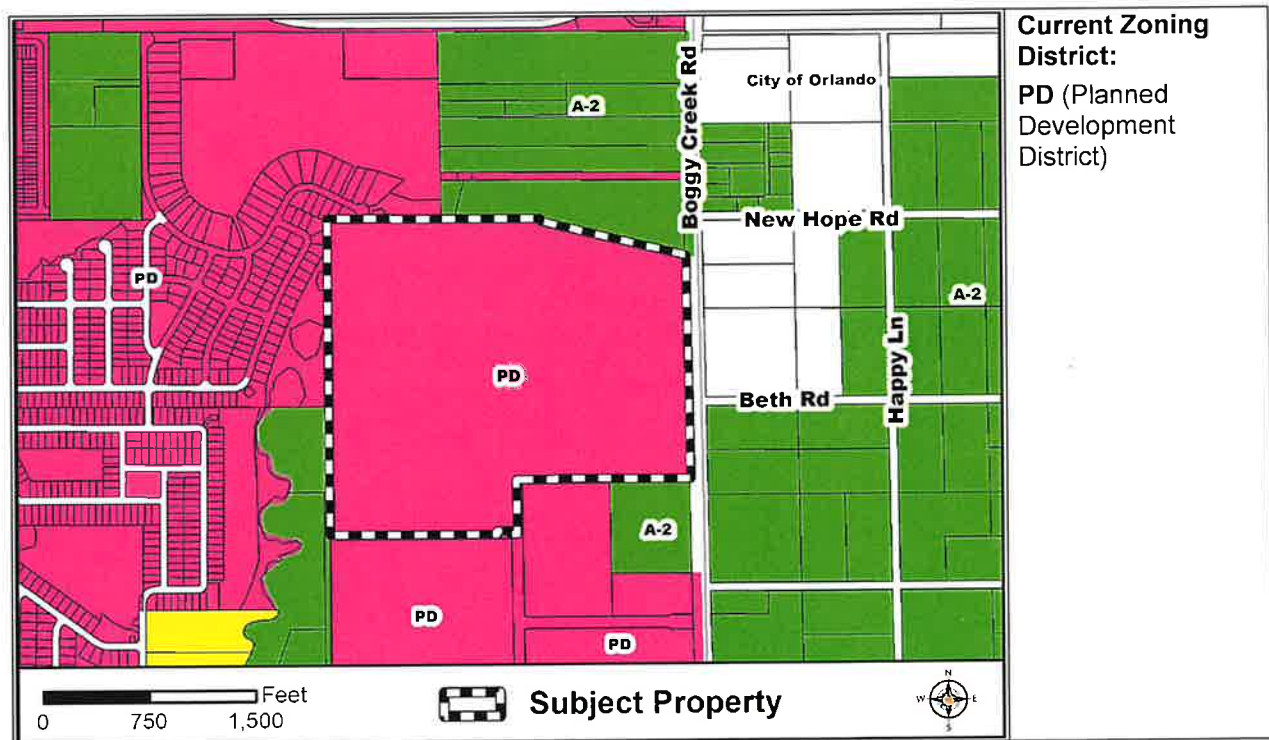


1 inch = 900 feet


FUTURE LAND USE – CURRENT



ZONING - CURRENT



Ward Property PD / LUP (Cover Sheet)



Land Use Plan

Issued for	DRC Approval
Date Issued	August 31, 2020
Latest Issue	August 16, 2021

Ward Property PD

Orange County, Florida

Parcel ID: 33-24-30-0000-00-021


CDR-20-08-238

Owner

Adventist Health System/Sunbelt Inc
601 E Rollins Street
Orlando, FL 32803-1248


Developer

DHI Communities
834 Highland Avenue
Orlando, FL 32803



Community Planner/Civil Engineer/Survey

VHB
255 E. Robinson Street
Suite 300
Orlando, Florida 32801
P-407 839-4006 • F-407 839-4008



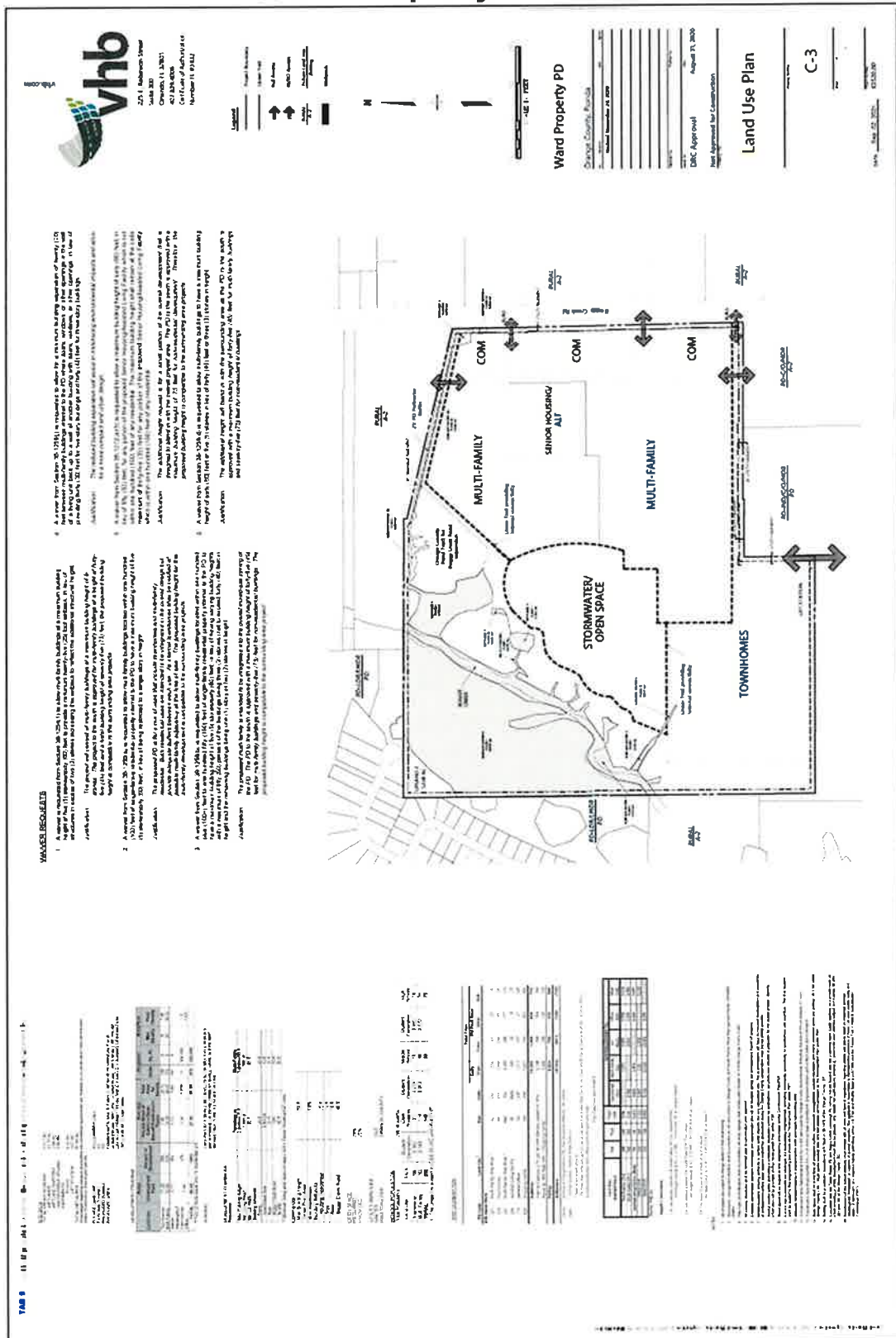
273 E. Robinson Street
Suite 300
Orlando, Florida 32801
P-407 839-4006
Certificate of Authorization
Number FL #9332

No.	Drawing Title	Latest Issue
C-1	Existing Conditions Plan	December 18, 2020
C-2	Land Use Plan	August 16, 2021
C-3	Previous Conditions of Approval	August 31, 2020

No.	Drawing Title	Latest Issue
Sr-1	Sr-4 Boundary Survey	June 4, 2020

RECEIVED
PLANNING DIVISION
August 17, 2021

Ward Property PD / LUP



Notification Map

