



Interoffice Memorandum

DATE: December 15, 2022

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

FROM: Jon V. Weiss, P.E., 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: January 10, 2023 – Public Hearing
Jose Antonio Robles Jr., R & J Retail Construction Services, LLC
Lake Sherwood Planned Development
Case # CDR-21-12-390 / District 6

The Lake Sherwood Planned Development (PD) is located on the south of Balboa Drive, north of W. Colonial Drive, west and east of N. Apopka Vineland Road. The existing PD development program allows for a mixture of multi-family, single family, self-storage, and retail commercial uses.

Through this PD substantial change, the applicant is seeking to create Parcel E1 out of Parcel E, and to change the land use designation for Parcel E1 from commercial to residential to allow for the development of nine (9) single family units in some combination of duplexes and triplexes.

On October 19, 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 Sherwood Planned Development / Land Use Plan (PD/LUP) dated “Received September 27, 2022”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 6

Attachments
JVW/NT

CASE # CDR-21-12-390

Commission District: # 6

GENERAL INFORMATION

APPLICANT	Alexandra Figueroa, R&J Construction Services, LLC
OWNER	Amaan Ali Investments, LLC
PROJECT NAME	Lake Sherwood Planned Development
PARCEL ID NUMBER	23-22-28-0000-00-008 (affected parcel)
TRACT SIZE	100.30 gross acres (overall PD) 0.98 gross acres (affected parcel)
LOCATION	7648 Balboa Drive; or generally located on the southeast corner of Lake Sherwood Dr and Balboa Dr.
REQUEST	A PD substantial change to create Parcel E1 out of Parcel E, and to change the land use designation for Parcel E1 from commercial to residential to allow for the development of nine (9) single family units.
PUBLIC NOTIFICATION	A notification area extending beyond one thousand (1,000) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Three hundred thirty-two (332) 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 Sherwood PD is currently approved for residential and commercial land uses as follows: 400 multi-family apartments on parcel A; 84 quadraplexes on parcel B; 90 single-family units on parcel C; and 37 single family units on parcel D. Parcel E was originally approved for 60,000 square feet of C-1 uses however in 2007, received approval to convert 95,675 square feet of Self storage and 20,000 square feet of commercial uses.

Through this PD substantial change, the applicant is seeking to create Parcel E1 out of Parcel E. The commercial entitle will remain on Parcel E, and to change the land use designation for Parcel E1 from commercial to residential to allow for the development of nine (9) single family units in some combinations of duplexes and triplexes. No waivers are associated with this request.

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 property's Future Land Use Map (FLUM) designation is Commercial (C) and the property's zoning designation is PD (Planned Development District) (Lake Sherwood PD). The proposed Change Determination Request (CDR) is consistent with the designation and all applicable CP provisions; therefore, the request is consistent with the Comprehensive Plan.

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 Joint Planning Area (JPA)

Environmental

Environmental Protection Division (EPD) staff has reviewed the proposed request, but did not identify any issues or concerns.

Transportation Planning

Based on the Concurrency Management database (CMS) dated January 5, 2022, there is a failing roadway segment within the project's impact area along Good Homes Road, from White Road to Colonial Drive. This information is dated and subject to change.

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. This development will require transportation capacity via a Capacity Encumbrance Letter (CEL) Application.

Community Meeting Summary

A community meeting was not required for this request.

Schools

Orange County Public Schools (OCPS) reviewed the request and determined that the development will generate 4 students. OCPS considers this to be De Minimis and a Capacity Determination or Agreement will not be required.

Parks and Recreation

Orange County Parks and Recreation staff reviewed the Change Determination 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 19, 2022)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Lake Sherwood Planned Development / Land Use Plan (PD/LUP), dated "September 27, 2022", subject to the following conditions:

1. Development shall conform to the Lake Sherwood Planned Development dated "Received September 27, 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 September 27, 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, 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

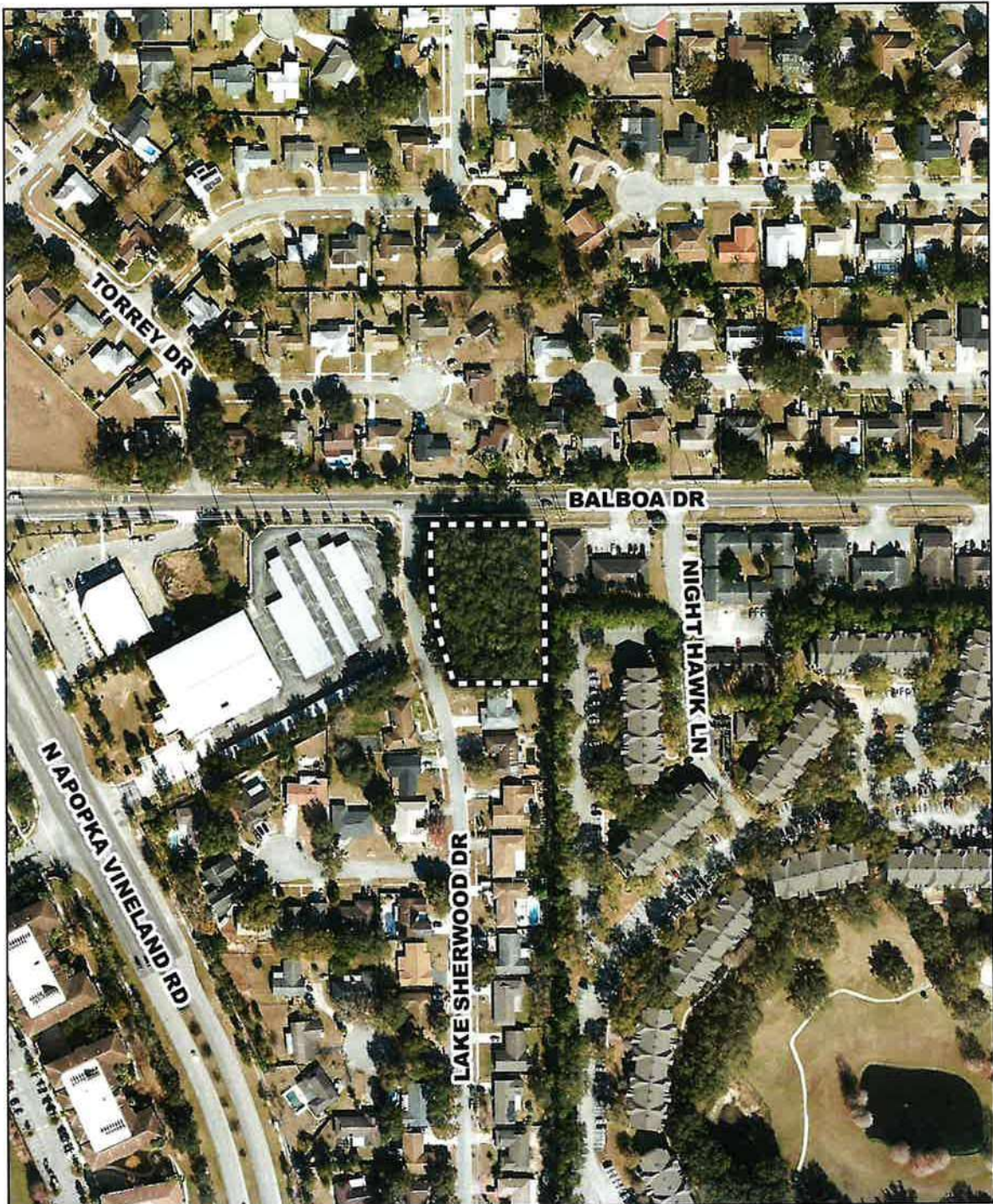
shall obtain all other applicable state or federal permits before commencement of development.

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. 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).
7. 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.
8. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water and wastewater systems have been designed to support all development (including hydraulically dependent development) within the PD.
9. The developer shall obtain water and wastewater 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. Short term / transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater.
12. Outside sales, storage, and display shall be prohibited.
13. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated November 19, 2002, shall apply:
 - a. The uses, densities, intensities, and all of the conditions of approval of the PD/LUP have been negotiated and agreed to by both the applicant and the County. The PD/LUP constitutes an agreement between the parties. The applicant and the applicant's successors in interest have the contract right to develop the PD with the uses, densities, and intensities approved by the County, subject to the restrictions and requirements in the conditions of approval, and neither the applicant nor the County shall have the right to rezone or down zone the property, or otherwise alter the uses, densities, and intensities, or to delete, waive, or amend any condition of approval except through an amendment to the PD/LUP that is negotiated and approved by both parties.
 - b. Development shall comply with multi-family development criteria as stated in Section 38-1258, amended as follows:
 - 1) A 6-foot-high solid masonry wall shall be provided along Balboa Drive and Apopka-Vineland Road
 - 2) A 25-foot wide buffer shall be provided along the north property line and a 10-foot wide buffer shall be provided along the east property line. The buffer shall be maintained by the property owner.
 - 3) Minimum building setback from the west property lines shall be 75 feet. The minimum building setback from the north property line shall be 100 feet.
 - c. The minimum living heated area shall be 700 square feet.
 - d. The maximum multi-family/apartment building height shall be 40 feet, 3 stories.
 - e. All applicable previous conditions of approval shall apply.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (November 19, 2002)

Upon a motion by Commissioner Hartage, seconded by Commissioner Johnson, and carried by all members present voting AYE by voice vote, the Board approved the substantial change request to transfer 140 unused residential units within the PD to "Parcel A".



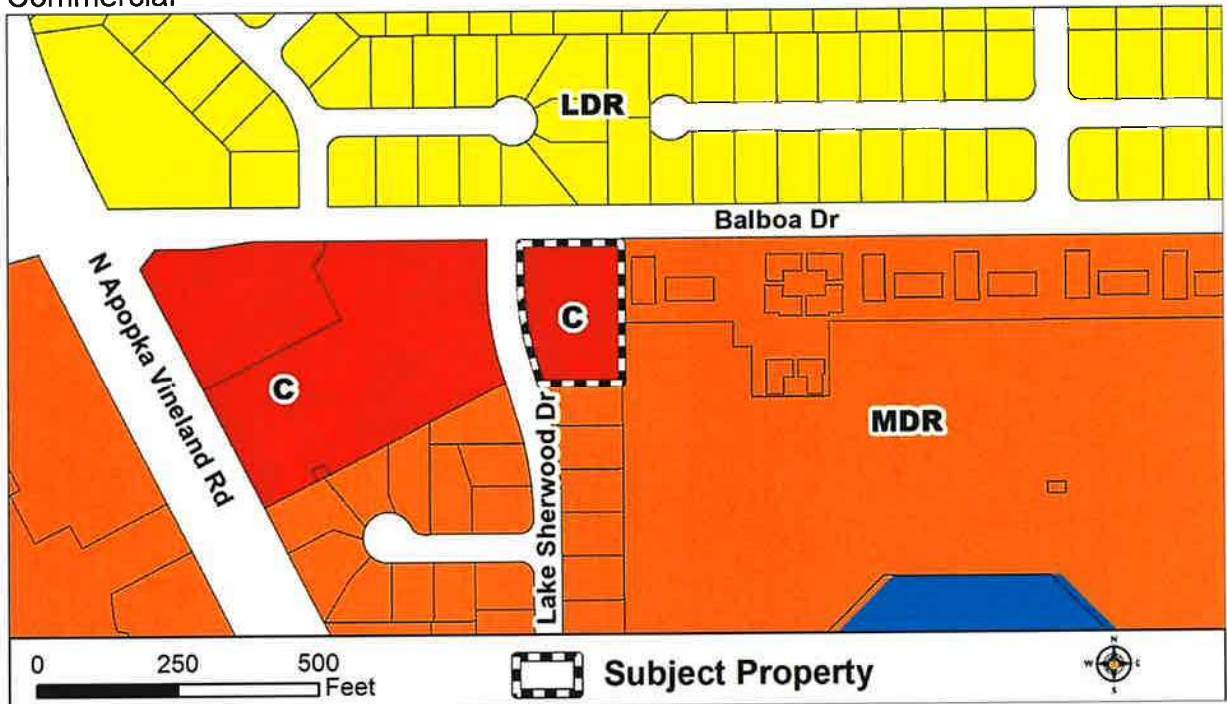
Subject Property



1 inch = 200 feet

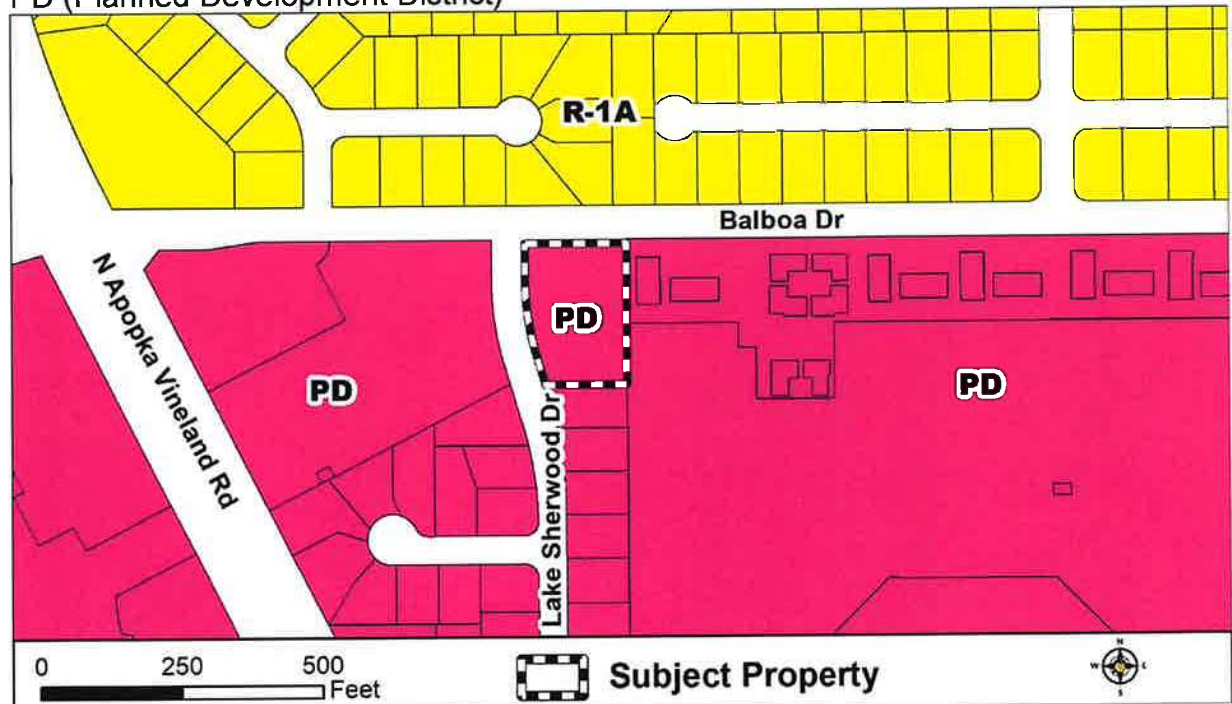
Future Land Use Map

Commercial



Zoning Map

PD (Planned Development District)



RECEIVED
By DRC Office at 10:45 am, Sep 27, 2022

Notification Map

