

**CASE # CDR-16-11-379**

Commission District: # 1

**GENERAL INFORMATION**

<b>APPLICANT</b>	Jennifer Stickler, Kimley Horn & Associates, Inc.
<b>OWNER</b>	Venetian Isles at Horizon West, LLC
<b>PROJECT NAME</b>	North of Alberts Planned Development (PD)
<b>PARCEL ID NUMBER</b>	25-23-27-5839-03-000 (affected parcel only)
<b>TRACT SIZE</b>	116.8 gross acres (overall PD) 4.38 gross acres (affected parcel only)
<b>LOCATION</b>	Generally located along the west side of Winter Garden Vineland Road (CR 535) and north of Lakeside Village Lane.
<b>REQUEST</b>	A PD substantial change to add “dormitory” as an allowable use within the designated Village Center District and Townhome / Apartment District located on the north side of APF Road A and the east side of APF Road B (“affected parcel”); to re-designate the approved forty-four (44) single-family attached units (townhomes) located within the affected parcel as multi-family units; and amend the existing trip generation table to reflect a multi-family unit -to- dormitory unit conversion rate.
<b>PUBLIC NOTIFICATION</b>	A notification area extending beyond five hundred (500) feet was used for this application [ <i>Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet</i> ]. Two hundred fifty-three (253) notices were mailed to those property owners in the notification buffer area. A community meeting was not required for this request.

**IMPACT ANALYSIS**

**Special Information**

The North of Alberts PD was originally approved August 4, 2015 and allows for the development of 70,700 square feet of non-residential uses; 151 single-family detached residential units; 44 single-family attached (townhome) residential units; 302 multi-family residential units; and a public middle school.

Through this PD substantial change, the applicant is seeking to add “dormitory” as an allowable use within the designated Village Center District and Townhome / Apartment District located on the north side of APF Road A and the east side of APF Road B (“affected parcel”); to re-designate the approved forty-four (44) single-family attached units (townhomes) located within the affected parcel as multi-family units; and amend

the existing trip generation table to reflect a multi-family unit -to- dormitory unit conversion rate. The proposed trip conversion rate would equate the trips generated by one (1) apartment unit to that of one and a half (1 ½) dormitory units.

**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 Village (V), and is further identified as part the Horizon West Special Planning Area of Lakeside Village. More specifically, the North of Albert's PD contains the Village Center District, Townhome / Apartment District, and Village Home District, along with an Adequate Public Facility (APF) Middle School site, and two (2) APF roadways.

The parcel affected by this request is designated Village Center District and Townhome / Apartment District. The proposed PD substantial change is consistent with these designations and all applicable CP provisions; therefore, the request is consistent with the Comprehensive Plan.

**Overlay District 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**

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

**Transportation / Concurrency**

Per the approved land use plan, this development is limited to 506 pm peak hour trips. There is a Transportation Agreement on file for this development between North of Albert's, LLP ("Owner"), the School Board of Orange County ("OCPS") and Orange County approved on 8/04/2015 and recorded at OR Book/Page 10964/6364 for the dedication of right-of-way, design, and construction of the North of Alberts PD road network. The maximum cost to the County for the design and construction of the road improvements is not to exceed \$4,451,136. In addition, the Owner shall receive transportation impact fee credits for the right-of-way in the amount of \$22,500 per acre. To date, all of the Right-of-Way has been dedicated (5.77 acres) and Owner received \$125,250.75 in transportation impact fee credits.

There is also a Supplemental Agreement to Transportation Agreement North of Albert's PD, approved on 9/20/2016 and Recorded at Document #20160516693. This agreement allows the Developer to design, permit and construct approximately 123 linear feet of transportation improvements in order to connect Road C to Tattant Boulevard. The County will reimburse the Developer for the actual costs of the

roadway improvements in an amount not to exceed \$30,782.02. The terms for the reimbursement will follow the procedures outlined in the Transportation Agreement for North of Alberts PD 2015 Roads A, B and C (Section C-1) approved by the BCC on 08/04/2015 and recorded at Official Records Document #20150414458.

**Schools**

Development within the affected parcel shall not (i) generate attendance by school-aged children in grades K-12 within the Orange County Public School System or (ii) utilize any public school facilities. Pursuant to proposed conditions, changes that result in an increase to the public school population shall require a substantial change to the PD, and all school aged-children in grades K-12 are required to attend a private school, and vacate the potential dormitory in the event the child stops attending a private school.

**Parks and Recreation**

Orange County Parks and Recreation staff reviewed the PD substantial change 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 – (January 11, 2017)**

**Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the North of Alberts Property Planned Development / Land Use Plan (PD/LUP) dated "Received December 6, 2016", subject to the following conditions:**

1. Development shall conform to the North of Albert's Planned Development / Land Use Plan (PD/LUP) dated "Received December 6, 2016," 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 of this land use plan and the land use plan dated "Received December 6, 2016," 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/LUP 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. 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 updated MUP must be approved prior to construction plan approval.
7. Dormitory use shall be permitted for 7th through 12th grade students only, as specified in the Land Use Plan.
8. If development is used as dormitories then the development shall neither (i) generate attendance by school-aged children in grades K-12 within the Orange County Public School System nor (ii) utilize any public school facilities. Any proposed change to this condition shall require a substantial change to the PD.
9. The following provision will be included in the tenant contracts/leases for the dormitories: All school aged-children in grades 7-12 will be required to (i) attend the private school which may in the future be located within the PD or another private school and (ii) vacate the dormitory in the event the child stops attending such private school(s).
10. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated August 4, 2015, shall apply:
  - a. Prior to or as a part of platting, this development shall join the MSBU for street lighting that has been created for this area.
  - b. All acreages identified as conservation areas and buffers are considered approximate until finalized by Conservation Area Determination (CAD) and Conservation Area Impact (CAI) Permits. Approval of this plan does not permit any conservation area impacts.
  - c. The developer shall obtain water, wastewater and reclaimed water service from Orange County Utilities.
  - d. Development of Townhomes/Apartments shall comply with the new Village Code.
  - e. The developer shall be responsible for building master utilities transmission and collection infrastructure adequate to serve the PD and to accommodate the ultimate flows for the entire Village (SAP).
  - f. All signs in the Village Center District shall comply with the Horizon West Village Center Standards of Orange County Code Section 38-1389 (New Code) and all other districts shall comply with Chapter 31.5 or approved Master Sign plan. Billboards and pole signs shall be prohibited.
  - g. In addition to the uses listed in Orange County Code Section 38-1389 the following uses shall be permitted within the Village Center District:

- 1) Free-standing carwashes that are enclosed on two (2) sides shall only be permitted as an ancillary use in conjunction with gas pumps and stations.
  - 2) Drive-thrus shall be permitted solely in conjunction with financial institutions, grocery stores, restaurants, and drug stores.
  - 3) Liquor stores subject to meeting all applicable codes.
- h. Outside sales, storage, and display shall be prohibited.
- i. The following Education Condition of Approval shall apply:
- 1) Developer shall comply with all provisions of the Capacity Enhancement Agreement approved by the Orange County School Board on June 23, 2015.
  - 2) Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Capacity Enhancement Agreement, the County shall immediately cease issuing building permits for any residential units in excess of the three (3) residential units allowed under the zoning existing prior to the approval of the PD zoning. The County may 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 Capacity Enhancement Agreement. The developer and its successor(s) and/or assign(s) under the Capacity Enhancement 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.
  - 3) Developer, and its successor(s) and/or assign(s) under the Capacity Enhancement 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 rights.
  - 4) Orange County shall be held harmless by the developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Capacity Enhancement Agreement.
  - 5) Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.
- j. 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.

- k. Applicant shall comply with APF Agreement and Road Agreement.
- l. The future Middle School site shall comply with the PD Commercial Development standards, including a 25' buffer adjacent to residential uses.
- m. The future Middle School site shall post signage along the boundary line adjacent to APF Road C once the PD Land Use Plan is approved that states the following, "This is the home of a future OCPS Middle School site." This sign shall remain on site until the commencement of construction of the Middle School site.
- n. 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.
- o. Prior to approval of a plat for a single-family residential unit project, the developer shall have prepared and submitted for review a document containing covenants, conditions, and restrictions (CC&Rs) for the property being platted. The CC&Rs, which shall be recorded simultaneously with the plat, shall include a provision incorporating, verbatim, the following requirements:
  - 1) The same front façade for single-family residential units may not be repeated more than five (5) times within one (1) block length for both sides of any street, and shall be separated by at least two (2) units with different façades.
  - 2) House front façades shall be varied and articulated to provide visual interest to pedestrians along the street frontage. The front façade of the main body of any house shall not exceed forty (40) feet in length, except for wings or "L's" which are set back from the façade. In no case shall more than fifty percent (50 %) of the front façade of any house consist of an unobstructed block wall or garage door.
  - 3) At least fifty percent (50%) of all single-family residential units shall have a front porch. A front porch shall be a minimum of seven (7) feet in depth and cover a minimum ten (10) feet in width or one third (1/3) of the front façade, whichever is greater.
  - 4) Flat roofs shall be prohibited.
  - 5) Unless otherwise prohibited by the CC&Rs, fencing in the front yard shall be no higher than three feet, six inches (3'6") and limited to decorative wrought iron or wood picket style.
  - 6) The provisions of the CC&Rs incorporating the above-referenced requirements shall not be amended, removed, or superseded without the prior approval of the Board of County Commissioners, which approval may

be withheld in the Board's sole discretion, and the CC&R's shall contain a statement to that effect.

- 7) Furthermore, the CC&R's shall provide that the homeowners' association and any person owning the property in the development have the right to enforce these requirements in the event they are violated.
  - 8) Finally, the CC&Rs shall also state that Orange County shall have the right, but not the duty, to enforce these requirements in the same manner as it enforces other Orange County ordinances and regulations.
- p. The following waivers from Orange County Code are granted and applicable within the designated Townhouse / Apartment District only:
- 1) A waiver from Section 38-1258(a) to allow a maximum height of five (5) stories and seventy-five (75) feet for multi-family residential buildings located between ten (10) feet and one hundred (100) feet from single family zoned property both internal and external to this PD, in lieu of a maximum height of one single story for multi-family residential buildings located within one-hundred (100) feet of single family zoned property;
  - 2) A waiver from Section 38-1258(b) to allow a maximum height of five (5) stories and seventy-five (75) feet for 100% of the multi-family residential buildings located between one-hundred plus (100+) feet and one-hundred fifty (150) feet from single family zoned property both internal and external to this PD, in lieu of varying building heights with a maximum of 50% of the buildings being a maximum of three (3) stories and forty (40) feet and the remaining buildings being one (1) or two (2) stories;
  - 3) A waiver from Section 38-1387.2(a)(3) to allow a maximum number of apartment dwelling units in any one location without an intervening parking, open space, civic or townhouse use, shall be limited to 302 units, in lieu of three hundred (300) units;
  - 4) A waiver from Section 38-1387.2(a)(4) to allow a maximum height of five (5) stories and seventy-five (75) feet for apartment buildings in the Townhouse/Apartment District, in lieu of five (5) stories and sixty-five (65) feet;
  - 5) A waiver from Section 38-1387.2(a)(8)(e) to allow a minimum building separation of twenty (20) feet when utilized as common open space, recreation area, or park tract; in lieu of a minimum building separation of forty-five (45) feet when utilized as common open space, recreation area, or park tract; and
  - 6) A waiver from Section 38-1387.2(a)(9) to allow up to 50% of the aggregate length of APF Roads B & C, north of APF Road A, as off-street surface parking lots between residential structures and the street rights-of-way along the west side of APF Road "B" and the south side of APF Road "C" only; in



lieu of the requirement that off-street surface parking lots be placed within the interior of the blocks.

- q. A waiver from Orange County Code Section 38-1382(i) is granted to allow for the APF Park in Tract 7 of the Frye Center PD to count towards the required public open space in the Village Center District of this PD, in accordance with Future Land Use Element Policy 4.6.8.
- r. The following waivers from Orange County Code are granted and applicable within the designated Village Center District only:
  - 1) A waiver from Section 38-1389(d)(3)(a) to allow a minimum lot width for apartments to be eighty-five (85) feet in the Village Center District, in lieu of one hundred-fifty (150) feet;
  - 2) A waiver from Section 38-1389(d)(3)(b) to allow a minimum lot depth for townhomes to be eighty-six (86) feet in the Village Center District, in lieu of one hundred (100) feet;
  - 3) A waiver from Section 38-1389(d)(3)(g) to allow a minimum of forty-five (45) percent of the build-to-line of any block or parcel in the Village Center District to be occupied by buildings or street-walls, in lieu a minimum of seventy (70) percent of the build-to-line of any block or parcel in the Village Center District to be occupied by buildings or street-walls;
  - 4) A waiver from Section 38-1389(d)(4)(d) to allow a maximum parking lot frontage of 380 feet along the north side of APF Road A (as depicted on the Conceptual Village Center Block Layout in the PD/LUP) when a knee wall is placed between the parking area and the road, in lieu of a maximum parking lot frontage of 65 feet;
  - 5) A waiver from Section 38-1389(d)(4)(h) to allow off-street parking spaces along one side of the drive-aisle in front of buildings internal to the site along C.R. 535 (Winter Garden Vineland Road), south of APF Road "A" only; in lieu of the requirement that off-street parking be located to the rear or side of buildings only; and
  - 6) Waivers from Sections 38-1389(d)(4)(h) and 38-1389(d)(4)(j) to eliminate the requirement that the edges of vehicle use areas that abut an adjacent Village Center District lot under different ownership, have knee walls or be planted with shrubs.
- s. Simultaneously with the recording of the subdivision plat, the developer shall record in the public records of Orange County, Florida, a declaration of covenants, conditions, and restrictions governing the North of Albert's project, the terms of which shall include notification that the project is adjacent to a future middle school site and a conspicuous requirement that each purchaser of a residential lot in the project for the personal or family uses of the purchaser(s) must be given a copy of the declaration at or prior to the time the sales contract is executed by the purchaser(s), together with a disclosure statement to be

executed by the initial purchaser(s) stating as follows: *"I / We acknowledge, understand, and accept that I/we am/are purchasing a lot or home in a subdivision that, on the date of its approval by the Board of County Commissioners on \_\_\_\_\_, 2015, is located adjacent to a future middle school site, as depicted on the Lakeside Village Specific Area Plan. I / We also acknowledge, understand, and accept that the development of such middle school may include athletic fields, stadiums, tracks, etc. and the accompanying seating, lighting, and public address system that may be associated with those uses." In addition to the declaration requirement described above, the developer shall incorporate the following statement into each deed initially conveying title to a lot: "The property being conveyed is part of the \_\_\_\_\_ Subdivision, which is located adjacent to a future middle school site. (PD/LUP Condition of Approval #23 from BCC Minutes of \_\_\_\_\_, 2015)." The proximity of the subdivision to the future middle school site shall also be conspicuously notated on the plat.*

- t. A Level One (1) Environmental Site Assessment (ESA) shall be submitted to the County for review and approval as part of any Preliminary Subdivision Plan (PSP) and / or Development Plan (DP) submittal.

**PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (August 4, 2015)**

Upon a motion by Commissioner Boyd, seconded by Commissioner Nelson, and carried with all present members voting AYE, the Board made a finding of consistency with the Comprehensive Plan; and further, approved the rezoning request by Jim Hall, VHB, North of Albert's LUP, Case # LUP-11-06-136 to rezone 116.82 acres from A-1 (Citrus Rural District) to PD (Planned Development District) in order to allow development of 70,700 square feet of non-residential uses; 151 single-family detached residential units; 44 single-family attached (townhome) residential units; 302 multi-family residential units; and a public middle school; and further, approved waivers from Orange County Code; on the described property; subject to conditions.