

**CASE # CDR-16-12-418**

Commission District: # 1

**GENERAL INFORMATION**

<b>APPLICANT</b>	Jonathan Huels, Lowndes Drosdick, Doster, Kantor and Reed, P.A.
<b>OWNER</b>	E C Parkway Developments, LLC
<b>PROJECT NAME</b>	Vista Centre Lots 6 & 7 Planned Development
<b>PARCEL ID NUMBER</b>	22-24-28-8915-00-070 (affected parcel only)
<b>TRACT SIZE</b>	27.80 gross acres ( <i>overall PD</i> ) 15.34 gross acres ( <i>affected parcel only</i> )
<b>LOCATION</b>	8175 Palm Parkway; west of Palm Parkway, south of Lake Street.
<b>REQUEST</b>	<p>A PD substantial change to add up to 300 multi-family units to PD Lot 7, Parcel 22-24-28-8915-00-070, by using an equivalency matrix and to modify a BCC condition of approval from April 23, 1991, to reduce the required building setback along the north property line adjacent to Lake Street from 60 feet to 40 feet. In addition, the applicant has requested the following waivers from Orange County Code for Parcel 22-24-28-8915-00-070 within Lot 7 only:</p> <ol style="list-style-type: none"><li>1. A waiver from Section 38-1258(i) to allow multi-family development located adjacent to a right-of-way to be unfenced when a single-family zoned property is located across the right-of-way, in lieu of the requirement that it be fenced.</li><li>2. A waiver from Section 38-1287(2) to allow for a zero (0) foot east side building setback internal to the PD, in lieu of thirty (30) feet for the apartment development.</li><li>3. A waiver from Section 38-1300 to allow for buildings sixty (60) feet in height when located within one hundred (100) feet of single-family zoned property, in lieu of a thirty-five (35) foot maximum height.</li></ol>
<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 seventy-seven (277) 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 Vista Centre Lots 6 and 7 PD was originally approved on April 23, 1991. PD Lot 6 contains 12.5 acres and has development entitlements for 400 hotel rooms, and is currently developed with three separate hotels. PD Lot 7 contains 15.3 acres and has development entitlement for 920 hotel rooms. The southern 4.2 acres of Lot 7 is currently developed with a 120-room Hawthorn Suites Resort Villa. The remaining 11.1 acres of Lot 7 is vacant.

Through this PD substantial change, the applicant is seeking to add up to 300 multi-family units to PD Lot 7 by using an equivalency matrix and to modify a BCC condition of approval from April 23, 1991, to reduce the required building setback along the north property line adjacent to Lake Street from 60 feet to 40 feet. In addition, the applicant has requested three (3) waivers from Orange County Code to: address a reduced east-side building setback interior to the PD; increase the building height; and to eliminate fencing of the property adjacent to the right-of-way where there is an County-owned pump station across the street in a single-family zoned district.

### **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). The Vista Centre Lots 6 and 7 PD was approved in 1991 and includes hotel uses. The ACMU FLUM designation allows for thirty (30) percent of the land area to be used for residential purposes. The applicant has provided a restriction on the PD to limit the amount of land area used for residential purposes to comply with the ACMU policies. The proposed PD substantial change is consistent with this designation 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**

Based on the trip conversion matrix provided, 300 apartments are equivalent to 267 hotel rooms. Therefore, the approved 1,320 hotel rooms will be reduced by 267 rooms in order

to accommodate the proposed 300 apartments. In terms of trip generation, based on the 9th Edition of the Institute of Transportation Engineers, the proposed 300 apartments will generate 186 p.m. peak hour trips which is within the 1,003 p.m. peak hour trips approved for this development. Vista Centre is also vested from transportation concurrency under vested rights certificate 05-249. A copy of this certificate must be provided with each application for a building permit.

**Community Meeting Summary**

A community meeting was not required for this application.

**Schools**

Orange County Public Schools (OCPS) reviewed the request and has approved a Capacity Enhancement Agreement (CEA) dated November 28, 2017.

**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 4, 2017)**

**Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Vista Centre Lots 6 & 7 Planned Development / Land Use Plan (PD/LUP) dated "Received November 9, 2017", subject to the following conditions:**

1. Development shall conform to the Vista Centre Lot 6 and 7 Planned Development / Land Use Plan (PD / LUP) dated "Received November 9, 2017," 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 November 9, 2017," 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. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any Construction Plan submittal and must be approved prior to Construction Plan approval for any streets and/or tracts anticipated to be dedicated to the County and/or to the perpetual use of the public.
7. The project shall dedicate the necessary right-of-way for Lake Street prior to development plan approval. Conveyance of right-of-way must be coordinated through the Road Agreement Committee.
8. Multi-family use length of stay shall be for 180 days or greater. Short Term rental shall be prohibited within the residential portion of Lot 7.
9. Timeshare and hotel use length of stay shall not exceed 179 days.
10. Multi-family use, including amenities and parking (but not including retention), shall stand on its own. Hotel and timeshare uses must be located on separate tract(s) from multi-family.
11. The following Education Condition of Approval shall apply:
  - a. Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of November 28, 2017.
  - b. 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 zero (0) 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.
  - c. 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.
  - d. 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.
  - e. 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.

12. The following waivers from Orange County Code are granted for Parcel 22-24-28-8915-00-070 within Lot 7 only:
- a. A waiver from Section 38-1258(i) to allow multi-family development located adjacent to a right-of-way to be un-fenced when a single-family zoned property is located across the right-of-way, in lieu of the requirement that it be fenced.
  - b. A waiver from Section 38-1287(2) to allow for a zero (0) foot east side building setback internal to the PD, in lieu of thirty (30) feet for the apartment development.
  - c. A waiver from Section 38-1300 to allow for buildings sixty (60) feet in height when located within one hundred (100) feet of single-family zoned property, in lieu of a thirty-five (35) foot maximum height.
13. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated January 6, 2015 shall apply:
- a. 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 issuance of the initial certificate of occupancy. Nothing in this condition and nothing in the decision to approve this development 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.
  - b. A 20-foot-wide pedestrian/landscape/utility easement and a 15-foot-wide transit easement (for a total of 35 feet) along Palm Parkway shall be included in the development plan.
  - c. The developer shall obtain water, wastewater, and reclaimed water from Orange County Utilities subject to Orange County rate resolutions and ordinances.
  - d. 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 within Lots 6 & 7 of the PD.
  - e. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 (Tourist Commercial Standards) of the Orange County Code.
  - f. Outside sales, storage, and display shall be prohibited.
14. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated November 1, 2005 and December 15, 1998, shall apply:
- a. The following International Drive Strategic Plan conditions shall apply:

- 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.
  - 4) The property owner shall be required to participate in a 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 the interconnection of adjacent developments either by cross access easement or public right-of-way. This shall include connection into and 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.
15. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated April 23, 1991, shall apply:
- a. Lot #7 shall have a minimum setback of twenty-five feet along the western boundary. A minimum ~~sixty (60)-foot~~ forty (40)-foot setback shall be required along the north property line of Lot #7.
  - b. The project shall be developed in accordance with the information, data, plans, and commitments contained in the Vista Center DRI/ADA and supplemental information unless otherwise directed by the recommendations enumerated below. For the purpose of this condition, the Application for Development Approval shall consist of the following items:
    - 1) Application for Development Approval dated June 29, 1990.
    - 2) First Sufficiency Response and Appendices dated September 1990.
    - 3) Second Sufficiency Response received November 1990.
  - c. In the interest of safety, and to promote alternative forms of transportation, the applicant shall construct a system of bikeways providing for the needs of both

experienced (on road) and novice (off road) cyclists during all new roadway construction and/or resurfacing projects. Special consideration shall be given to roadways connecting resort villas and hotels with commercial and restaurant parcels. Bicycle support facilities (e.g. parking) shall be made available at hotels, villas.

- d. On-site bicycle and pedestrian systems shall connect into external bicycle systems. Construction standards shall conform to latest state criteria. The remaining construction for Lake Avenue shall provide for pedestrian and bicycle movement.
- e. Bicycle lockers or bicycle racks, transit passenger shelters, and transit parking bays shall be constructed where necessary to augment and facilitate the operations of off-site transit and bicycle facilities.

**PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (January 6, 2015)**

Upon a motion by Vice Mayor Boyd, seconded by Commissioner Clarke, and carried by all present members, the Board made a finding of consistency with the Comprehensive Plan; further, approved the substantial change request by Rebecca Wilson, Lowndes, Drosdick, Doster, Kantor & Reed, Vista Centre Planned Development / Land Use Plan (PD / LUP), Case # CDR-14-07-210, to amend the Vista Centre Planned Development / Land Use Plan (PD / LUP) to increase the number of hotel rooms on Lot 7 from 500 to 920 (an overall PD increase from 900 to 1,320 hotel rooms); further, increased the maximum building height from 100 feet to 150 feet; further, added a second access along Lake Street; which constitutes a substantial change to the development on the described property; subject to conditions.