



Interoffice Memorandum

DATE: September 17, 2018

TO: Mayor Teresa Jacobs
-AND-
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director
Community, Environmental and Development
Services Department

CONTACT PERSON: Eric Raasch, Interim DRC Chairman
Development Review Committee
Planning Division
(407) 836-5523

SUBJECT: October 16, 2018 – Public Hearing
Jay R. Jackson, P.E., Kimley-Horn and Associates, Inc.
VOA-Nerbonne Planned Development
Case # CDR-18-03-076 / District 1
(Related to Consent Agenda Item: VOA-Nerbonne PD
Transportation Impact Fee Agreement)

The VOA-Nerbonne Planned Development (PD) is generally located south of International Drive and east of the Daryl Carter Parkway extension. The original VOA-Nerbonne PD was approved on January 6, 1998. Per the most recently approved substantial change to the PD, existing development entitlements consist of 25,600 square feet of commercial uses and 196 hotel rooms on Tract 3, 1,131 hotel rooms (including 360 rooms used for timeshare purposes) on Tracts 1 & 2, and 309 multi-family residential units on Tract 4.

Through this PD substantial change, the applicant is seeking to add a conversion matrix that identifies mini-warehouse as a permitted retail use, and to convert twenty-three (23) hotel rooms to 94,500 square feet of self-storage uses for the southern parcel of Tract 3 (PID: 23-24-28-5844-00-571).

On August 8, 2018, the Development Review Committee (DRC) recommended approval of the request, subject to conditions and subject to a Roadway Agreement (RAG-18-07-027, VOA-Nerbonne PD Transportation Impact Fee Agreement) accompanying this request to the Board of County Commissioners (BCC). The Transportation Impact Fee Agreement was approved by the Roadway Agreement Committee (RAC) on August 15, 2018. A community meeting was not required for this request.

Please note that this item was continued from the October 2, 2018 BCC hearing.

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 VOA-Nerbonne Planned Development / Land Use Plan (PD/LUP) dated “Received July 9, 2018”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1

Attachments
JVW/EPR/nt

CASE # CDR-18-03-076

Commission District: # 1

GENERAL INFORMATION

APPLICANT	Jay R. Jackson, P.E., Kimley-Horn and Associates, Inc.
OWNER	I Drive Associates LLC
PROJECT NAME	VOA-Nerbonne Planned Development (PD)
PARCEL ID NUMBER	23-24-28-5844-00-571
TRACT SIZE	42.684 gross acres (overall PD) 4.157 gross acres (affected parcel only)
LOCATION	Generally located south of International Drive and east of the Daryl Carter Parkway extension.
REQUEST	A PD substantial change to add a conversion matrix that identifies mini-warehouse as a permitted retail use, and to convert twenty-three (23) hotel rooms to 94,500 square feet of self-storage uses for the southern parcel of Tract 3 (PID: 23-24-28- 5844-00-571).
PUBLIC NOTIFICATION	A notification area extending beyond five hundred (500) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Two-hundred two (202) notices were mailed to those property owners in the notification buffer area.

IMPACT ANALYSIS

Special Information

The VOA-Nerbonne Planned Development (PD) is generally located south of International Drive and east of the Daryl Carter Parkway extension. The original VOA-Nerbonne PD was approved on January 6, 1998. Per the most recently approved substantial change to the PD, existing development entitlements consist of 25,600 square feet of commercial uses and 196 hotel rooms on Tract 3; 1,131 hotel rooms (including 360 rooms used for timeshare purposes) on Tracts 1 & 2; and 309 multi-family residential units on Tract 4.

Through this PD substantial change, the applicant is seeking to add a conversion matrix that identifies mini-warehouse as a permitted retail use, and to convert twenty-three (23) hotel rooms to 94,500 square feet of self-storage uses for the southern parcel of Tract 3 (PID: 23-24-28- 5844-00-571).

On August 8, 2018, the Development Review Committee (DRC) recommended approval of the request, subject to conditions and subject to a road agreement (RAG-18-07-027, VOA-Nerbonne PD Transportation Impact Fee Agreement) accompanying this request to the Board of County Commissioners (BCC). RAG-18-07-027 was approved by the Roadway Agreement Committee (RAC) on August 15, 2018. A community meeting was not required for 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 subject property has an underlying Future Land Use Map (FLUM) designation of Activity Center Mixed Use (ACMU). 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

Transportation Division staff have reviewed the proposed 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) did not comment on this case, as it does not involve an increase in residential units or density.

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 – (August 8, 2018)

Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the VOA-Nerbonne Planned Development / Land Use Plan (PD/LUP) dated "Received July 9, 2018", subject to the following conditions:

1. Development shall conform to the VOA / Nerbonne Planned Development (PD) / Land Use Plan (LUP) dated "Received July 9, 2018," 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 July 9, 2018," 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. 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.
7. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
8. 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.
9. Applicant shall comply with the terms of the Road Agreement for Wildwood Avenue / International Drive South and Westwood Boulevard Extension.

10. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated May 19, 2015 shall apply:

- a. Multi-family use is prohibited on Tracts 1 & 2 and shall be permitted strictly within PD Tract 4 only.
- b. The following Education Condition of Approval shall apply:
 - 1) Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board [and Orange County] as of August 29, 2013.
 - 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 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.
 - 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.
- c. With the exception of Tract 4, no permanent residency by school-aged children may be generated as a result of any development within the PD.
- d. Development shall conform to the conversion matrix as approved by Orange County.
- e. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated May 13, 2014, shall apply:

- 1) Billboards and pole signs shall be prohibited. Ground and fascia signs shall comply with the Tourist Commercial standards of Ch. 31.5.
 - 2) If Tracts 1, 2 and 4 exceed their trip entitlements of 1,056 maximum peak hour traffic trips, then the excess trips shall be subject to concurrency.
 - 3) In lieu of the easements prescribed by I-Drive Activity Center Policies ID1.2.15, ID2.3.3 and ID2.2.2, a bus pull-out bay shall be provided on Fenton Street (aka Daryl Carter Parkway) just south of the Fenton / Lake Street intersection, and two pedestrian accesses to Fenton Street shall be provided from the property, one near the Lake Street intersection and the other in the middle of the parcel near the southern end of the bus pull-out bay. Setbacks are as approved on the plan date stamped "Received January 29, 2014".
- f. Except as amended, modified, and/or superseded, the following BCC Conditions of Approval dated June 2, 2009, May 2, 2006, and June 10, 2008, shall apply:
- 1) I-Drive Condition of Approval: the following International Drive strategic conditions shall apply:
 - a) Permitted and prohibited uses shall be those specified in Policies 1.1.4 and 1.1.6 of the International Drive Activity Center element. 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.
 - b) The development guidelines of the International Drive Activity Center shall apply to the subject property if they are established or in progress prior to each development plan submittal including but not limited to, landscaping standards, lighting standards, sign regulations, open space standards, building orientation and design, and location of parking lots.
 - c) The property owners shall be required to participate in the International Drive Property Owner's Association upon its creation.
 - d) Stormwater management facilities shall be designed as an aesthetic feature except when determined by the County Engineer to be technically unfeasible.
 - e) The Development Plan shall provide for interconnection of adjacent developable parcels either by cross-access easements or public right-of-way. This shall include connection into and continuation of an area wide transportation plan for the International Drive Activity Center.
 - f) Electrical distribution lines shall be underground.

- g) Participation in a shuttle service connecting area attractions, major transportation center, and on-site development shall be provided.
- 2) The maximum height for Tract 2 shall be 200 feet / 20 stories and the maximum heights for Tracts 1 & 4 shall be 100 feet / 6 stories.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (December 15, 2015)

Upon a motion by Commissioner Boyd, seconded by Commissioner Nelson, and carried with all present members voting AYE by voice vote; the Board made a finding of consistency with the Comprehensive Plan; and further, approved the substantial change request by Jay Jackson, Kimley-Horn and Associates, Inc., VOA-Nerbonne Planned Development / Land Use Plan (PD / LUP), Case # CDR-15-09-276, to amend the VOA-Nerbonne Planned Development / Land Use Plan (PD/LUP) by removing the maximum residential land area calculations and adding a note that future development shall be consistent with the maximum residential land area found in Comprehensive Plan Policy ID1.1.7.

CDR-18-03-076



Subject Property
 Overall PD

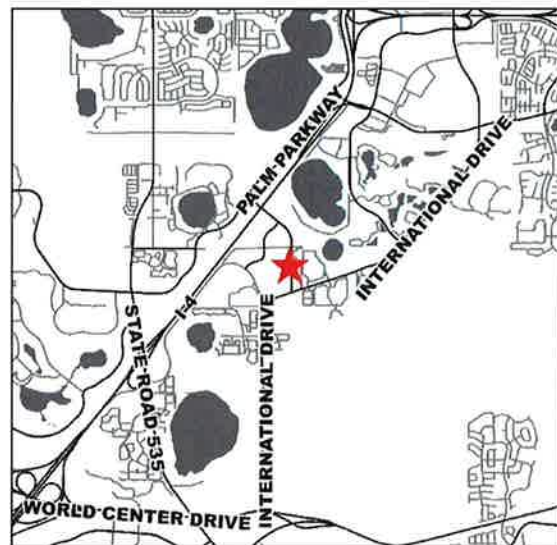


Subject Property

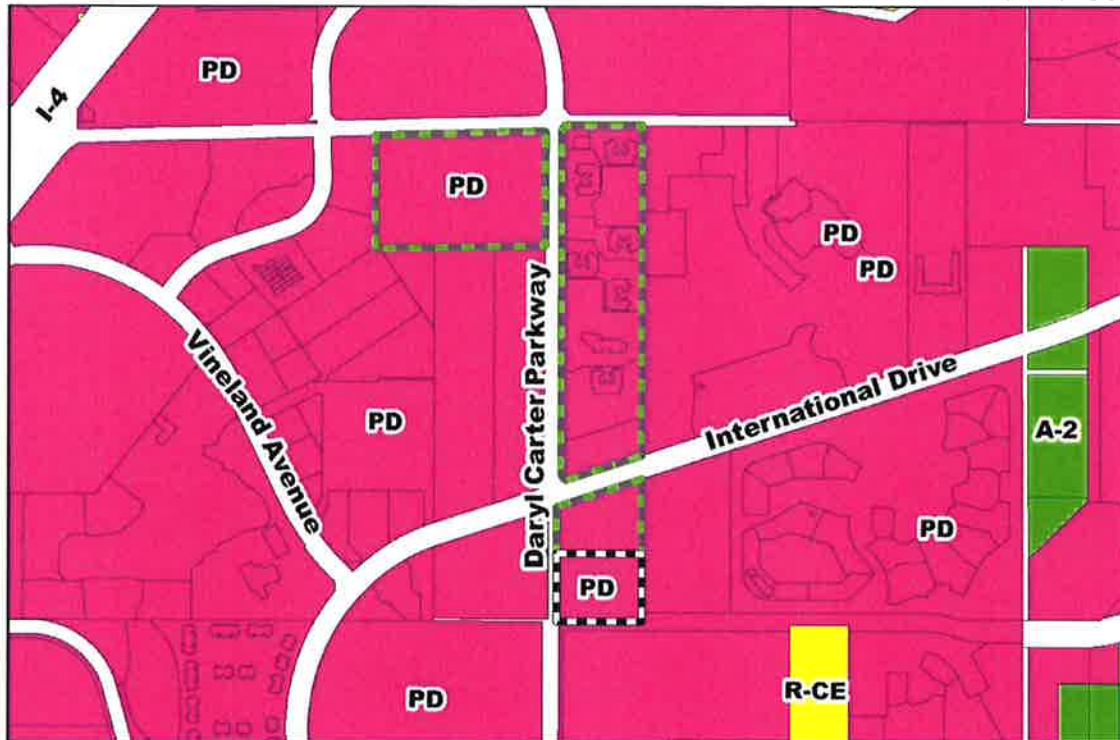
Future Land Use Map

FLUM: Activity Center Mixed Use (ACMU)
APPLICANT: Jay R. Jackson
LOCATION: Generally located north of State Road 50, east of Bonneville Drive, and west of Lake Pickett Road.
TRACT SIZE: 45.71 gross acres (overall PD)
 4.157 gross acres (affected parcel)
DISTRICT: # 5
S/T/R: 23/22/31

1 inch = 800 feet



CDR-18-03-076



Subject Property
 Overall PD

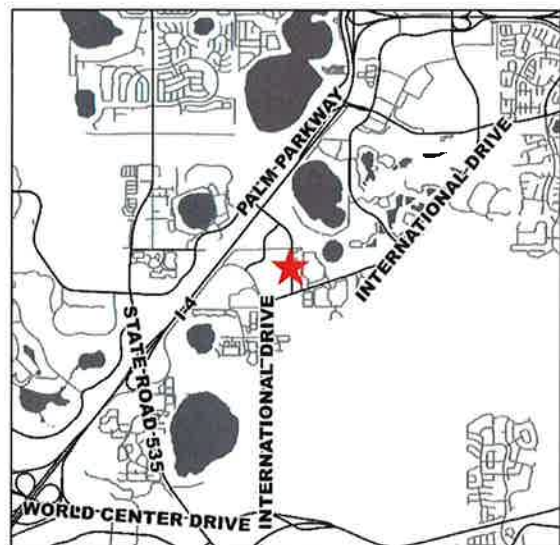


Subject Property

Zoning Map

ZONING: PD (Planned Development)
APPLICANT: Jay R. Jackson
LOCATION: Generally located north of State Road 50, east of Bonneville Drive, and west of Lake Pickett Road.
TRACT SIZE: 45.71 gross acres (overall PD)
 4.157 gross acres (affected parcel)
DISTRICT: # 5
S/T/R: 23/22/31

1 inch = 800 feet



VOA-Nerbonne PD / LUP

VOA-NERBONNE PD LAND USE PLAN AMENDMENT

Orange County, Florida
JULY 9, 2018
CDR-18-03-076

PARCEL ID'S: 23-24-28-2900-01-000
 23-24-28-2901-01-001 to 08-001
 23-24-28-2901-01-101 to 06-101
 23-24-28-5844-00-060
 23-24-28-5844-00-570 & 00-571

DEVELOPMENT ENTITLEMENTS (BCC APPROVED MAY 13, 2014)

Parcel ID	Development Entitlement	Notes
23-24-28-2900-01-000	Single-Family Residential	
23-24-28-2901-01-001 to 08-001	Single-Family Residential	
23-24-28-2901-01-101 to 06-101	Single-Family Residential	
23-24-28-5844-00-060	Single-Family Residential	
23-24-28-5844-00-570 & 00-571	Single-Family Residential	

DEVELOPMENT NOTES

1. The proposed development is consistent with the Comprehensive Land Use Ordinance (CLUO) and the VOA-Nerbonne PD Land Use Plan.

2. The proposed development is consistent with the Comprehensive Land Use Ordinance (CLUO) and the VOA-Nerbonne PD Land Use Plan.

3. The proposed development is consistent with the Comprehensive Land Use Ordinance (CLUO) and the VOA-Nerbonne PD Land Use Plan.

APPROVED LAND USE PLAN

The following table shows the approved land use plan for the VOA-Nerbonne PD. The plan is consistent with the Comprehensive Land Use Ordinance (CLUO) and the VOA-Nerbonne PD Land Use Plan.

Parcel ID	Land Use	Notes
23-24-28-2900-01-000	Single-Family Residential	
23-24-28-2901-01-001 to 08-001	Single-Family Residential	
23-24-28-2901-01-101 to 06-101	Single-Family Residential	
23-24-28-5844-00-060	Single-Family Residential	
23-24-28-5844-00-570 & 00-571	Single-Family Residential	

Kimley»Horn

RECEIVED
BY DRC OFFICE at 4:57 pm, Jul 09, 2018

SHEET INDEX:
 LUP-1 LAND USE PLAN
 LUP-2 DEVELOPMENT NOTES
 S-41 TRACT 1 & 2 SURVEY
 S-42 TRACT 3 SURVEY
 S-43 TRACT 4 SURVEY

VOA-Nerbonne PD_CDR-18-03-076

500 FT BUFFER, 202 NOTICES