PZC Recommendation Staff Report Commission District: #1

GENERAL INFORMATION

APPLICANT Tyrone K. Smith, Orange County Public Schools

OWNERS Daryl M. Carter, Tr.; Pulte Home Corp.; and Orange County

BCC

PROJECT NAME Dr. Phillips Area Relief High School Planned Development

(PD)

HEARING TYPE Planned Development / Land Use Plan (PD / LUP)

REQUESTR-CE (Country Estate District) and PD (Planned Development District) to PD (Planned Development District)

A request to rezone 50.0 acres from R-CE and PD to PD in order to construct a public high school with up to 400,000 square feet. In addition, the following three (3) waivers from Orange County Code have been requested:

1. A waiver from Section 38-1755(1) to allow for a high school site with a minimum net lot area of fifty (50) acres, in lieu of sixty-five (65) acres.

- 2. A waiver from Section 38-1755(2) to allow a maximum building height of eighty-four (84) feet for all buildings beyond one hundred (100) feet of residential zoned property, in lieu of fifty (50) feet.
- 3. A waiver from Chapter 38, Article VIII, Division 9 to allow this development to use the Planned Development Commercial Standards (Chapter 38-1272), in lieu of the Buena Vista North District Standards (Chapter 38-1391.1 thru 38-1397.3).

LOCATION Generally located on the south side of Fenton Street and

approximately 1,200 feet north / northwest of Palm

Parkway.

PARCEL ID NUMBER 14-24-28-1242-60-000 (portion);

14-24-28-1242-66-001 (portion); 14-24-28-1242-77-010 (portion);

15-24-28-0000-00-016; and, 15-24-28-7774-00-022 (portion)

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TRACT SIZE 50.0 gross acres

PUBLIC NOTIFICATION The notification area for this public hearing extended

beyond 1,500 feet [Chapter 30-40(c)(3)(a) of Orange County Code requires 300 feet]. Three thousand four hundred eighty-one (3,481) notices were mailed to those property owners in the mailing area. As summarized below, three (3) community meetings were also held for this

request.

Proposed Use Public High School

STAFF RECOMMENDATION

Development Review Committee (DRC) - September 21, 2016

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Dr. Phillips Area Relief High School Planned Development / Land Use Plan (PD/LUP), dated "Received August 17, 2016", subject to the following conditions:

- 1. Development shall conform to the Dr. Phillips Area Relief High School Planned Development / Land Use Plan (PD/LUP) dated "Received August 17, 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 and the land use plan dated "Received August 17, 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 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 (CEL) prior to construction plan submittal and must apply for and obtain a Capacity Reservation Certificate (CRC) 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 CEL or a CRC.
- 7. The project shall comply with the terms and conditions of the Palm Parkway to

Apopka-Vineland Connector Road Agreement for the Daryl Carter Parkway Extension (OR Book 8387 Page 3416, Public Records of Orange County, Florida), as amended, and the Activity Center Turkey Lake Road Network Agreement (OR Book 5138 Page 1988, Public Records of Orange County, Florida).

- 8. All acreages identified as conservation areas and wetland buffers are considered approximate until finalized by a state application and approved permit, to be provided to Orange County. Approval of this plan does not authorize any direct or indirect conservation area impacts.
- 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).
- 10. The developer shall obtain water, wastewater and reclaimed water service from Orange County Utilities.
- 11. 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 the PD, and that construction plans are consistent with an approved Master Utility Plan.
- 12. The maximum number of school buses that may be stored on site is seventy-five (75).
- 13. Pole signs, billboards, and electronic message centers shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
- 14. A current Phase One 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 Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) approval for any streets and/or tracts anticipated to be dedicated to the County and/or to the perpetual use of the public.
- 15. The following waivers are granted from Orange County Code:
 - a. A waiver from Section 38-1755(1) to allow for a high school site with a minimum net lot area of fifty (50) acres, in lieu of sixty-five (65) acres.
 - b. A waiver from Section 38-1755(2) to allow a maximum building height of eighty-four (84) feet for all buildings beyond one hundred (100) feet of residential zoned property, in lieu of fifty (50) feet.
 - c. A waiver from Chapter 38 Article VIII Division 9 to allow this development to use the Planned Development Commercial Standards (Chapter 38-1272), in lieu of the Buena Vista North District Standards (Chapter 38-1391.1 thru 38-1397.3).

BCC Hearing Date: November 29, 2016

16. The property shall be re-platted.

IMPACT ANALYSIS

Land Use Compatibility

The proposed PD (Planned Development District) zoning would allow for a land use that is compatible with the existing area developments, and would not adversely impact any adjacent properties.

Comprehensive Plan (CP) Consistency

The affected property has underlying Future Land Use Map (FLUM) designations of Low-Medium Density Residential (LMDR), Activity Center Residential (ACR) and Activity Center Mixed Use (ACMU), and is located within the Urban Service Area (USA). Public high schools are permitted by right when located within the USA and within a PD zoning district. The proposal is consistent with the FLUM designations and applicable CP provisions, which include (but are not limited to) the following goals, objectives and policies:

OBJ FLU8.7 states that Orange County shall promote safe and adequate school site locations.

FLU8.7.2 states that Orange County shall coordinate with the School board to identify the locations for new high schools on the periphery of residential neighborhoods, where access to major roads is available.

FLU8.7.6 states that public high schools shall be allowed as a permitted uses in all future land use categories if identified in a Planned Development Land Use Plan approved by the board of County Commissioners.

FLU8.7.8 states that all new school locations shall be subject to the terms and limitations established in the school siting ordinance developed jointly by Orange County and the School Board.

OBJ FLU8.2 states that compatibility will continue to be the fundamental consideration in all land use and zoning decisions.

FLU8.2.1 states that land use changes shall be required to be compatible with the existing development and development trend in the area. Performance restrictions and/or conditions may be placed on property through the appropriate development order to ensure compatibility. No restrictions or conditions shall be placed on a Future Land Use Map change. (Note: The applicant has requested waivers from the school siting ordinance for minimum lot area and maximum building height standards.)

Community Meeting Summary

A community meeting was held on Wednesday, September 7, 2016, at Sand Lake Elementary School, with approximately 57 residents in attendance. Traffic, drainage to Big Sand Lake, on-site scrub habitat, construction schedule, attendance zones, and area-wide public services were among the topics and issues discussed. A follow-up

community meeting was held on Thursday, October 27, 2016, at Sand Lake Elementary School.

OCPS also held a community meeting on Wednesday, July 27, 2016, at Dr. Phillips High School. Attendees discussed the possibility of pedestrian access through the site to Dr. Phillips Community Park, and the desire to allow the community to use the High School recreation area. Residents also expressed concerns with the proposed building heights, and with the proposed access to Smith Bennett Road.

SITE DATA

Existing Use Undeveloped Land

Adjacent Zoning N: PD (Planned Development District – Kerina Parkside) (2005)

R-1 (Single-Family Dwelling District) (1996)

E: PD (Planned Development District - Hannah Smith

Property) (2000)

R-1 (Single-Family Dwelling District) (1996)

R-CE (Country Estate District) (1968)

W: PD (Planned Development District – Kerina Parkside) (2005)

S: PD (Planned Development District - Hannah Smith

Property) (2000)

PD (Planned Development District – Ruby Lake) (1975)

R-CE (Country Estate District) (1968)

Adjacent Land Uses N: Undeveloped Land / Dr. P. Phillips Community Park

E: Undeveloped Land

W: Undeveloped Land

S: Future Connector Road (Fenton Street) from Palm Parkway

to Apopka Vineland Road / Timeshare Resort

APPLICABLE PD DEVELOPMENT STANDARDS

Maximum Building Height: 84 feet / 6 stories (requested); 35 feet within 100 feet

of residential

Maximum Impervious: 70% Minimum Open Space: 20%

Minimum Building Setbacks

North Property Line 25 feet South Property Line 40 feet East Property Line 25 feet West Property Line 25 feet

SPECIAL INFORMATION

Subject Property Analysis

The applicant is seeking to rezone the 50.0-acre subject property from R-CE (Country Estate District) and PD (Planned Development District) to PD (Planned Development District) in order to construct a public high school with up to 400,000 square feet. In addition, three (3) waivers from Orange County Code related to minimum lot size, maximum building height, and the use of PD Commercial standards rather than Buena Vista North District standards have been requested.

Related case #CDR-16-07-253 was approved as a non-substantial change by the Development Review Committee (DRC) on September 21, 2016, to remove the subject property from the Hannah Smith Property PD.

Comprehensive Plan (CP) Amendment

The affected property has underlying Future Land Use Map (FLUM) designations of Low-Medium Density Residential (LMDR), Activity Center Residential (ACR) and Activity Center Mixed Use (ACMU), and located within the Urban Service Area (USA). Public high schools are permitted by right when located within the USA and within a PD zoning district. The proposal is consistent with the Comprehensive Plan.

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.

Overlay District Ordinance

The subject property is located within the Buena Vista North Overlay District.

Airport Noise Zone

This property is not located within an Airport Noise Zone.

Environmental

Vegetation - If the habitat survey identifies threatened and endangered plants, and removal is permissible, then the applicant may contact the Florida Native Plant Society (FNPS) or other similar non-profit agency to grant access to the site for removal of the threatened and endangered plants and/or collect seeds. This will preserve the genetic material and provide plants for restoration of other areas. Either the FNPS, similar non-profit or the Developer will have to secure all appropriate permits for these activities. This location has rare upland scrub (dry prairie) and rare species per Florida Natural Areas Inventory.

Wildlife - The plans identify habitat currently used by gopher tortoises. As directed in the conditions of approval, all proper permits shall be obtained from the state and federal agencies, for any wildlife listed as threatened, endangered, or species of special concern.

Transportation / Concurrency

At time of Development Plan, the applicant must ensure that the public school has pedestrian/bicycle connectivity to the public right of way (i.e. sidewalks), per CP Policy T3.2.2

An operational analysis of traffic conditions will be required prior to obtaining a building permit. The analysis should include the following:

- 1. An A.M. peak hour analysis for the access driveways.
- 2. The 9th Edition ITE Trip Generation Report Land Use Code 534 fitted curve equations should be used. Daily trips may be estimated based on the A.M. to Daily ratio.
- 3. Both an A.M. and P.M. peak hour intersection analysis should be performed for the access driveways to demonstrate that they will operate at an acceptable level of service without undue delay.
- 4. Auxiliary turn lane analysis should be based on the critical A.M. peak hour volumes and not the P.M. peak hour volumes.
- 5. An analysis of on-site circulation should also be provided to verify that the entering traffic will not backup onto the main street.
- 6. A plan to demonstrate how the on-site traffic circulation pattern will be enforced.

Prior to Development Plan approval, the applicant must also provide trip generation data for daily, AM and PM peak periods. Trip generation should be based on the 9th Edition of ITE.

Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a Capacity Encumbrance Letter prior (CEL) prior to construction plan submittal and must apply for and obtain a Capacity Reservation Certificate (CRC) prior to approval of the plat. A decision to approve this land use shall not be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a CEL or a CRC.

Fenton Road/Palm Parkway/Darryl Carter Parkway: The Palm Parkway to Apopka-Vineland Connector Road Agreement was approved by the BCC on 12/06/2005 and recorded at OR Book 8387 Page 3416. The agreement is between three Developers, BVC Partners I, LLC, Kerina, Inc. and Sand Lake Investments, LTD and Orange County for the realignment of Fenton Street from Apopka-Vineland Road to Palm Parkway. The Developers will provide Right-of-Way for the road project and pay for the Design, Engineering, Permitting and Mitigation costs. Orange County will be

responsible for constructing the four-lane roadway within its 10-year Capital Improvement Program. Developers have the option to construct if County does not. If Developers construct they will receive Road Impact Fee Credits. Developers will receive Vested Rights for Fenton Street from Apopka-Vineland Road to Palm Parkway including the intersections. The typical section for the four-lane roadway consists of 100 feet of Right-of-Way with a 15-foot Transit/Pedestrian Utility Easement and a 20-foot Pedestrian/Landscape Easement on either side of the roadway. The design speed is 40 m.p.h. Currently, the Project Manager has been selected and the design is 90% complete and certain Right-of-Way has been placed in escrow per the terms of the agreement.

There is a Supplemental Agreement approved 12/6/2004 and recorded at 8381/3525; a Second Supplemental Agreement approved on 6/21/2011 and recorded at 10232/3595 and the Committee is reviewing a Third Supplemental Agreement.

Water / Wastewater / Reclaim

Existing service or provider

Water: Orange County Utilities

Wastewater: Orange County Utilities

Reclaimed: Orange County Utilities

Schools

This request will not result in an increase in the school age population.

Parks and Recreation

Orange County Parks and Recreation staff reviewed the request, but did not identify any issues or concerns.

Code Enforcement

No code enforcement, special magistrate or lot cleaning issues on the subject property have been identified.

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

Planning and Zoning Commission (PZC) Recommendation - (October 28, 2016)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Dr. Phillips Area Relief High School Planned Development / Land Use Plan (PD/LUP), dated "Received August 17, 2016", subject to the following conditions:

- 1. Development shall conform to the Dr. Phillips Area Relief High School Planned Development / Land Use Plan (PD/LUP) dated "Received August 17, 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 and the land use plan dated "Received August 17, 2016," the condition of approval shall control to the extent of such conflict or inconsistency.
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- 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.
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- 7. The project shall comply with the terms and conditions of the Palm Parkway to Apopka-Vineland Connector Road Agreement for the Daryl Carter Parkway Extension (OR Book 8387 Page 3416, Public Records of Orange County, Florida), as amended, and the Activity Center Turkey Lake Road Network Agreement (OR Book 5138 Page 1988, Public Records of Orange County, Florida).
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- 10. The developer shall obtain water, wastewater and reclaimed water service from Orange County Utilities.
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- 13. Pole signs, billboards, and electronic message centers shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
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- 15. The following waivers are granted from Orange County Code:
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 - c. A waiver from Chapter 38 Article VIII Division 9 to allow this development to use the Planned Development Commercial Standards (Chapter 38-1272), in lieu of the Buena Vista North District Standards (Chapter 38-1391.1 thru 38-1397.3).
- 16. The property shall be re-platted.

BCC Hearing Date: November 29, 2016

PLANNING AND ZONING COMMISSION (PZC) PUBLIC HEARING SYNOPSIS

The staff report was presented to the PZC with the recommendation that they make a finding of consistency with the Comprehensive Plan and recommend approval of the requested PD (Planned Development District) zoning, subject to sixteen (16) conditions.

Staff indicated that three-thousand four hundred eighty-one (3,481) notices were mailed to surrounding property owners within a buffer extending beyond 1,500 feet from the subject property, with nine (9) responses in favor and fifteen (15) in opposition received. The applicant, Tyrone Smith, was present and agreed with the staff recommendation.

Following limited PZC discussion, a motion was made by Commissioner Dunn to find the request to be consistent with the Comprehensive Plan and recommend **APPROVAL** of the Dr. Phillips Area Relief High School Planned Development / Land Use Plan (PD/LUP), dated "Received August 17, 2016", subject to the sixteen (16) conditions listed in the staff report. Commissioner Wade seconded the motion, which was then carried on a 5-0 vote.

Motion / Second James Dunn / JaJa Wade

Voting in Favor James Dunn, JaJa Wade, Tina Demostene, Jose Cantero, and

Paul Wean

Absent Pat DiVecchio, Marvin Barrett, and Yog Melwani

Abstaining Rick Baldocchi