

CASE # CDR-17-06-191

Commission District: # 1

GENERAL INFORMATION

APPLICANT	Jonathan A. Martin, Kimley-Horn & Associates, Inc.
OWNER	ECP Commercial VI, LLC
PROJECT NAME	Sand Lake Groves Planned Development (PD)
PARCEL ID NUMBER	11-24-28-0000-00-024 (affected parcel only)
TRACT SIZE	141.03 gross acres (<i>overall PD</i>) 38.78 gross acres (<i>affected parcel only</i>)
LOCATION	Generally north of Daryl Carter Parkway, south of Central Florida Parkway, east of Palm Parkway, and west of Interstate 4.
REQUEST	<p>A PD substantial change to separate Tract 500 into Tract 500A (multi-family residential) and 500B (hotel / commercial); update the acreage in Tract 500; add a 5.44-acre open space and stormwater tract within Tract 500B; and revise the land use conversion table to include mini-warehouse. More specifically, the request is to convert 6,469 square feet of commercial to 103,500 square feet of mini-warehouse in Tract 500B only. In addition, the applicant is requesting the following two waivers from Orange County Code to allow for zero-foot building and pavement setbacks for internal lot lines in Tract 500B only:</p> <ol style="list-style-type: none">1. A waiver from Section 38-1287(4) to allow paving setbacks reduced to zero (0) feet, in lieu of 7.5 feet between internal parcels.2. A waiver from Section 38-1287(2) is requested to allow building setbacks reduced to zero (0) feet, in lieu of a 30-foot building setback between internal parcels.
PUBLIC NOTIFICATION	<p>A notification area extending beyond one thousand five hundred (1,500) feet was used for this application [<i>Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet</i>]. Eighty-five (85) notices were mailed to those property owners in the notification buffer area. A community meeting was not required for this application.</p>

IMPACT ANALYSIS

Special Information

The Sand Lake Groves PD was originally approved in 1998 with a development program providing for multi-family residential, commercial, timeshare, hotel, and convention center hotel.

Through this PD substantial change, the applicant is seeking to separate Tract 500 into Tract 500A (multi-family residential) and 500B (hotel / commercial); update the acreage in Tract 500; add a 5.44 acre open space and stormwater tract within Tract 500B; and revise the land use conversion table to include mini-warehouse. More specifically, the request is to convert 6,469 square feet of commercial to 103,500 square feet of mini-warehouse in Tract 500B only. In addition, the applicant is requesting two waivers from Orange County Code to allow for zero-foot building and pavement setbacks for internal lot lines in Tract 500B only.

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), which allows for a mix of uses that provide for an economically viable and well-planned tourist oriented activity center. The Sand Lake Groves PD was originally approved in 1998 and includes uses such as multi-family residential, commercial, timeshare, hotel, and convention center hotel. The proposed Change Determination Request (CDR) is consistent with the designation and all applicable CP provisions; therefore, the request is consistent with the Comprehensive Plan.

Overlay 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 / Concurrency staff has 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) reviewed the request and determined that it will not impact public school capacity.

Parks and Recreation

Orange County Parks and Recreation staff reviewed the request and 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 – (September 20, 2017)

Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Sand Lake Groves Planned Development / Land Use Plan (PD/LUP) dated “Received September 21, 2017”, subject to the following conditions:

1. Development shall conform to the Sand Lake Groves Planned Development / Land Use Plan (PD / LUP) dated "Received September 21, 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 September 21, 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. All acreages identified as conservation areas and wetland buffers are considered approximate until finalized by a Conservation Area Determination (CAD) and a Conservation Area Impact (CAI) Permit. Approval of this plan does not authorize any direct or indirect conservation area impacts.

7. 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).
8. 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.
9. 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.
10. Unless otherwise allowed by County Code, the property shall be platted prior to the issuance of any vertical building permits.
11. A mandatory pre-application / sufficiency review meeting for the plat shall be required prior to plat submittal and concurrent with construction plan submittal. The applicant shall resolve, to the County's satisfaction, all items identified in the pre-application / sufficiency review meeting prior to formal submittal of the plat to the County.
12. Signalization, if warranted, shall be at developer's expense.
13. The following two waivers from Orange County Code are granted for Tract 500B only:
 - a. A waiver from Section 38-1287(4) to allow paving setbacks reduced to zero (0) feet, in lieu of 7.5 feet between internal parcels.
 - b. A waiver from Section 38-1287(2) is requested to allow building setbacks reduced to zero (0) fee, in lieu of a 30-foot building setback between internal parcels.
14. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated July 31, 2012 shall apply:
 - a. The use of motorized watercraft by new development (e.g. powerboats, jet skis, etc.) shall be prohibited on Big Sand Lake. Motorized vessels shall not be launched from this property.
 - b. The Developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities.
 - c. Tree removal/Earthwork shall not occur unless and until construction plans for the first Preliminary Subdivision and/or Development Plan with a tree removal and mitigation plan have been approved by Orange County.

- d. New billboards and pole signs shall be prohibited. Ground and fascia signs shall comply with Ch. 31.5 Tourist Commercial standards and the Master Sign Plan."
- e. Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of May 31, 2012.
 - 1) 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 9 residential units allowed under the zoning existing prior to the approval of the PD zoning. The County shall 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.

- 2) Developer, or 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. At the time of platting, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.
- f. A waiver from Section 38-1258 (j) is granted to allow a minimum twenty (20) foot building separation for both two-story and three-story buildings, in lieu of a minimum thirty (30) foot building separation for two-story buildings and a minimum forty (40) foot building separation for three-story buildings within the multi-family portion of PD Tract 500.
- g. A waiver from Section 38-1476 is granted to allow for a decreased parking ratio of 1.3 spaces per unit, in lieu of 1.5 spaces per unit, for one-bedroom units only within the multi-family portion of PD Tract 500.

15. All previous applicable BCC Conditions of Approval, dated October 6, 1998, shall apply:

- a. Development shall comply with all provisions of the developer's agreement for the Activity Center Turkey Lake Road Extension.
- b. The following International Drive strategic 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) The development guidelines of the International Drive Activity Center shall apply to the subject property if they are established prior to development plan submittal.
 - 3) The property owner shall be required to participate in an I-Drive Activity Center Property Owners' Association upon its creation.
 - 4) Stormwater management facilities shall be designed as an aesthetic feature, except where determined by the County engineer to be technically unfeasible.
 - 5) The development plan shall provide for interconnection of adjacent developable parcels 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.
 - 6) Electrical distribution lines shall be underground.
 - 7) Participation in shuttle service connecting area attractions, major transportation centers, and on-site development shall be provided.
- c. Orange County designates the property as a convention and resort hotel development pursuant to International Drive Comprehensive Policy Plan (CPP) Policy 1.1.10, and in consideration of this designation, this condition of zoning is placed on the property and shall run with the property as follows: Unless and until a hotel, hotels, or rooms on the property have been designated by the owner reserving to the Convention Center an option to book and/or reserve 54,750 Convention Center hotel room nights per year (determined by multiplying 150 rooms by 365 nights), the following restriction shall apply: After the construction of the first 900 hotel rooms, every subsequent hotel facility on the property shall reserve ten (10) percent of its room nights for Convention Center hotel room purposes with a right of first booking designated to the Convention Center. The Convention Center shall have the absolute right to exercise its option to book and/or reserve such designated Convention Center hotel room nights until 24 months prior to the room night date. If the room night (group room block) is not booked and/or reserved and the maximum group rate agreed to by the Convention Center or its designee by 24 months prior to the room night date, then the Convention Center's right to first booking is released and the hotel facility may rent or lease the room nights. Nothing herein shall prohibit an individual hotel or hotels from exceeding the ten (10) percent requirement.
- d. The per acre valuation of the right-of-way dedicated and easement area granted by the owners of the property to Orange County under that certain Activity Center Turkey Lake Road Network Agreement recorded at Official Records Book 5138, Page 1988, in the Public Records of Orange County for impact fee credit purposes shall be \$203,246.64.

- e. The agricultural use shall be permitted to continue until approval of construction plans; and further, and made a finding of consistency with the Comprehensive Policy Plan.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (July 31, 2012)

Upon a motion by Commissioner Boyd, seconded by Commissioner Russell, and carried by all members present voting AYE by voice vote, the Board made a finding of consistency with the Comprehensive Plan and further, approved the substantial change request by Lance Bennett, Poulos & Bennett, LCC, Sand Lake Groves Planned Development (PD) Land Use Plan (LUP), Case #CDR-11-12-282, to convert 269 convention center hotel units to 345 multi-family units on Tract 500, grant a waiver from Section 38-1258(j) to allow a minimum twenty (20) foot building separation, and grant a waiver from Section 38-1476 to allow for a decreased parking ratio of 1.3 spaces per unit, subject to conditions.