

CASE # CDR-19-03-098

Commission District: # 4

GENERAL INFORMATION

APPLICANT	Thomas R. Sullivan, Gray Robinson, P.A.
OWNER	Dustin Lucas
PROJECT NAME	Redditt Property Planned Development
PARCEL ID NUMBER	12-23-31-0000-00-002 (affected parcel only)
TRACT SIZE	46.38 gross acres (overall PD) 33.85 gross acres (affected parcel only)
LOCATION	4450 Innovation Way, or generally located south and east of Innovation Way, approximately 700 feet south and west of S. Alafaya Trail.
REQUEST	A PD substantial change to modify the development program to include 350 multi-family dwelling units and 110,647 square feet of industrial uses.
PUBLIC NOTIFICATION	A notification area extending beyond one thousand five hundred (1500) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Six hundred ten (610) notices were mailed to those property owners in the notification buffer area. A community meeting was not required for this application, but a community meeting was held for the associated Comprehensive Plan Future Land Use Map Amendment (2019-1-A-4-1).

IMPACT ANALYSIS

Special Information

The Redditt Property PD was originally approved on June 26, 2001, and has an existing development program of 327,725 square feet of industrial uses. On May 21, 2019, the Board of County Commissioners (BCC) adopted Comprehensive Plan Amendment 2019-1-A-4-1, which changed the property's Future Land Use Map designation to Planned Development - Medium Density Residential / Industrial / Parks and Recreation - Open Space (PD-DR/IND/PR-OS). That amendment is effective as of July 18, 2019.

Through this PD Change Determination Request (CDR), the applicant is seeking to modify the development program to include 350 multi-family dwelling units and 110,647 square feet of industrial uses.

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 Planned Development - Medium Density Residential / Industrial / Parks and Recreation - Open Space (PD-MDR/IND/PR-OS). The proposed Change Determination Request (CDR) is consistent with the designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

Overlay 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

Upon removal of the buried waste, and post removal sampling EPD will need to verify compliance with applicable state standards. Recent testing has indicated compliance with some standards, however, note that previous sampling had verified that soil contaminants were present in excess of residential Soil Cleanup Target Levels (SCTL's) and groundwater contaminants were present above Groundwater Cleanup Target Levels (GCTL's). Follow-up sampling to be coordinated with FDEP and Orange County EPD will be required to verify continuing compliance prior to approval of any Development Plan approvals. The buried waste will be removed in compliance with the LSRAP and the Brownfield documents.

The property had two ponds that are filled with Type 2 waste material (clean debris). The property was subsequently used as a yard trash recycling facility. The landfill activities in the two borrow pits occurred approximately between 1992 and 2002. This history will be documented as required in the conditions of approval.

The project site is located within the Orange County Board of County Commissioners resolution approved on December 1, 2015, regarding designating certain land as the Gene: ROCC (Redeveloping Orange County Communities) and as a Brownfield Area for the purpose of environmental remediation, rehabilitation and economic development pursuant to Section 376.80(2)(c), Florida Statutes.

The applicant is responsible to comply with any state or federal regulations regarding proximity of residential or commercial/industrial uses to high voltage electrical transmission lines that exist adjacent on the eastern boundary. There is also an electrical substation about 700 feet to the southeast of the property.

Transportation Concurrency

Based on the CMS information dated May 22, 2019, there is available capacity within the impacted area. 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.

Community Meeting Summary

A community meeting was not required for this request, but a community meeting was held for the associated Comprehensive Plan Future Land Use Map Amendment (2019-1-A-4-1). That community meeting was held on January 16, 2019 at Avalon Elementary School. There were seven (7) residents in attendance who voiced concerns pertaining to transportation, school capacity, and the proximity of residential uses to the landfill.

Schools

Orange County Public Schools (OCPS) approved Capacity Enhancement Agreement (CEA) OC-19-003 on April 9, 2019.

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 9, 2019)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Redditt Property Planned Development / Land Use Plan (PD/LUP), dated “October 11, 2019”, subject to the following conditions:

1. Development shall conform to the Redditt Property Planned Development (PD) dated "Received October 11, 2019," 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 October 11, 2019," 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 following Education Condition of Approval shall apply:
 - a. Developer shall comply with all provisions of the Capacity Enhancement Agreement approved by the Orange County School Board on 04/09/2019 (CEA OC-19-003).

 - 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 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.

8. The applicant / owner has an affirmative obligation to expressly notify potential purchasers, builders, and/or tenants of this development, through an appropriate mechanism, including a conspicuous note on the plat and/or a recorded restrictive covenant, as applicable of:

- a. the proximity of the Orange County solid waste disposal facility, the boundary of which is located 1 mile to the west / southwest and the active portion of which is located 1.5 miles to the west / southwest;
 - b. the prior use of this property for cattle grazing and a potential cattle vat, and that Type 2 clean debris waste material was buried on portions of this site, and that portions of the site were later used as a yard trash recycling facility, and that portions of the site were used to operate one or more wood waste incinerators that resulted in ash disposal on the site. Neither the soil nor the groundwater samples contained exceedences of state standards. Where contamination has been documented, the covenants, conditions, and restrictions (CC&Rs) and lease agreements, or as appropriate, a recorded restrictive covenant on the property and a note on the plat shall include notification that the property has been identified with soil and groundwater contamination and shall state the status of the resulting remediation;
 - c. the proximity of the Curtis Stanton Energy Plant boundary that is located 0.5 miles south of this site;
 - d. the prohibition that neither potable wells nor irrigation wells using local groundwater will be allowed on site, and the requirement that all site work will be required to preserve any existing monitoring wells as may be required in coordination with the FDEP; and
 - e. the location of the former debris area adjacent to the property, that monitoring conditions will be imposed based upon further assessment, and that no wells will be allowed within this zone.
9. Conservation Area Impacts shall be consistent with Orange County Code Chapter 15, Article X Wetland Conservation Areas. The impacts to wetlands included on this property were approved by the Orange County Environmental Protection Division (EPD) through Conservation Area Impact (CAI) Permit #CAI-15-12-041, issued November 2, 2016. The mitigation for the approved impacts included purchase of 0.21 credits from the TM-Econ Mitigation Bank, which was completed May 1, 2017. The wetlands were delineated in the Conservation Area Determination #CAD-15-07-083, completed September 15, 2015, and with the modified approved wetland boundary survey dated November 2, 2016. All mass grading, excavation and fill activities shall comply with the conditions of the CAI permit. Approval of this plan does not authorize any direct or indirect conservation area impacts not covered under the approved permit.
10. No activity will be permitted on the site that may disturb, influence, or otherwise interfere with: areas of soil or groundwater contamination, or any remediation activities, or within the hydrological zone of influence of any contaminated area,

unless prior approval has been obtained through the Florida Department of Environmental Protection (FDEP) and such approval has been provided to the Environmental Protection Division of Orange County. An owner/operator who exacerbates any existing contamination or does not properly dispose of any excavated contaminated media may become liable for some portion of the contamination pursuant to the provisions in section 376.308, F.S.

11. 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).
12. The applicant is responsible to comply with any state or federal regulations of design features due to proximity of residential or commercial/industrial uses to high voltage electrical transmission lines that exist adjacent to the eastern property boundary and an electrical substation approximately 700 feet to the southeast of the property.
13. Prior to the earlier of platting, demolition, site clearing, grading, grubbing, review of mass grading or construction plans, or site disturbance (other than for approved remediation activities) the applicant shall provide documentation to assure compliance with all applicable standards, including but not limited to, the Florida Department of Environmental Protection (FDEP) regulation 62-777 Contaminant Cleanup Target Levels to the Orange County Environmental Protection and Development Engineering Divisions.
14. The Florida Department of Environmental Protection (FDEP) has extended the Limited Scope Remedial Action Plan Approval (LSRAP) originally dated September 22, 2016, to January 1, 2019. An extension of the LSRAP was granted until March 29, 2019, and a completion report is due by July 31, 2019. Provide updates of document extensions as may be required to the Orange County EPD prior to initiation of remediation/waste removal. The FDEP active cleanup site facility identification is COM 332944.
15. Mass grading, excavation and fill activities on this site shall comply with the permit conditions of approval in the Orange County Mass Grading Permit 17-MG-0112. These include but are not limited to: haul routes of the removed material and fill material, operating hours and notification to the Orange County Development Engineering Inspection twenty-four (24) hours prior to commencement of operations.
16. The project site is located within the area subject to the Orange County Board of County Commissioners' approved resolution of December 1, 2015 regarding designating certain land, Parcel 12-23-31-0000-00-002 (later split and now also 12-23-31-0000-00-016), as the Gene: ROCC (Redeveloping Orange County Communities) and as a Brownfield Area, Resolution No. 20165-M-42 for the purpose of environmental remediation, rehabilitation, and economic development

pursuant to Section 376.80(2)(c), Florida Statutes. Compliance is required with guidelines and some conditional benefits as associated with the Brownfield Site Rehabilitation Agreement (BSRA) filed with the FDEP.

17. 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.
18. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
19. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
20. 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.
21. Short term/transient rental is prohibited within the multi-family residential portion of the Planned Development; length of stay shall be for 180 consecutive days or greater.
22. 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) approval for any streets and / or tracts anticipated to be dedicated to the County and / or to the perpetual use of the public.
23. An FDEP No Further Action letter, Site Rehabilitation Completion Order, or documentation of specific permission from FDEP is required to be submitted to the Orange County EPD prior to construction plan approval in a soil or groundwater contaminated area other than: activities required for the site remediation and waste removal or activities approved pursuant to the mass grading permit.
24. All site work shall comply with the most current Limited Scope Remedial Action Plan (LSRAP) in agreement with the FDEP and future extensions as may be required and subsequently approved. Notify EPD within 30 days of any updates or modifications to the approved LSRAP. This documents the plan to remediate the existing environmental concerns by excavation of the buried material, performing dewatering and on-site treatment of groundwater contaminants. The LSRAP states the actions proposed represent a reasonable strategy toward partially accomplishing the cleanup objectives of Chapter 62-780, Florida Administrative Code (F.A.C). If additional remedial actions are found to be necessary due to failure to meet the applicable target levels referenced in Chapter 62-777, F.A.C. then additional remedial actions may be necessary to meet the provisions of Rule 62-780.680, F.A.C. If monitoring finds exceedance of standards then the Orange County Environmental Protection Division (EPD) shall be notified within one week of the sample verification.

25. Approval of this plan does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. The approval is not a waiver of or approval of any other Florida Department of Environmental Protection permit that may be required for other aspects of the total project which are not addressed in the LSRAP.
26. If any additional areas of buried waste are encountered during clearing, excavation, grading and/or construction that are outside the identified on-site buried waste areas, these areas shall be excavated and removed from the site in accordance with the FDEP Guidelines. The Florida Department of Environmental Protection and Orange County Environmental Protection Division shall be notified within one business-day upon such discovery. The existing buried waste within the PD shall be excavated and removed from the site in accordance with the requirements in the latest edition of FDEP's "A Guidance for Disturbance and Use of Old Closed Landfills or Waste Disposal Areas in Florida" (FDEP Guidelines), and in accordance with the following:.
 - a. The LSRAP dated February 26, 2015, submitted by Universal Engineering Sciences, Inc., and subsequent revisions, including "New Approach to the Approved Limited Scope Remedial Action Plan", dated October 12, 2015, submitted by Stillwater Technologies, Inc., as approved by the Florida Department of Environmental Protection.
 - b. Prior to any dewatering activities occurring on site, the applicant shall obtain approval of the dewatering plans as required from the local Water Management District and the Florida Department of Environmental Protection. Dewatering sampling conducted according to accepted procedures has to confirm compliance with standards prior to release off-site. This activity will also need approval of a right-of-way use permit or approval for disposal into the sanitary sewer system.
27. Any miscellaneous garbage, waste and construction debris or demolition debris, or waste material found outside of the delineated waste disposal areas during clearing and grading shall be properly disposed of off-site according to the solid waste and hazardous waste regulations.
28. Prior the issuance of a building permit, Orange County will determine if the property owner shall be required to record, in the official records of Orange County, an Indemnification/Hold Harmless Agreement which indemnifies Orange County from any damages caused by issues of structural integrity on this site; such agreement, if necessary, will be drafted by the Orange County Attorney's Office.
29. Approval of any type of residential use on this site requires removal of the buried waste and post removal sampling verification of site compliance with applicable state standards. The applicant will coordinate with FDEP and Orange County EPD for post removal sampling to verify compliance with residential Soil Cleanup Target

Levels (SCTL's) and Groundwater Cleanup Target Levels (GCTL's). The buried waste will be removed in compliance with the LSRAP and the Brownfield documents.

30. All environmental remediation work will be done to the applicable State soil and groundwater cleanup standards before any vertical construction plans are submitted. Site disturbance will be allowed for remediation work in compliance with the LSRAP, Brownfield documentation and other site assessment documents referenced in these conditions.
31. Approval of this plan does not substitute for the geotechnical analysis or other technical studies that any owner or builder should conduct for structural integrity, public safety and welfare prior to vertical construction on sites that have buried material, or have had buried material removed, that could affect the construction techniques required and stability of the structures.
32. The developer shall include a notice in the public record and on the plat for the property within 700 feet of the former pit areas to acknowledge: a) the location of the former debris area adjacent to the property, b) that monitoring conditions are imposed if required based upon further assessment, and c) that no wells will be allowed within this zone.
33. Prior to commencement of any earth work or construction, if one acre or more of land will be disturbed, the developer shall provide a copy of the completed National Pollutant Discharge Elimination System (NPDES) Notice of Intent (NOI) form for stormwater discharge from construction activities to the Orange County Environmental Protection Division, NPDES Administrator. The original NOI form shall be sent to the Florida Department of Environmental Protection by the developer.
34. The Developer shall establish a Property Owner's Association (POA) for the maintenance of the joint use pond.
35. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated June 26, 2001 shall apply:
 - a. Outside storage shall be screened from view from the right-of-way and from adjacent uses.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (June 26, 2001)

Upon a motion by Commissioner Hoenstine, seconded by Commissioner Johnson, and carried by all present members voting aye; the Board approved the request by B.K. Goodwin, III; Redditt Property Planned Development; to rezone from Farmland Rural District (A-2) to Planned Development District (PD); subject to conditions.