

**CASE # CDR-17-12-384**

Commission District: # 1

**GENERAL INFORMATION**

|                            |   |
|----------------------------|---|
| <b>APPLICANT</b>           | Randy A. June, June Engineering Consultants, Inc.   |
| <b>OWNER</b>               | Orange Lake Country Club, Inc.  |
| <b>PROJECT NAME</b>        | Orange Lake Country Club Planned Development  |
| <b>PARCEL ID NUMBERS</b>   | 28-24-27-0000-00-007; 28-24-27-0000-00-016;<br>28-24-27-0000-00-011; 29-24-27-0000-00-006;<br>29-24-27-0000-00-005; 28-24-27-0000-00-006;<br>33-24-27-6377-00-002; 33-24-27-6377-00-004;<br>33-24-27-6377-00-005; 33-24-27-6379-00-006;<br>33-24-27-6377-00-040; 33-24-27-6377-00-050;<br>33-24-27-6377-00-060; 33-24-27-6377-00-051;<br>33-24-27-6377-00-052; 33-24-27-6378-00-001;<br>33-24-27-6378-00-010; 33-24-27-6378-00-030;<br>33-24-27-6378-00-070; 28-24-27-0000-00-013;<br>33-24-27-0000-00-001; 33-24-27-0000-00-019;<br>and 28-24-27-0000-00-014 |
| <b>TRACT SIZE</b>          | 1,459 gross acres ( <i>overall PD</i> )   |
| <b>LOCATION</b>            | Generally located east of County Road 545 (Avalon Road), north of U.S. Highway 192, and along both sides of Hartzog Road  |
| <b>REQUEST</b>             | A PD substantial change to reduce the number of multi-family dwelling units from 825 to 300, increase the number of conventional single-family residential units from 50 to 296, and increase the number age-restricted single-family residential dwelling units from 307 to 500, and revise the phasing table to reflect the new development program. The proposed changes reflect a net decrease of 86 dwelling units.  |
| <b>PUBLIC NOTIFICATION</b> | A notification area extending beyond five hundred (500) feet was used for this application [ <i>Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet</i> ]. Seventy-one (71) notices were mailed to those property owners in the notification buffer area. A community meeting was not required for this application.   |

**IMPACT ANALYSIS**

**Special Information**

The Orange Lake Country Club PD was originally approved on February 20, 1973 and is currently approved for 3,150 timeshare / short term rental units, 54 golf holes, 200 hotel

rooms, 216,800 square feet of retail, 121,300 square feet of office, 825 multi-family dwelling units, 50 conventional single-family dwelling units, and 307 age-restricted single-family dwelling units.

Through this PD Change Determination Request (CDR), the applicant is seeking to reduce the number of multi-family dwelling units from 825 to 300, increase the number of conventional single-family residential units from 50 to 296, and increase the number age-restricted single-family residential dwelling units from 307 to 500, and revise the phasing table to reflect the new development program.

**Development Program Comparison Table**

| <b><i>Use</i></b>                          | <b><i>Current</i></b> | <b><i>Proposed</i></b> |
|--|-----------------------|------------------------|
| Timeshare / Short Term Rental              | 3,150 units           | 3,150 units            |
| Golf                                       | 54 holes              | 54 holes               |
| Hotel                                      | 200 rooms             | 200 rooms              |
| Retail                                     | 216,800 sq. ft.       | 216,800 sq. ft.        |
| Office                                     | 121,300 sq. ft.       | 121,300 sq. ft.        |
| Multi-Family Residential                   | 825 units             | 300 units              |
| Single Family Residential (Conventional)   | 50 units              | 296 units              |
| Single Family Residential (Age Restricted) | 307 units             | 500 units              |

Additionally, this project is governed by the 8<sup>th</sup> Restated and Amended Development Order (DO) for the Orange Lake County Club Development of Regional Impact (DRI). Although this proposed development program and phasing table differs from the program and phasing shown in the DO, the DO does not have to be amended as it allows for the exchange of land uses through a matrix. Notice of this exchange requires notification to the Department of Economic Opportunity (DEO) and the East Central Florida Regional Planning Council (ECFRPC). Notice of this exchange was submitted to those agencies.

#### **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 Growth Center - Planned Development – Commercial / Medium Density Residential (GC-PD-C/MDR). The proposed Change Determination Request (CDR) is consistent with the designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

**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**

This project is vested from Transportation Concurrency under Vested Rights Certificate VRC # 92-151. A copy of this certificate is required prior to obtaining a building permit.

The Hartzog Road Right-of-Way Agreement was approved by the BCC on June 3, 2008 and recorded at in Official Records Book 9172 Page 4850. This agreement follows two prior agreements and realigns Hartzog Road through the Developer's properties to CR 545 Avalon Road north of the previously contemplated alignment. Under the terms of the agreement, the Developers will dedicate Right-of-Way for the re-aligned Hartzog Road and design the roadway for a four-lane roadway then construct the first two lanes of the roadway. Road impact fee credits will be provided for the design and construction of the portion of the road beyond the first two lanes. The owners shall also receive a certain number of vested trips for participation in the roadway agreement. Currently the design is complete, however no Right-of-Way has been dedicated and construction has not started.

**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, as there is a decrease in residential dwelling units and the project is staying within the terms (700 single-family units, 300 multi-family units) of the approved CEA (OC-16-009).

**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 – (April 11, 2018)**

**Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Orange Lake Country Club Planned Development / Land Use Plan (PD/LUP) dated “Received March 8, 2018”, subject to the following conditions:**

1. Development shall conform to the Orange Lake Country Club Planned Development (PD) dated "Received March 8, 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 March 8, 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. The following Education Condition of Approval shall apply:
  - a) Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board [and Orange County] as of October 25, 2016.
  - 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.

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.

7. The project shall comply with the terms and conditions of that certain Hartzog Road Right-of-Way Agreement recorded at Official Records Book/Page 9712/4850, Public Records of Orange County, Florida, as may be amended.
8. A Master Utility Plan (MUP) for the PD shall be submitted to Orange County Utilities prior to approval of the first PSP/DP for the PD. The MUP must be approved prior to Construction Plan approval.
9. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances for those portions that are within the Orange County Utilities service area.
10. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 Tourist Commercial standards of the Orange County Code.
11. 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.
12. Outside sales, storage, and display shall be prohibited within the commercial and office uses of the PD.
13. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated November 29, 2016 shall apply:
  - a) 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).
  - b) 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.
  - c) The following waivers from Orange County Code are granted:

- i. A waiver from Orange County Code Section 38-1258(b) to allow for a maximum building height of sixty (60) feet for multi-family buildings located between one hundred plus (100+) feet to one hundred fifty (150) feet of single-family zoned property, in lieu of variations in building height and percentages of building allowed above one and two stories.
  - ii. A waiver from Orange County Code Section 38-1258(c) to allow for a maximum building height of sixty (60) feet and four (4) stories for multi-family buildings located between one hundred plus (100+) feet to one hundred fifty (150) feet of single-family zoned property, in lieu of three (3) stories and forty (40) feet.
  - iii. A waiver from Orange County Code Section 38-1258(j) to allow for a minimum building separation of thirty (30) feet for multi-family residential structures that exceed two stories, in lieu of increased building separations in proportion to additional structural height.
14. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated November 18, 2014, August 5, 2014, and December 20, 2005, shall apply:
- a) Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a capacity encumbrance letter prior to construction plan submittal and must apply for and obtain a capacity reservation certificate prior to 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.
  - b) Length of stay for short term rentals shall not exceed 179 days.
  - c) A Master Utility Plan (MUP) shall be submitted to Orange County Utilities at least thirty (30) days prior to submittal of the first set of construction plans within Orange County Utilities service area. The MUP must be approved prior to Construction Plan approval.
  - d) A waiver from Orange County Code Section 38-1272(a)(3)(c) is granted to allow for a minimum expressway setback of thirty-five (35) feet, in lieu of the minimum required expressway setback of sixty (60) feet.
  - e) A waiver from Orange County Code Section 38-1272(a)(3) is granted to allow for a minimum PD perimeter setback of ten (10) feet in lieu of a minimum required PD perimeter setback of twenty-five (25) feet; pursuant to Orange County Code, Chapter 30, Article III, Section 30-89 and Orange County Code, Chapter 38, Article VIII, Division 1, Section 38-1207.

**PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (November 29, 2016)**

Upon a motion by Commissioner Boyd, seconded by Commissioner Nelson, and carried with all Commissioners voting AYE; the Board made a finding of consistency with the Comprehensive Policy Plan; and further approved the substantial change request dated "Received November 16, 2016"; subject to the conditions listed in the staff report.