

**CASE # LUPA-19-08-269**

Commission District: # 1

**GENERAL INFORMATION**

**APPLICANT** Brian Denham, Denham Engineering, LLC

**OWNER** Alliance Windermere, LLC

**PROJECT NAME** Lake Reams Neighborhood Center Planned Development

**PARCEL ID NUMBER(S)** 01-24-27-5335-01-000 and 36-23-27-0000-00-002

**TRACT SIZE** 27.50 gross acres (*existing PD*)  
0.76 gross acres (*portion of parcel to be aggregated*)  
28.26 gross acres (*overall aggregated PD*)

**LOCATION** 9001 Taborfield Avenue; or generally located on the east side of Reams Road and north side of Taborfield Avenue.

**REQUEST** A PD substantial change to rezone one (1) parcel (Parcel ID #: 36-23-27-0000-00-002) containing 0.76 gross acres from PD (Lake Reams Neighborhood Planned Development District) to PD (Lake Reams Neighborhood Center Planned Development District), in order to construct a stormwater pond serving PD Parcel 3 (Neighborhood Commercial District). The request also includes the following waiver from Orange County Code:

1. A waiver from Section 38-1388(e)(10) is requested to allow for a maximum rate of 5.35 spaces per one thousand (1,000) square feet of building area, in lieu of three (3) spaces per one thousand (1,000) square feet of building area.

***Applicant Justification:*** *This site's effective available parking spaces have been reduced as no on-street parking has been provided or allowed on Taborfield Avenue, as permitted in this section of code. Also, the community does not walk or bike to this center as envisioned by the County when the parking limit of 3 per 1,000 SF of building area was originally set. This result is a shortage of parking with customers having to double park and parking the drive aisles to access the center. This creates safety hazards for children walking between cars with limited visibility to enter the center's dance school as well as a safety hazard for emergency vehicle pathways being restricted. Once the new school on Taborfield opens, there will be additional conflicts with overflowing parking.*

**PUBLIC NOTIFICATION** A notification area extending beyond nine hundred (900) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Two hundred ninety-seven (297) notices were mailed to those property owners in the notification buffer area. A community meeting was not required for this application.

## **IMPACT ANALYSIS**

### **Land Use Compatibility**

The proposed development program is compatible with existing development in the area, and would not adversely impact any adjacent properties.

### **Comprehensive Plan (CP) Consistency**

The subject property has an underlying Future Land Use Map (FLUM) designation of Village (V). The proposed Change Determination Request (CDR) is consistent with the designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

The proposed use is consistent with the underlying Village FLUM designation and applicable CP provisions, which include (but are not limited to) the following goals, objectives and policies:

**FLU1.4.1** states Orange County shall promote a range of living environments and employment opportunities in order to achieve a stable and diversified population and community.

**FLU1.4.2** states that Orange County shall ensure that land uses changes are compatible with and serve existing neighborhoods.

**GOAL FLU2** states that Orange County will encourage urban strategies such as infill development, coordinated land use and transportation planning, and mixed-use development, which promote efficient use of infrastructure, compact development and an urban experience with a range of choices and living options.

**GOAL FLU4** (Horizon West) states that it is Orange County's goal to ensure sustainable, quality development in Southwest Orange County to allow a transition from rural to urban uses while protecting environmental quality.

**OBJ FLU4.1** states that Orange County shall use a Village Land Use Classification to realize the long range planning vision for West Orange County created through the Horizon West planning process. The Village land use classification has been designed to address the need to overcome the problems associated with and provide a meaningful alternative to the leap-frog pattern of sprawl now occurring in western Orange and eastern Lake County; create a better jobs/housing balance between the large concentration of employment in the tourism industry and the surrounding land uses; create a land use pattern that will reduce reliance on the automobile by allowing a greater variety of land uses closer to work and home; and, replace piecemeal planning that reacts to development on a project by project basis with a long range vision that uses

the Village as the building block to allow the transition of this portion of Orange County from rural to urban use through a specific planning process that uses a creative design approach to address regional, environmental, transportation, and housing issues.

**OBJ FLU8.2** states that compatibility will continue to be the fundamental consideration in all land use and zoning decisions. For purposes of this objective, the following polices shall guide regulatory decisions that involve differing land uses.

**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.

**FLU8.2.2** states that continuous stretches of similar housing types and density of units shall be avoided. A diverse mix of uses and housing types shall be promoted.

**Community Meeting Summary**

A community meeting was not required for this application.

**SITE DATA**

<b>Existing Use</b>	Retail Commercial Uses and former Right-of-Way
<b>Adjacent Zoning</b>	<p>N: PD (Planned Development District) (Lake Reams Neighborhood PD) (1998)</p> <p>E: PD (Planned Development District) (Beck Property PD) (2005)</p> <p>PD (Planned Development District) (Lake Reams Neighborhood Center PD) (1998)</p> <p>W: PD (Planned Development District) (Lake Reams Neighborhood PD) (1998)</p> <p>S: PD (Planned Development District) (Royal Estates PD) (2006)</p>
<b>Adjacent Land Uses</b>	<p>N: Single-Family Residential</p> <p>E: Single-Family Residential, APF Park</p> <p>W: Single-Family Residential</p> <p>S: Single-Family Residential</p>

**APPLICABLE PD DEVELOPMENT STANDARDS**

Development shall comply with all standards found in Section 38-1388 (Neighborhood Center District) of the Village Planned Development Code.

**SPECIAL INFORMATION**

**Subject Property Analysis**

The applicant is seeking to move a 0.76-acre property from the Lake Reams Neighborhood PD to the Lake Reams Neighborhood Center PD in order to utilize the property for APF / Neighborhood Center stormwater purposes.

Additionally, a waiver from Orange County Code is requested to permit an off-street parking ratio of 5.35 spaces per 1,000 square feet of building area, in lieu of the maximum of 3 spaces per 1,000 square feet, in order to alleviate neighborhood on-street parking and vehicle queuing concerns.

**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 not located within an Overlay District.

**Environmental**

Environmental Protection Division (EPD) staff has reviewed the proposed request, but did not identify any issues or concerns.

**Transportation / Concurrency**

Transportation Planning staff has reviewed the proposed request, but did not identify any issues or concerns.

**Water / Wastewater / Reclaim**

Water:	<u>Existing service or provider</u> Orange County Utilities
Wastewater:	Orange County Utilities
Reclaimed:	Orange County Utilities

**Schools**

Orange County Public Schools (OCPS) reviewed the request and determined that it will not impact public school capacity.

**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 – (November 6, 2019)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Lake Reams Neighborhood Center Planned Development / Land Use Plan (PD/LUP), dated “October 16, 2019”, subject to the following conditions:**

1. Development shall conform to the Lake Reams Neighborhood Center Land Use Plan Amendment (LUPA) dated "Received October 6, 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 6, 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, or any other development order, 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. 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.
  7. A waiver from Orange County Code Section 38-1388(e)(10) is requested to allow for a maximum rate of 5.35 spaces / one thousand (1,000) square feet of building area, in lieu of three (3) spaces / one thousand (1,000) square feet of building area.
  8. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated April 10, 2018 shall apply:
    - a. Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP). MUP updates shall be submitted to Orange County Utilities at least thirty (30) days prior to the corresponding construction plan submittal. The updated MUP must be approved prior to construction plan approval.

- b. Prior to construction plan approval, all property owners within Lakeside Village, excluding public entities, shall be required to sign an agreement between the parties, addressing their proportionate share of funds for the costs of the offsite and onsite master utilities, sized to the Village (SAP) build-out requirements. Property owners may elect to use alternative financing in lieu of the private proportionate cost share agreement provided master utilities sized for Village requirements are constructed.
  - c. The Developer shall be responsible for building master utilities transmission and collection infrastructure adequate to serve the project to accommodate the ultimate flows for the entire Village (SAP). Utilities infrastructure shall be built connecting to the build-out points of connection approved in the Master Utilities Plan (MUP).
  - d. At least thirty (30) days prior to construction plan submittal, the applicant shall submit a Master Utility Plan (MUP) for the PSP, including hydraulically dependent parcels outside the PSP boundaries; such MUP shall include supporting calculations showing that the PSP-level MUP is consistent with the approved MUP for the Village, or shall include an update to the Village MUP to incorporate any revisions. The MUP(s) must be approved prior to construction plan approval.
  - e. A ten (10) foot wide landscape buffer at least thirty six (36) inches in height at plantings shall be provided along the northern boundary of the retention pond. Also, canopy trees shall be planted forty (40) feet on center within the landscape buffer.
  - f. Orange County will install "No Parking" signs on one side of Thatcher Avenue, prior to school opening date, along the bus route.
9. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated July 8, 2003 shall apply:
- a. The developer shall obtain water, wastewater, and reclaim water services from Orange County subject to County rate resolutions and ordinances.
  - b. Prior to construction plan approval, master stormwater management, water, and wastewater plans, including preliminary calculations, shall be approved prior to approval of construction plans.
  - c. At the time of approval of a plat for a single-family residential unit project, the developer shall have prepared and submitted for review a document containing Covenants, Conditions, and Restrictions (CC&Rs) for the property being platted. The CC&Rs, which shall be recorded simultaneous with the recording of the plat, shall include a provision incorporating, verbatim, the following requirements:
    - 1) The same front façade for single-family residential units may not be repeated more than 5 times within 1 block length for both sides of any street, and shall be separated by at least 2 units with different facades.

- 2) House front facades shall be varied and articulated to provide visual interest to pedestrians along the street frontage. The front façade of the main body of the house shall not exceed 40 feet in length, except for wings or “L”s which are setback from the façade. In no case shall more than 50 percent of the front façade of a house consist of an unobstructed block wall or garage door.
- 3) At least 50 percent of all single-family residential units shall have a front porch. A front porch shall be minimum of 7 feet in depth and cover a minimum 10 feet in width or 1/3 of the front façade, whichever is greater.
- 4) Flat roofs shall be prohibited.
- 5) Unless otherwise prohibited by the CC&Rs, fencing in the front yard shall be located within 3 feet of the sidewalk to define the separation of public and private spaces. Such fences shall be no higher than 3 feet 6 inches and limited to decorative wrought iron or wood picket style.

The provisions of the CC&Rs incorporating the above referenced requirements shall not be amended, removed, or superseded without the prior approval of the BCC, which approval may be withheld in the Board’s sole discretion, and the CC&Rs shall contain a statement to that effect.

Furthermore, the CC&Rs shall provide that the homeowner’s association and any person owning property in the development have the right to enforce these requirements in the event they are violated.

Finally, the CC&Rs shall also state that Orange County shall have the right, but not the duty, to enforce these requirements in the same manner as it enforces Orange County ordinances and regulations.

- d. Billboards, pole signs, and outdoor storage are prohibited.
- e. Liquor stores and video arcades are prohibited in the neighborhood commercial portion.
- f. The Orange County School Boards shall be included in the master property owners’ association and shall pay their pro rata share of retention pond maintenance costs.
- g. The owner of the neighborhood commercial parcel shall be responsible for paying the School Board’s proportionate share of the costs of maintaining the shared off-site retention pond. This responsibility shall be recorded in the public records and shall run with title to the commercial property. This allocation of responsibility shall also be taken into account by the County if in the future it forms an MSTU for the maintenance of the pond.



**PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION** *(April 10, 2018)*

Upon a motion by Commissioner VanderLey, seconded by Commissioner Nelson, and carried by all present members, the Board approved the substantial change request to add a full access point off of Thatcher Avenue, allowing for Orange County Public School (OCPS) bus access through the County park site (via an access easement) to the school site, subject to conditions.