

**CASE # CDR-19-03-115**

Commission District: # 5

**GENERAL INFORMATION**

**APPLICANT** William Burkett, Burkett Engineering

**OWNER** HRA Glenn LLC

**PROJECT NAME** The Glenn Planned Development

**PARCEL ID NUMBER(S)** 05-22-31-0000-00-053 (affected parcel only)

**+**

**TRACT SIZE** 80.00 gross acres (overall PD)  
30.23 gross acres (affected parcel only)

**LOCATION** Generally located north of University Boulevard and east of Heather Glen Boulevard

**REQUEST** A PD substantial change to add 60 multi-family dwelling units to the development program in Phase I. In addition, the applicant has requested the following waivers from Orange County Code:

1. A waiver from Section 38-1258(b) to allow 100% of existing and proposed three story buildings to be between 100 feet and 150 feet of single-family zoned property, in lieu of the requirement that a maximum of 50% of three story buildings be located between 100 and 150 feet of single-family zoned property.

***Applicant Justification:*** One hundred percent of the existing residential buildings are three stories in height. Some of the existing buildings are between 100 feet and 150 feet of existing single-family property.

2. A waiver from Section 38-1258(c) to allow existing and proposed three story buildings in excess of 43 feet in height to be located within 150 feet of single-family zoned property, in lieu of the building height limitation of 40 feet.

***Applicant Justification:*** This is an existing development with existing buildings approved for a building height of 3-stories/42' from the approved Land Use Plan dated 1984.

3. A waiver from Section 38-1258(j) to allow existing buildings to have a minimum separation of 25 feet, in lieu of the minimum requirement of forty (40) feet.

***Applicant Justification:** This is an existing development in which some of the buildings are less than 40 feet apart.*

4. A waiver from Section 38-1501 to allow existing and proposed buildings to have a maximum building height of 43 feet, in lieu of a maximum building height of 35 feet.

***Applicant Justification:** The existing PD is approved for a maximum building height of 42 feet. Preliminary architectural plans for the three proposed new buildings have a maximum height of 42 feet three inches.*

**PUBLIC NOTIFICATION** A notification area extending beyond seven hundred (700) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Six hundred eight (608) 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 Glenn PD (fka Heather Glenn PD, fka Straw Ridge PD) was originally approved on January 22, 1974. The subject property was originally approved for a development program consisting of 408 multi-family dwelling units, 164 attached single-family dwelling units, and 178 detached single-family dwelling units for a total of 750 residential dwelling units. The PD has since been amended to include a reduction of seventy-nine (79) dwelling units. Currently, the development program consists of a total of 671 dwelling units.

Through this PD substantial change, the applicant is seeking to add sixty (60) multi-family dwelling units to Phase I and request four (4) waivers related to building height, building setbacks, and building separation requirements

### **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 Medium Density Residential (MDR). The Glenn PD was approved in 1974 and includes uses such as multi-family residential and single-family residential. The proposed PD substantial change 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**

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

**Transportation Concurrency**

University Boulevard, from Dean Road to Alafaya Trail, is failing. A traffic study and proportionate share agreement will be required prior to issuance of building permits.

**Community Meeting Summary**

A community meeting was not required for this request.

**Schools**

A Capacity Enhancement Agreement (CEA) application, #OC-19-047, was approved by the Orange County School Board on September 10, 2019.

**Parks and Recreation**

Orange County Parks and Recreation staff reviewed the PD substantial change 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 – (May 22, 2019)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of The Glenn Planned Development / Land Use Plan (PD/LUP), dated “May 22, 2019”, subject to the following conditions:**

1. Development shall conform to the The Glen (fka Heather Glen) Planned Development (PD) dated "Received May 22, 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 May 22, 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. 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 as of September 10, 2019.
  - 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 396 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.
7. A traffic study is required for University Boulevard, from Dean Road to Alafaya Trail, prior to the issuance of any building permits, and mitigation of project impacts may be addressed in a proportionate share agreement.
8. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water and wastewater systems have been designed to support all development within the PD.
9. The developer shall obtain water and wastewater service from Orange County Utilities subject to County rate resolutions and ordinances.
10. Short term/transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater within any 12-month period.

11. The following waivers from Orange County Code are granted:
  - a. A waiver from Section 38-1258(b) to allow 100% of existing and proposed three story buildings to be between 100 feet and 150 feet of single-family zoned property, in lieu of the requirement that a maximum of 50% of three story buildings be located between 100 and 150 feet of single-family zoned property.
  - b. A waiver from Section 38-1258(c) to allow existing and proposed three story buildings in excess of 43 feet in height to be located within 150 feet of single-family zoned property, in lieu of the building height limitation of 40 feet.
  - c. A waiver from Section 38-1258(j) to allow existing buildings to have a minimum separation of 25 feet, in lieu of the minimum requirement of forty (40) feet.
  - d. A waiver from Section 38-1501 to allow existing and proposed buildings to have a maximum building height of 43 feet, in lieu of a maximum building height of 35 feet.
  
12. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated January 19, 1987 shall apply:
  - a. The Conservation Area shall be tagged and surveyed prior to Development Plan submittal.
  - b. Only that signage described and identified in the required Sign Plan in accordance with Article XXIX of the Orange County Zoning Resolution shall be permitted to be used within this project.
  - c. Waiver of Subdivision Regulations 8.2.3 to permit subdividing on private roadways.
  - d. Dwelling units shall setback 25 feet from Heather Glen Boulevard.
  - e. Developer required to erect a six-foot high brick wall along the East property line abutting Rockinghorse Road, and erect a six-foot high concrete block or masonry wall along the North and South property lines.

**PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (January 19, 1987)**

Upon a motion by Commissioner Dorman, seconded by Commissioner Marston and carried, with all present Commissioners voting AYE, Commissioners Treadway and Chapin were absent, the Board approved the recommendations of the Planning & Zoning Commission under date of January 15, 1987, with the exception of Items #3, 9, & 21, subject to the usual right of appeal by any aggrieved parties; and further, authorized scheduling public hearings for #3 - Primary Langford Partnership, "Pizza Hut", #9 -Marriott Ownership Resorts, Inc. "Windsong PD, Marriott Hotel Amendment", and #21 -Donald P. Cerenzio.\*

\*The Glenn PD (fka Heather Glenn PD, fka Straw Ridge PD) was listed as Item #25 in the January 15, 1987 Planning and Zoning Commission recommendations and was therefore accepted with this motion.