

GENERAL INFORMATION

APPLICANT	Tyrone K. Smith, Orange County Public Schools (OCPS)
OWNER	Orange County School Board
PROJECT NAME	Pershing K-8 Planned Development (PD)
HEARING TYPE	Planned Development / Land Use Plan (PD / LUP)
REQUEST	R-1A (Single-Family Dwelling District) and R-1AA (Single-Family Dwelling District) to PD (Planned Development District) <i>A request to rezone 14.82 gross acres from R-1A and R-1AA to PD in order to construct a K-8 public school with ancillary uses.</i>
LOCATION	Generally on the south side of Pershing Avenue, west of Bumby Avenue, and east of March Avenue.
PARCEL ID NUMBERS	07-23-30-0000-00-117 and 07-23-30-0000-00-109
TRACT SIZE	14.82 gross acres
PUBLIC NOTIFICATION	The notification area for this public hearing extended beyond 500 feet [<i>Chapter 30-40(c)(3)(a) of Orange County Code requires 300 feet</i>]. Eight hundred sixty-two (862) notices were mailed to those property owners in the mailing area.
PROPOSED USE	200,000 square foot K-8 School and Ancillary Uses

STAFF RECOMMENDATION

Development Review Committee – (September 6, 2017)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Pershing K-8 Planned Development / Land Use Plan (PD/LUP), dated “Received August 3, 2017”, subject to the following conditions:

1. Development shall conform to the Pershing K-8 PD Land Use Plan (LUP) dated "Received August 3, 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 August 3, 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. 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. 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.

8. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code. Electronic message center signs shall comply with 38-1755 (o).

IMPACT ANALYSIS

Land Use Compatibility

The applicant is seeking to rezone the subject parcels from R-1A (Single-Family Dwelling District) and R-1AA (Single-Family Dwelling District) to PD (Planned Development District) in order to construct a K-8 school with ancillary uses. The site is currently developed with a church and the existing Pershing Elementary School. 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 Low Density Residential (LDR) and Institutional (INST). The LDR designation allows consideration of residential development with a maximum density of four (4) dwelling units per developable acre, along with other residential support uses. The INST designation recognizes public lands intended to support a variety of public uses. The proposed PD zoning district and development program is consistent with the LDR and INST FLUM designation and the following CP provisions:

PS.2.2.8 states that in an effort to enhance local communities and neighborhoods, Orange County will participate with OCPS in the school siting, design and development process so that the school serves as a focal point for the community and is compatible with the Future Land Use Map and with the land uses surrounding proposed school sites.

PS3.1.1 states that the Land Development Code will be utilized to ensure the compatibility of land uses adjacent to existing schools and school sites.

FLU1.1.5 states that the County shall encourage mixed-use development, infill development and transit oriented development to promote compact urban form and efficiently use land and infrastructure in the Urban Service Area.

OBJ FLU8.2 states that compatibility will continue to be the fundamental consideration in all land use and zoning decisions.

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

Community Meeting Summary

A community meeting was held by Orange County Public Schools on June 21, 2017 at Pershing Elementary School, of which Orange County Planning was in attendance. Residents raised issues regarding increased traffic, building height, and vehicle access via Overlake Avenue. Additionally, another community meeting was held by Orange County Public Schools on August 28, 2017.

SITE DATA

Existing Use

Pershing Elementary School / Church

Adjacent Zoning

N: R-1A (Single-Family Dwelling District) (1957)
R-1 (Single-Family Dwelling District) (1957)

E: R-1AA (Single-Family Dwelling District) (1957)

W: R-1A (Single-Family Dwelling District) (1957)

- S: R-1AA (Single-Family Dwelling District) (1957)
R-1A (Single-Family Dwelling District) (1957)
- Adjacent Land Uses**
- N: Single Family Residential
- E: Single-Family Residential / Church
- W: Single-Family Residential
- S: Single-Family Residential / Church

APPLICABLE PD DEVELOPMENT STANDARDS

PD Perimeter Setback 25 feet

Maximum Building Height: 50 feet

Minimum Building Setbacks

Front Setback: 30 feet

Rear Setback: 25 feet

Side Setback: 25 feet

SPECIAL INFORMATION

Subject Property Analysis

The applicant is seeking to rezone 14.82 gross acres from R-1A (Single-Family Dwelling District) and R-1AA (Single-Family Dwelling District) to PD (Planned Development District) in order to construct a 200,000 square foot K-8 school with ancillary uses.

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

Comprehensive Plan (CP) Amendment

The property has an underlying Future Land Use Map (FLUM) designation of Low Density Residential (LDR) and Institutional (INST). The proposed use is consistent with this designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

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.

Airport Noise Zone

The subject property is not located within an airport noise zone.

Environmental

Environmental staff has reviewed the request and has reported recognized environmental conditions on the east parcel (church site) due to previous use as a citrus grove.

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.

Transportation / Concurrency

A traffic analysis was submitted by the applicant and reviewed by Traffic Engineering and Transportation Planning staff and both have no comments regarding this request.

Water / Wastewater / Reclaim

	<u>Existing service or provider</u>
Water:	Orlando Utilities Commission (OUC)
Wastewater:	Orange County Utilities
Reclaimed:	Not provided

Schools

Orange County Public Schools (OCPS) has reviewed the request but did not identify any issues or concerns.

Parks and Recreation

Orange County Parks and Recreation has reviewed the request but did not identify any issues or concerns.

Code Enforcement

No code enforcement, special magistrate or lot cleaning issues on the subject property have been identified.

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

Planning and Zoning Commission (PZC) Recommendation – (October 19, 2017)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Pershing K-8 Planned Development / Land Use Plan (PD/LUP), dated "Received August 3, 2017", subject to the following conditions:

1. Development shall conform to the Pershing K-8 PD Land Use Plan (LUP) dated "Received August 3, 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 August 3, 2017" the condition of approval shall control to the extent of such conflict or inconsistency.

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9. Bypass entrance to be open at non-arrival and non-dismissal times, Overlake Avenue entrance shall be closed after arrival and dismissal times.

10. A 45 foot building setback shall be required along the south and west PD boundary.

PLANNING AND ZONING COMMISSION (PZC) PUBLIC HEARING SYNOPSIS

The staff report was presented to the PZC with the recommendation that they make a finding of consistency with the Comprehensive Plan and recommend approval of the requested Pershing K-8 Planned Development / Land Use Plan (PD/LUP), subject to eight (8) conditions.

Staff indicated that eight hundred sixty-two (862) notices were mailed to surrounding property owners within a buffer extending beyond 500 feet from the subject property, with ninety-five (95) commentaries and a ninety-four (94) signature petition received in support of the request and four (4) in opposition. The applicant was present and agreed with the staff recommendation of approval. Nine members of the public spoke in favor to the request.

Following discussion about setbacks, access, and traffic, a motion was made by Commissioner Demostene to find the request to be consistent with the Comprehensive Plan and recommend **APPROVAL** of the Pershing K-8 Planned Development / Land Use Plan (PD/LUP), subject to the staff recommended conditions plus two (2) new conditions placing Note #4 as a condition of approval and that 45' building setbacks shall be provided on the west and south property lines. Commissioner Spears seconded the motion, which was then carried on a 9-0 vote.

Motion / Second	<i>Tina Demostene / Gordon Spears</i>
Voting in Favor	<i>Tina Demostene, Gordon Spears, JaJa Wade, William Gusler, Yog Melwani, Jose Cantero, Pat DiVecchio, James Dunn, and Paul Wean</i>
Absent	<i>None</i>