

CASE # CDR-19-07-247

Commission District: # 2

GENERAL INFORMATION

APPLICANT	Stephen Allen, CivilCorp Engineering, Inc.
OWNER	Iglesia Cristina Pentecostal de Orlando, Inc.
PROJECT NAME	Lake Sparling Planned Development
PARCEL ID NUMBERS	06-22-29-3826-01-000 and 06-22-29-3826-02-000
TRACT SIZE	45.75 gross acres (<i>overall PD</i>)
LOCATION	5850 Clarcona Ocoee Road, or generally south of Clarcona Ocoee Road and east of Lake Sparling Road
REQUEST	A PD substantial change to add an 18,000 square foot, 250 student daycare and early education use to the PD. No waivers from Orange County Code are requested.
PUBLIC NOTIFICATION	A notification area extending beyond one thousand (1,000) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Five hundred seventy-seven (577) 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 Lake Sparling PD was originally approved in 2005 and includes entitlements for a 15,000 square foot, 500 seat church campus, a 3,637 square foot single-family dwelling, and a 120 unit independent senior multi-family community.

Through this PD substantial change, the applicant is seeking to add an 18,000 square foot, 250 student daycare and early education use to the PD as part of the approved church campus.

Land Use Compatibility

The PD substantial change 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 Medium Density Residential (MDR). Per Section 38-77, the proposed use is listed as a special exception in zoning districts consistent with the underlying FLUM designations. Additionally, Orange County Code Sec. 38-

79(26)b.7 states that a day care center may be permitted as a special exception in conjunction with and as an ancillary use to institutional uses which are permitted uses or are allowed as a special exception, such as, but not limited to, religious institutions, schools, and nonprofit uses. As such, this request is consistent with the underlying FLUM designations and the Comprehensive Plan.

Community Meeting Summary

A community meeting was not required for this request.

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

The subject property is located within the Wekiva Study Area and must comply with all open space requirements at the time of Development Plan submittal.

Transportation / Concurrency

The subject property is located within the Alternative Mobility Area (AMA). An Alternative Mobility Analysis will be required for review and approval prior to obtaining a building permit.

Schools

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

Parks

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 – (November 6, 2019)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Lake Sparling Planned Development / Land Use Plan (PD/LUP), dated "October 4, 2019", subject to the following conditions:

1. Development shall conform to the Lake Sparling Planned Development (PD) dated "Received October 4, 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 4, 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. The developer shall include a notice in the public record for the property within 700 feet to acknowledge: a) the location of the landfill 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.
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. 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 the closed Clark Class III landfill located on the eastern portion of this site and the closed Pine Hills Road Municipal Landfill site adjacent to the east and the southeast.
9. 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.
10. The subject property is located within the Alternative Mobility Area (AMA). An Alternative Mobility Analysis will be required for review and approval. The Alternative Mobility Analysis will be required prior to obtaining a building permit.

11. The developer shall obtain water and wastewater service from Orange County Utilities subject to County rate resolutions and ordinances.
12. 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.
13. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County code.
14. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated June 28, 2011 shall apply:
 - a. A waiver from Section 38-1272(a)(5) is granted to allow the maximum building height to be fifty feet (50') high in lieu of thirty-five feet (35') high for the sanctuary building only. The Multi-Family shall be restricted to thirty-five feet (35')/one (1) story.
15. All previous applicable Conditions of Approval dated May 11, 2010, and December 6, 2005, shall apply:
 - a. A waiver from Section 34-171(a)(5) to allow access via a fifty (50) foot wide easement in lieu of a fifty (50) foot wide public right-of-way is denied.
 - b. The following Conditions of Approval are a result of the community meeting held on April 19, 2010:
 - 1) Community meetings shall be held at the time of Development Plan submittal for the church and the age-restricted multi-family units.
 - 2) The age-restricted multi-family building(s) shall have a maximum building height of 35 feet / 1 story.
 - 3) Enhanced landscaping shall be provided along Clarcona Ocoee Road and Lake Sparling Road.
 - c. Developer shall comply with all provisions of the Public Education Agreement (PEA) entered into with the Orange County Public Schools (OCPS) as of July 19, 2005 (executed on October 12, 2005).
 - 1) Upon the County's receipt of written notice from OCPS that the developer is in default or breach of the PEA, the County shall immediately cease issuing building permits for any residential units in excess of the 93 single-family residential units and zero townhome units allowed under the zoning existing prior to the approval of the PD zoning. The County shall again begin issuing building permits upon OCPS' written notice to the County that the developer is no longer in breach or default of the PEA. The developer and its successor or assign under the PEA, 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.
- 2) Developer, or its successor or assign under the PEA, 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 property rights.
 - 3) Orange County shall be held harmless by the developer and its assigns under the PEA, in any dispute between the developer and OCPS over any interpretation or provision of the PEA.
- d. Prior to approval of a Preliminary Subdivision Plan (PSP), the limits of the landfill shall be delineated by a signed and sealed survey. There shall be no residential construction allowed on the landfill site.
 - e. The covenants, conditions, and restrictions (CC&Rs) shall contain notification of the closed Clark Class III Landfill site and the closed Pine Hills Road Municipal Landfill site adjacent to the east and southeast.
 - f. Prior to approval of a PSP, the applicant shall submit a copy of the Florida Department of Environmental Protection approval of a site clean-up plan.
 - g. A waiver of Chapter 38-1254(1) is approved to allow a 20-foot perimeter boundary setback and a 6-foot masonry wall along Lake Sparling Road in lieu of a 25-foot perimeter PD setback. A 25-foot PD perimeter boundary setback shall be provided on the remaining portions of the PD.
 - h. A waiver from Chapter 38-1254(2) is granted to allow a 30-foot building setback along Clarcona Ocoee Road in lieu of a 50-foot building setback.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (June 28, 2011)

Upon a motion by Commissioner Brummer, seconded by Commissioner Damiani, and carried by all present members, the Board made a finding of consistency with the Comprehensive Plan; and further, approved the substantial change request by Elia Borerro, Prestige Construction of Florida, Lake Sparling Planned Development (PD) Land Use Plan (LUP), to grant a waiver from Section 38-1272(a)(5) to allow the maximum building height to be fifty feet (50') high in lieu of thirty-five feet (35') high for the sanctuary building only.