

CASE # CDR-18-07-222

Commission District: # 1

GENERAL INFORMATION

APPLICANT	Julie C. Salvo, Orange County Public Schools
OWNER	School Board of Orange County Florida
PROJECT NAME	Summerlake Planned Development
PARCEL ID NUMBER	28-23-27-0000-00-018 (affected parcel only)
TRACT SIZE	538.60 gross acres (<i>overall PD</i>) 14.81 gross acres (<i>affected parcel only</i>)
LOCATION	Generally located on the south side of Porter Road, 150 feet west of Bluejack Oak Drive.
REQUEST	A PD substantial change to add a secondary full access point for a bus loop on the south side of the elementary school parcel, north of the intersection of Wood Sage Drive and Red Stopper Lane.
PUBLIC NOTIFICATION	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>]. One thousand one hundred twenty-five (1,125) notices were mailed to those property owners in the notification buffer area. A community meeting was held on September 17, 2018 at Independence Elementary School as summarized in this report below.

IMPACT ANALYSIS

Special Information

The Summerlake PD is located within the Horizon West Bridgewater Village Special Planning Area and was originally approved on June 28, 2005 with an existing development program consisting of 1,558 residential dwelling units, 20,000 square feet of non-residential activity, an elementary school, an Adequate Public Facility (APF) neighborhood park, an APF fire station, and APF roads and bike trails.

Through this PD Change Determination Request (CDR), the applicant is seeking to add a secondary full access point for a bus loop on the south side of the elementary school parcel, north of the intersection of Wood Sage Drive and Red Stopper Lane.

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 Village (V) within the Bridgewater Village Special Planning Area and is designated as a school on the Bridgewater Village Special Area Plan. 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

Public schools are exempt from transportation concurrency however, an operational analysis will be required prior to development plan approval.

Community Meeting Summary

A community meeting was held on September 17, 2018. There were forty (40) residents in attendance who expressed concerns pertaining to traffic, pedestrian safety, unauthorized on-street parking, and usage of the alley to the east of the site becoming a drop-off/pick-up location. There were additional concerns pertaining to the intersection of Ficquette Road and Summerlake Park Boulevard and the intersection of Summerlake Park Boulevard and Seidel Road due to the increased amount of traffic they may see once the school opens.

Schools

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

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 – (November 7, 2018)

Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Summerlake Planned Development / Land Use Plan (PD/LUP) dated “Received October 10, 2018”, subject to the following conditions:

1. Development shall conform to the Summerlake PD Land Use Plan (LUP) dated "Received October 10, 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 *October 10, 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. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated December 12, 2017 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. The following waivers from the Original Village PD Code are granted:
 - 1) A waiver from Section 38-1388(c)(1) to allow for a lot width of four hundred sixty (460) feet in lieu of the maximum lot width of fifty (50) feet.

 - 2) A waiver from Section 38-1388(c)(7) to allow the proposed building façade to be built directly on the front building setback line for 0.2 percent of the linear footage in lieu of the façade being built directly on the front building setback line for at least fifty (50) percent of the linear footage.

 - 3) A waiver from Section 38-1388(c)(8) to allow the building side yard setback to be one hundred four (104) feet along the eastern side property line in lieu

- of the requirement to have a side yard setback of zero (0) feet along at least one (1) property line
- 4) A waiver from Section 38-1388(c)(12)(c) to allow a sidewalk in the right-of-way in lieu of the requirement to place the sidewalk onsite and within an easement.
 - 5) A waiver from Section 38-1388(c)(12)(e) to allow the primary entry to face the parking lot rather than a public street or walkway.
 - 6) A waiver from Section 38-1388(c)(12)(f) to allow twenty-three (23) percent of the first floor of the building façade to be windows in lieu of the requirement of fifty (50) percent.
- c. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated May 19, 2015 shall apply:
- 1) 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, 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.
 - 2) Single-family detached residential units shall be an allowed use within PD Parcel 17 (Townhome District) only. Any such development shall comply with the Village Home District standards described in Section 38-1386 ("Village PD Code") as those existed prior to February 17, 2014.
 - 3) Where single garage doors are constructed for multi-car, front-loaded garages within PD Parcels 15 / 15(a), 16 / 16(a) and 17 / 17(a) only, the design criteria described in Orange County Code Section 38-1384(g)(3)(c) of the current Village PD Code shall be met.
- d. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval dated, June 28, 2005, shall apply:
- 1) The Village Home District and Estate Home District shall not permit Townhomes unless designated on the LUP.
 - 2) Developer shall comply with all provisions of the Public Education Agreement (PEA) entered into with the Orange County School Board (OCPS) as of November 9, 2004 (executed on November 16, 2004). 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 124 residential 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.

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. 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.

- 3) Billboards and pole signs shall be prohibited.
- 4) Outdoor storage and display shall be prohibited.
- 5) The developer shall obtain water, wastewater, and reclaimed water service from Orange County subject to County rates, resolutions, and ordinances.
- 6) Master stormwater, water, wastewater, and reclaimed water plans sized for the Village wide requirements, shall be submitted prior to approval of the preliminary subdivision plan (PSP).
- 7) The developer shall be responsible for building master utilities transmission and collection infrastructure adequate to serve the project in order to accommodate the ultimate flows for the entire Summerlake PD. Utilities infrastructure shall be built connecting to the County system at Reams Road for wastewater and to the County system at Ficquette Road for water and reclaimed water.
- 8) Prior to approval of the first PSP, the owner/developer is to provide an agreement that addresses the construction of Village-wide utilities for this PD.
- 9) Approval and execution of the Road Network Agreement Summerlake PO, Porter Road; and the Summerlake PO Adequate Public Facilities Agreement.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (December 12, 2017)

Upon a motion by Commissioner VanderLey, seconded by Commissioner Nelson, and carried with all present members voting AYE by voice vote; the Board made a finding of consistency with the Comprehensive Plan; and further, approved the Land Use Plan Amendment (PD/LUP), Case # CDR-16-12-417, to remove 0.6 acres from Garden Home District Tract 10a and add those 0.6 acres to Neighborhood Center Tract 20 within the Summerlake PD, and six (6) associated waivers from the Original Village PD.