

CASE # RZ-19-09-037

Commission District: #1

GENERAL INFORMATION

APPLICANT	James Catan
APPELLANT	James Catan
OWNERS	Ivan Murray, Todd and Leanne Hockenberry, Preeti M. and Mukul Suchde, Harsh Wardhan Uchariya and Maria Del Rocio Garcia Martin, James G. and Cecilia M. Curley, James A. and Darlene A. Catan, Judith A. and Ivan Luengas, James E. and Gisele M. Gauger, Saints Studios, Ltd., Bradley J. and Laurie C. Busbin, Leonard M. Badger, Madelyne I. Woods, Donald M. Granatstein, Susan Unger, Paul and Stefani Schulze, Charles K. Swan, III, Theodore Ender, Giovanni J. and Stavroula V. Di Meo, Robert S. and Pamela M. Glinka, Kathy Leotta, Alan B. and Rosela J. Rich, Trent W. and Siau Ling, and M and M Residential Properties, LLC.
HEARING TYPE	Planning and Zoning Commission Appeal
REQUEST	R-1AA (Single-Family Dwelling District) to R-1AA (Single-Family Dwelling District)
LOCATION	Brentwood Club Phase 2 Lots 8-28; or generally located on the west side of Castleford Point and Camberley Circle, north of Darlene Drive, and east of Kilgore Road
PARCEL ID NUMBER	03-24-28-0909-00-080; 03-24-28-0909-00-090; 03-24-28-0909-00-100; 03-24-28-0909-00-110; 03-24-28-0909-00-120; 03-24-28-0909-00-130; 03-24-28-0909-00-140; 03-24-28-0909-00-150; 03-24-28-0909-00-160; 03-24-28-0909-00-170; 03-24-28-0909-00-180; 03-24-28-0909-00-190; 03-24-28-0909-00-200; 03-24-28-0909-00-210; 03-24-28-0909-00-220; 03-24-28-0909-00-230; 03-24-28-0909-00-240; 03-24-28-0909-00-250; 03-24-28-0909-00-260; 03-24-28-0909-00-270; and 03-24-28-0909-00-280
TRACT SIZE	10.82 gross acres
PUBLIC NOTIFICATION	The notification area for this public hearing was 500 feet [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Three hundred thirty-three (333) notices were mailed to those property owners in the

mailing area. A community meeting was required for this application and is summarized in the report below.

PROPOSED USE

To modify June 12, 1989 BCC restriction #6 to reduce the required natural vegetative buffer, and to remove restriction #7 requiring a six (6) foot high fence where no natural vegetation existed along the western boundary.

STAFF RECOMMENDATION

PLANNING

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the requested R-1AA (Single-Family Dwelling District) zoning, subject to the following restrictions (as amended from the existing restrictions):

- 1) All lots abutting the western property boundary shall be a minimum of 1/2 acre;
- 2) All lots abutting the southern property boundary shall be a minimum 1/3 acre;
- 3) No access shall be permitted onto Darlene Drive;
- 4) Construction of a six (6)-foot high brick wall along the south boundary line abutting Darlene Drive;
- 5) Minimum living area shall be 2200 square feet for all lots within the subdivision;
- 6) Building setbacks for principal structures along the rear (westerly) boundary line shall be a minimum of fifty (50) feet, the westerly thirty-five (35) feet of which is to remain in its natural vegetative state; or alternatively, the individual property owners of Lots 8-28 of the Brentwood Club Phase 2 subdivision ("property owners") shall provide a minimum ten (10) foot opaque landscape buffer. This buffer may consist of natural vegetation, or planted with a hedge species capable of reaching a minimum height of twelve (12) feet at full-growth. If hedges are chosen, they must be planted in the middle of the ten (10) foot buffer at three (3) feet in height and a maximum separation distance of five (5) feet on-center. Property owners may elect to keep a portion or all of the natural vegetation so long as there is an opaque screening (with existing or additional plantings) to the adjoining western property at full-growth of the plant material. Any type of buffer that is provided must be kept clear of vines.
- ~~7) The owner of each lot located along the westerly boundary line shall be required to install a six (6) foot high shadowbox fence where no natural vegetation exists;~~
- 8) Sewer and water services are to be obtained from Orange County.

IMPACT ANALYSIS

Land Use Compatibility

The R-1AA (Single-Family Dwelling District) zoning would allow for development that is compatible with the character of the surrounding area. The properties to the west of the subject parcels contain single-family residences. There are no buffer requirements in the Orange County Code for single-family detached homes adjacent to single-family detached homes. Although the proposal is a reduction in the restriction placed on the properties by the Board of County Commissioners in 1989, the proposal is more than what the Orange County Code would require.

Comprehensive Plan (CP) Consistency

The underlying CP Future Land Use Map (FLUM) designation of the subject property is Low Density Residential (LDR). The proposed R-1AA (Single-Family Dwelling District) zoning is consistent with the Low Density Residential (LDR) FLUM designation, and the following Comprehensive Plan provisions:

FLU1.1.2(B) states that the Low Density Residential (LDR) Future Land Use Map designation generally includes suburban single-family to small lot single-family development with a density of zero (0) to four (4) dwelling units per acre.

FLU1.4.2 states that land use changes are compatible with and serve existing neighborhoods.

FLU8.1.1 states that the zoning and future land use correlation shall be used to determine consistency with the Future Land Use Map. Land use compatibility, the location, availability and capacity of services and facilities, market demand, and environmental features shall also be used in determining which specific zoning district is most appropriate. Density is restricted to the maximum and minimum allowed by the Future Land Use Map designation regardless of zoning.

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

FLU8.2.1 states that land use changes shall be required to be compatible with 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.

FLU8.2.11 states that compatibility may not necessarily be determined to be a land use that is identical to those uses that surround it. Other factors may be considered, such as the design attributes of the project, its urban form, the physical integration of a project and its function in the broader community, as well its contribution toward the Goals and Objectives in the CP. The CP shall specifically allow for such a balance of considerations to occur.

SITE DATA

Existing Use	Single-Family Residential
Adjacent Zoning	N: R-1AA (Single-Family Dwelling District) (1989)* E: R-1AA (Single-Family Dwelling District) (1989)* W: R-CE (Country Estate District) (1967) S: R-1AA (Single-Family Dwelling District) (1989)* <i>*Multiple Zoning Restrictions apply, as summarized further in the report.</i>
Adjacent Land Uses	N: Single-Family Residential E: Single-Family Residential W: Single-Family Residential S: Single-Family Residential

R-1AA (Single-Family Dwelling District) Development Standards

Min. Lot Area:	10,000 sq. ft.
Min. Lot Width:	85 feet
Max. Height:	35 feet
Min. Floor Area:	1,200 feet

Building Setbacks

Front:	25 feet
Rear:	30 feet
Side:	7.5 feet

Intent, Purpose, and Uses

The R-1AA (Single-Family Dwelling District) zoning district is composed of lands and structures used primarily for single-family residential areas with large lots and low population densities.

Specific uses shall be identified by the letter "P" in the use table set forth in Section 38-77 of the Orange County Code.

SPECIAL INFORMATION

Subject Property Analysis

On June 12, 1989, the Board of County Commissioners (BCC) approved a rezoning of a 156-acre area located on the west side of Apopka-Vineland Road, between Darlene Road and Kilgore Road, which included the subject property along the western boundary. This rezoning was approved subject to eight (8) restrictions, which were intended to provide for compatibility with the existing residential uses in the area.

Although the Orange County Code does not include standards that require buffers between residential developments, restrictions were added that required additional setbacks and vegetative buffers between the lots on the western boundary of the property and the adjacent residential properties. Restriction #6 was a requirement that building setbacks for principal structures along the western boundary line be a minimum of 50 feet, of which the western 35 feet was to remain in its natural vegetative state. In addition, restriction #7 required the owner of each lot located along the western boundary line to install a six-foot high shadowbox fence where no natural vegetation exists.

On October 16, 1989, the BCC approved the Brentwood Club Preliminary Subdivision Plan which required deed restrictions and covenants to be filed prior to platting the property, which would prohibit clearing and removal of vegetation including ground cover or placement of any structures on the western 35 feet of the project.

Today, all of the lots that comprise the subject property are developed with single-family residences which meet the required 50-foot principal building setback. However, many of these lots do not provide the required 35-foot natural vegetative buffer. The existing vegetated buffer ranges between zero and 35 feet. At least one lot includes a pool deck that extends into the 35-foot buffer area, and several lots include structures that immediately abut the intended vegetated area. This rezoning request was submitted as a result of a complaint from adjacent property owners that the lots that comprise the subject property were not meeting the required buffer standards.

Through this rezoning request, the applicant has applied to modify restriction #6 from the previous zoning approval. The applicant's modified restriction language would allow for the provision of a 10-foot wide buffer with hedges capable of reaching 12 feet in height in lieu of the 35-foot natural buffer. Additionally, restriction #7 is proposed for deletion since the HOA does not allow property owners to erect fences and the modification to restriction #6 would provide visual screening.

State of Florida Notice

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.

Community Meeting Summary

A community meeting was held at Sand Lake Elementary School on September 30, 2019, which was attended by thirty (30) residents. The applicant stated that the required 35-foot natural vegetated buffer created a safety concern by providing habitat for dangerous wildlife. The applicant's proposal is that where the 35-foot buffer is not provided, then each property owner would be required to plant a 10-foot wide hedge capable to reaching 12 feet in height to provide screening between the adjacent

residential subdivisions. Residents at the meeting expressed concerns that removing the 35-foot natural vegetative buffer would negatively impact wildlife in the area. Other residents expressed concerns about maintenance of the proposed hedge row. Residents noted that the County had failed to cite the property owners for removing the 35-foot vegetated buffer.

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

Orange County Environmental Protection Division reviewed this request, but did not identify any outstanding issues or concerns.

Transportation / Access

Orange County Transportation Planning reviewed this request, but did not identify any outstanding issues or concerns.

Code Enforcement

Pending Code Enforcement action is contingent on the outcome of this rezoning request.

Utilities

Water:	Orlando Utilities Commission	
Wastewater:	Orange County Utilities	An 8-inch gravity main is located within Camberley right-of-way
Reclaim Water:	Orange County Utilities	Not available

Schools

Orange County Public Schools has reviewed this request, but did not provide any comments or concerns.

Parks and Recreation

Orange County Parks and Recreation did not comment on this case, as it does not involve an increase in residential units or density.

Specific Project Expenditure Report and Relationship Disclosure Form

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 17, 2019)

Make a finding of inconsistency with the Comprehensive Plan and recommend DENIAL of the requested R-1AA (Single-Family Dwelling District) zoning.

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 R-1AA (Single-Family Dwelling District) Zoning with the revised language for restriction #6 and the removal of restriction #7. The applicant was present and agreed with the staff recommendation. Staff indicated that three hundred thirty-three (333) notices were sent to property owners extending beyond 500 feet surrounding the property, and that staff had received two (2) responses in favor, and twenty-four (24) responses in opposition of the request. Those in opposition stated concerns of privacy and compatibility, impacts to wildlife, and concerns that the restrictions were agreed to and then violated. Several members of the public were present and spoke in opposition of the request, arguing that the original restrictions should be preserved.

Discussion ensued as to whether the intent of the original restriction was to provide for increased compatibility among different lot sizes, or whether it was just intended to provide for visual screening. The Commission expressed concern that the agreed upon zoning restrictions had been violated and to approve changes after the fact would create a bad precedent for the County. Additionally, they expressed concerns that amendments to the restrictions would set the stage for future violations of the zoning restrictions. Further discussion occurred regarding the fact that the original language required natural vegetation, while the proposed new language does not.

A motion was made by Commissioner Dunn, and seconded by Commissioner Wade to recommend denial of the requested zoning and revised restrictions. The motion carried on a 7-2 vote.

Motion / Second	Jimmy Dunn / JaJa Wade
Voting in Favor	Jimmy Dunn, JaJa Wade, Carlos Nazario, Yog Melwani, Eddie Fernandez, Mohammed Abdallah, and Gordon Spears
Voting in Opposition	Diane Velazquez and Jose Cantero
Absent	None