

CASE # CDR-18-09-284
Commission District: # 1

GENERAL INFORMATION

APPLICANT Randy A. June, June Engineering Consultants, Inc.

OWNER Orange Lake Country Club, Inc.

PROJECT NAME Orange Lake Country Club Planned Development

PARCEL ID NUMBER(S) 29-24-27-0000-00-005; 28-24-27-0000-00-007;
29-24-27-0000-00-006; 28-24-27-0000-00-011

TRACT SIZE 1,443 gross acres (overall PD)
479.24 gross acres (affected parcels only)

LOCATION Generally located east of County Road 545 (Avalon Road), north of U.S. Highway 192, and along both sides of Hartzog Road

REQUEST A Change Determination Request (CDR) to reduce retail entitlements by 46,988 square feet from 216,800 to 169,812 square feet, to increase the number of hotel rooms from 200 to 400, to increase the number of multi-family dwelling units from 300 to 356, to increase the number of conventional single-family residential units from 296 to 519, and to revise the phasing table to reflect the new development program. The applicant has also requested to reduce the rear setback for townhome units from 20' to 15', to reduce the side setback from 7' to 5', to move the 356 multi-family units from NW3 to NW4, and to specify the design standards for front-loaded garages on single-family detached and attached structures for the active adult and gated community.

In addition, the applicant has requested the following waivers from Orange County Code:

1. A waiver from Section 38-79(20)k to allow for a minimum building separation of ten (10) feet between structures for townhomes, in lieu of a twenty (20) foot separation between structures.
2. A waiver from Section 38-79(20)f to allow for a minimum 2 unit townhome in lieu of a minimum 4 unit townhome.

PUBLIC NOTIFICATION A notification area extending beyond one thousand five hundred (1,500) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Twenty three (23) 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 Orange Lake County Club PD was originally approved on February 20, 1973 and is currently approved for 3,150 timeshare / short term rental units, 54 golf holes, 200 hotel rooms, 216,800 square feet of retail, 121,300 square feet of office, 300 multi-family dwelling units, 296 conventional single-family dwelling units, and 500 age-restricted single-family dwelling units.

Through this PD substantial change, the applicant is seeking to reduce retail entitlements by 46,988 square feet from 216,800 to 169,812 square feet, to increase the number of hotel rooms from 200 to 400, to increase the number of multi-family dwelling units from 300 to 356, to increase the number of conventional single-family residential units from 296 to 519, and to revise the phasing table to reflect the new development program. The applicant has also requested to reduce the rear setback for townhome units from 20' to 15', to reduce the side setback from 7' to 5', to move the 356 multi-family units from NW3 to NW4, and to specify the design standards for front-loaded garages on single-family detached and attached structures for the active adult and gated community.

Development Program Comparison Table

<i>Use</i>	<i>Current</i>	<i>Proposed</i>
Timeshare / Short Term Rental	3,150 units	3,150 units
Golf	54 holes	54 holes
Hotel	200 rooms	400 rooms
Retail	216,800 sq. ft.	169,812 sq. ft.
Office	121,300 sq. ft.	121,300 sq. ft.
Multi-Family Residential	300 units	356 units
Single Family Residential (Conventional)	296 units	519 units
Single Family Residential (Age Restricted)	500 units	500 units

Additionally, this project is governed by the 8th Restated and Amended Development Order (DO) for the Orange Lake County Club Development of Regional Impact (DRI). Although this proposed development program and phasing table differs from the program and phasing shown in the DO, the DO does not have to be amended as it allows for the exchange of land uses through a matrix. Notice of this exchange requires notification to the Department of Economic Opportunity (DEO) and the East Central

Florida Regional Planning Council (ECFRPC). Notice of this exchange has been submitted to those agencies.

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 Growth Center - Planned Development – Commercial / Medium Density Residential (GC-PD-C/MDR). The proposed Change Determination Request (CDR) 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

This project is vested from Transportation Concurrency under Vested Rights Certificate VRC # 92-151. A copy of this certificate is required prior to obtaining a building permit.

The Hartzog Road Right-of-Way Agreement was approved by the BCC on June 3, 2008 and recorded at in Official Records Book 9172 Page 4850. This agreement follows two prior agreements and realigns Hartzog Road through the Developer's properties to CR 545 (Avalon Road) north of the previously contemplated alignment. Under the terms of the agreement, the Developers will dedicate Right-of-Way for the re-aligned Hartzog Road and design the roadway for a four-lane roadway then construct the first two lanes of the roadway. Road impact fee credits will be provided for the design and construction of the portion of the road beyond the first two lanes. The owners shall also receive a certain number of vested trips for participation in the roadway agreement. Currently the design is complete, however no Right-of-Way has been dedicated and construction has not started.

Community Meeting Summary

A community meeting was not required for this request.

Schools

A Capacity Enhancement Agreement (CEA) application, #OC-19-012, was approved by the Orange County School Board on February 26, 2019.

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 – (March 27, 2019)

Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Orange Lake Country Club Planned Development / Land Use Plan (PD/LUP) dated “Received March 11, 2019”, subject to the following conditions:

1. Development shall conform to the Orange Lake Country Club PD Land Use Plan (LUP) dated "Received March 11, 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 March 11, 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 project shall comply with the terms and conditions of that certain Agreement for Hartzog Road Realignment recorded at Official Records Book/Page 7385/1519, Public Records of Orange County, Florida, as may be amended.
7. New Hartzog Road, as contemplated by and depicted in Exhibit "H" to that certain Hartzog Road Right-of-Way Agreement recorded at O.R. Book 9712, Page 4850, in the Public Records of Orange County, Florida and as designed and engineered by Owner / Developer and reviewed by Orange County (Permit No. 12-E-001) as may be amended or revised, shall be fully constructed and completed in its entirety from the Existing Hartzog Road at Flamingo Crossings to its terminus at CR 545, as evidenced by issuance of a Certificate of Completion from Orange County, within

sixteen (16) months following commencement of construction (as long as all necessary right-of-way and/or easements have been conveyed to Owner / Developer). In the event construction of New Hartzog Road has not commenced within twelve (12) months after approval of this preliminary subdivision plan, this preliminary subdivision plan shall expire. Owner / Developer may commence construction of New Hartzog Road prior to obtaining all right-of-way and/or easements for New Hartzog Road. Prior to issuance of a Certificate of Completion for Phase 1 of this preliminary subdivision plan, that portion of New Hartzog Road that provides safe and adequate access to said Phase 1 shall be completed, including the access point as depicted in this preliminary subdivision plan, and open to traffic. Notwithstanding the fact that a Certificate of Completion for Phase 1 of this preliminary subdivision plan may be issued, Owner/Developer shall still have the continuing obligation to complete New Hartzog Road in its entirety pursuant to this Condition No. 6.

8. 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 February 26, 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 zero (0) 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.

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.

9. For those portions that are within the Orange County Utilities service area, the development shall connect to existing OCU central utilities for water, wastewater and

- reclaimed water located west of this PD. Initial phases of development may be approved connecting to the existing temporary interconnects subject to a Developer/Property Owner's agreement addressing the future connection to the OCU central utilities including financial assurances that are acceptable to the County. The agreement shall be approved prior to construction plan approval.
10. 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.
 11. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) submittal and must be approved prior to Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) approval for any streets and/or tracts anticipated to be dedicated to the County and/or to the perpetual use of the public.
 12. Short term rental shall be prohibited in residential areas. Length of stay shall be for 180 consecutive days or longer. Short term rental length of stay shall not exceed 179 consecutive days within any 12-month period.
 13. The following waivers from Orange County Code are granted:
 - a. A waiver from Section 38-79(20)k to allow for a minimum building separation of ten (10) feet between structures for townhomes, in lieu of a twenty (20) foot separation between structures.
 - b. A waiver from Section 38-79(20)f to allow for a minimum 2 unit townhome in lieu of a minimum 4 unit town home.
 14. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated June 5, 2018 shall apply:
 - a. A Master Utility Plan (MUP) for the PD shall be submitted to Orange County Utilities prior to approval of the first PSP/DP for the PD. The MUP must be approved prior to Construction Plan approval.
 - b. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances for those portions that are within the Orange County Utilities service area.
 - c. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 Tourist Commercial standards of the Orange County Code.
 - d. Tree removal/earthwork shall not occur unless and until construction plans for the first Preliminary Subdivision Plan and/or Development Plan with a tree removal and mitigation plan have been approved by Orange County.

- e. Outside sales, storage, and display shall be prohibited within the commercial and office uses of the PD.
15. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated November 29, 2016 shall apply:
- a. Prior to mass grading, clearing, grubbing or construction, the applicant is hereby noticed that this site must comply with habitat protection regulations of the U.S. Fish and Wildlife Service (USFWS) and the Florida Fish & Wildlife Conservation Commission (FWC).
 - b. 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.
 - c. The following waivers from Orange County Code are granted:
 - 1. A waiver from Orange County Code Section 38-1258(b) to allow for a maximum building height of sixty (60) feet for multi-family buildings located between one hundred plus (100+) feet to one hundred fifty (150) feet of single-family zoned property, in lieu of variations in building height and percentages of building allowed above one and two stories.
 - 2. A waiver from Orange County Code Section 38-1258(c) to allow for a maximum building height of sixty (60) feet and four (4) stories for multi-family buildings located between one hundred plus (100+) feet to one hundred fifty (150) feet of single-family zoned property, in lieu of three (3) stories and forty (40) feet.
 - 3. A waiver from Orange County Code Section 38-1258(j) to allow for a minimum building separation of thirty (30) feet for multi-family residential structures that exceed two stories, in lieu of increased building separations in proportion to additional structural height.
16. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated November 18, 2014, August 5, 2014, and December 20, 2005, shall apply:
- a. 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.
 - b. A Master Utility Plan (MUP) shall be submitted to Orange County Utilities at least thirty (30) days prior to submittal of the first set of construction plans within

Orange County Utilities service area. The MUP must be approved prior to Construction Plan approval.

- c. A waiver from Orange County Code Section 38-1272(a)(3)(c) is granted to allow for a minimum expressway setback of thirty-five (35) feet, in lieu of the minimum required expressway setback of sixty (60) feet.
- d. A waiver from Orange County Code Section 38-1272(a)(3) is granted to allow for a minimum PD perimeter setback of ten (10) feet in lieu of a minimum required PD perimeter setback of twenty-five (25) feet; pursuant to Orange County Code, Chapter 30, Article III, Section 30-89 and Orange County Code, Chapter 38, Article VIII, Division 1, Section 38-1207.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION *(June 5, 2018)*

A motion was made by Commissioner VanderLey, seconded by Commissioner Love, and carried by all members voting AYE by voice vote, to make a finding of consistency with the Comprehensive Plan; and approve the request to reduce the number of multi-family dwelling units from 825 to 300, increase the number of conventional single-family residential units from 50 to 296, and increase the number age-restricted single-family residential dwelling units from 307 to 500, subject to the conditions of approval listed under the Development Review Committee recommendation in the Staff Report