

CASE # CDR-19-06-191

Commission District: # 1

GENERAL INFORMATION

APPLICANT Constance Silver, Tri3 Civil Engineering Design Studio, Inc.

OWNER Buena Vista Commons, LLC and Maa Durga-Sri Sai Baba Temple, Inc.

PROJECT NAME Buena Vista Commons Planned Development

PARCEL ID NUMBER(S) 15-24-28-1080-01-000, 15-24-28-1080-02-000, and 15-24-28-1079-01-000

TRACT SIZE 8.52 gross acres (overall PD)

LOCATION 11414 and 11444 S. Apopka Vineland Road; or generally located on the west side of S. Apopka Vineland Road and the south side of 3rd Street.

REQUEST A PD substantial change to request the following waivers from Orange County Code:

1. A waiver from Section 38-1394.1(a) is requested to allow zero (0) building base green space for the temple and temple expansion buildings and a five (5) foot building base green space for Building #5, in lieu of the ten (10) foot width of building base green space for a one-story building.

Applicant Justification: For the temple building expansion, fire code has required that additional egress doors be provided requiring a zero (0) foot building setback from 3rd Street. The application is also requesting approval of a reduced building base green space for the east and south sides of the temple expansion building in order to be ADA compliant. For Building #5, the applicant is requesting a reduced building base green space of five (5) feet from 3rd Street and from Lot 1. Previous approvals by Orange County and the applicant's misinterpretation of the BVN code is a result in the reduced building base.

2. A waiver from Section 38-1394.1(a)(2) is requested to allow one (1) canopy tree for every twenty-five (25) linear feet of building base, in lieu of one (1) canopy tree for each one-hundred (100) square feet of green space within the building base landscape area. This request shall be applicable to all buildings, existing and proposed, within the PD.

Applicant Justification: *The tree requirement as it exists by code is excessive. For example, a one-story building that is 10'x20' in size would require that 10 trees be planted at the perimeter of the building within the 10 foot wide building base green space. Our waiver request would require that three (3) trees be planted within the building base green space of the same 10'x20' building.*

PUBLIC NOTIFICATION A notification area extending beyond five hundred (500) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Seventy-one (71) 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 Buena Vista Commons PD was originally approved on May 24, 2011. The PD today currently consists of 8.52 acres with development entitlements for 57,161 square feet of professional office uses, including church, restaurant (no drive-thru), child day care facility, community center, fitness center, and temple priest residence.

Through this PD substantial change, the applicant is seeking two waivers from Orange County Code in order to allow zero (0) building base green space for the temple and temple expansion builds and a five (5) foot building base green space for Building #5, in lieu of the ten (10) foot width of building base green space for a one-story building and to allow one (1) canopy tree for every twenty-five (25) linear feet of building base, in lieu of one (1) canopy tree for each one-hundred (100) square feet of green space within the building base landscape area.

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 Office (O). The proposed PD substantial change is consistent with the designation and all applicable CP provisions; therefore, the request is consistent with the Comprehensive Plan.

Overlay Ordinance

The subject property is located within the Buena Vista North 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

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

Community Meeting Summary

A community meeting was not required for this request.

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 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 – (October 9, 2019)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Buena Vista Commons Planned Development / Land Use Plan (PD/LUP), dated “September 10, 2019”, subject to the following conditions:

1. Development shall conform to the Buena Vista Commons Planned Development (PD) dated "Received September 10, 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 September 10, 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. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Master Sign Plan, Buena Vista North, Chapter 31.5 and Board of County Commissioners Restrictions unless waivers have been explicitly granted by the Board of County Commissioners.
7. The following waivers from Orange County Code are granted:
 - a. A waiver from Section 38-1394.1(a) to allow zero (0) building base green space for the temple and temple expansion buildings and a five (5) foot building base green space for Building #5, in lieu of the ten (10) foot width of building base green space for a one-story building.
 - b. A waiver from Section 38-1394.1(a)(2) to allow one (1) canopy tree for every twenty-five (25) linear feet of building base, in lieu of one (1) canopy tree for each one-hundred (100) square feet of green space within the building base landscape area. This request shall be applicable to all buildings, existing and proposed, within the PD.
8. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated July 19, 2016 shall apply:
 - a. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a Capacity Encumbrance Letter (CEL) prior to construction plan approval and must apply for and obtain a Capacity Reservation Certificate (CRC) 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 CEL or a CRC.
 - b. The following waivers from Orange County Code are granted:
 - 1) A waiver from Section 38-1272(d) to permit sixty-six (66) grass (unimproved) parking spaces on PD Lot 3 for Religious Institutions and Religious Institution Ancillary uses; however, the drive isles shall be paved.
 - 2) A waiver from Section 38-1477 to allow for shared parking between Lots 1, 2 and 3 of the PD, in lieu of the requirement that parking spaces for a land use be provided on the same lot or within 300 feet of the principal entrance as measured along the most direct pedestrian route.
 - 3) A waiver from Section 38-1479(a) to permit sixty-six (66) grass (unimproved) parking spaces on PD Lot 3 for Religious Institutions and Religious Institution Ancillary uses; however, the drive isles shall be paved.
 - c. PD Lot 3 shall be used for ancillary religious uses and shared parking only.
9. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated April 21, 2015, shall apply:

- a. The following waivers from Buena Vista North District Standards found in Orange County Code Chapter 38, Division 9, Subdivision II (Site Development) and Subdivision V (Signage) are granted:
 - 1) A waiver from Orange County Code Section 38-1392.1 to allow a minimum zero (0) foot side setback (internal to the PD) from a thoroughfare roadway facility for existing building #1 only as identified on the Master Sign Plan; in lieu of the required ten (10) foot side setback and twenty (20) foot setback from a thoroughfare roadway facility;
 - 2) A waiver from Orange County Code Section 38-1395.2(1) to allow monument Ground Sign #1 as identified on the Master Sign Plan to have a maximum copy area of one-hundred fifty-two (152) square feet; in lieu of a maximum copy area of ninety-six (96) square feet; and
 - 3) A waiver from Orange County Code Section 38-1385.2(2) to allow wall signage on both the eastern and western side of buildings #1 and #2 as identified on the Master Sign Plan, by considering both sides to be primary facades; in lieu of only allowing wall signage on the western side of the buildings, where the customer entrances are located.
- b. The following waivers from Orange County Code Section 31.5-67(g) related to minimum ground sign right-of-way setbacks are granted:
 - 1) A waiver to allow Ground Sign #1 as identified on the Master Sign Plan to have a minimum one (1) foot right-of-way setback from 3rd Street and a minimum eight (8) foot right-of-way setback from S. Apopka Vineland Road; in lieu of a minimum ten (10) foot right-of-way setback;
 - 2) A waiver to allow the relocated temple sign as identified on the Master Sign Plan to have a minimum eight (8) foot right-of-way setback from S. Apopka Vineland Road; in lieu of a minimum ten (10) foot right-of-way setback; and
 - 3) A waiver to allow Ground Sign #3 as identified on the Master Sign Plan to have a minimum five (5) foot right-of-way setback from 3rd Street, in lieu of a minimum ten (10) foot right-of-way setback.
 - 4) A waiver from Orange County Code Section 31.5-67(i) is granted to allow multi-tenant Ground Sign #1 as identified on the Master Sign Plan to have a minimum of ten (10) square feet of copy area per tenant; in lieu a minimum of twelve (12) square feet of copy area per tenant.
- c. Wall signage shall only be externally lit by goose neck type lighting fixtures on buildings 1 and 2 facing Apopka Vineland Road.
- d. Wall signage on Apopka-Vineland Road shall be limited to eighteen (18) inch letter size.
- e. All internal lit signs shall only be lit from dusk to 11:00 p.m.

- f. There shall be no wall signage allowed on the west face of building 4 (side facing residential Hidden Valley).
 - g. Approval of this PD/LUP (lot reconfiguration) will constitute approval of a lot split.
 - h. No permits shall be issued for sign #1 until the property has been re-configured through Orange County Property Appraiser's office to match the lot split that adjusts the lot line for the existing temple building back from the right-of-way line and the existing Temple sign relocation.
 - i. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated January 14, 2014, shall apply:
 - 1) The restaurant shall not be occupied before 6:00 a.m. and after 11:00 p.m. (7 days per week). The hours of operation for any child care facility shall be limited to 6:00 am - 8:00pm (7 days per week).
 - 2) Development shall be limited to Professional Office (PO) uses and the following four (4) uses: Church, Restaurant (no drive-thru), Community Center, Fitness Center, Martial Arts and Miscellaneous Aerobic Type Instruction.
 - 3) Pursuant to the approval of a non-substantial change to the PD by the Development Review Committee (DRC) on December 19, 2012, a total of 213 shared parking spaces may be provided.
 - 4) A 6' PVC fence (on the berm) 10' from the west property line next to the Hidden Valley Mobile Home Park. The 10' buffer shall be planted with a hedge 30" in height at planting, and canopy trees (not oak trees) planted 40' on center. A 6' PVC fence shall be provided along the north property line next to the residential and planted with canopy trees planted 40' on center. A 6' PVC fence shall be provided along 5th Street. Landscaping shall be irrigated and maintained by the owner or Property Owners' Association of this center.
10. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated May 24, 2011, shall apply:
- a. A Master Utility Plan (MUP) shall be submitted to Orange County Utilities prior to approval of the first (Preliminary Subdivision Plan/Development Plan) PSP/DP. 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.
 - c. Tree removal / earthwork shall not occur unless and until construction plans for the first Preliminary Subdivision and/or Development Plan with a tree removal and mitigation plan have been approved by Orange County.
 - d. Outdoor sales, storage and display shall be prohibited.

- e. Developer to provide a fifty (50) foot natural buffer to be maintained along the existing residence located to the northwest of the subject property and south of 3rd Street, until the said residential is rezoned to a non-residential use.
- f. Full access shall be maintained at 5th Street and Apopka-Vineland Road.
- g. Developer shall work with the property owner to the west (on 3rd Street) to limit access issues.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION *(July 19, 2016)*

Upon a motion by Commissioner Boyd, seconded by Commissioner Nelson, and carried by all present members, a finding of consistency with the Comprehensive Plan was made and further approval of the request by Constance Owens, Tri3 Civil Engineering Design Studio, Inc., Buena Vista Commons PD/LUP, Case # LUPA-15-08-240 to rezone fourteen (14) adjacent parcels containing 2.59 gross acres from R-CE (Country Estate District) to PD (Planned Development), while aggregating them into the existing Buena Vista Commons PD in order to provide a parking lot and two dual-purpose residential / office buildings totaling 3,800 sq. ft., that are associated with an existing religious institution (temple); further approval of the request to amend the Master Sign Plan and three parking related waivers; subject to conditions.