

**CASE # CDR-16-04-135**

Commission District: # 1

**GENERAL INFORMATION**

<b>APPLICANT</b>	Geoff McNeill, AGMCI, LLC
<b>OWNER</b>	Orange Lake Country Club, Inc.
<b>PROJECT NAME</b>	Orange Lake Country Club Planned Development / Land Use Plan (PD/LUP)
<b>PARCEL ID NUMBERS</b>	28-24-27-0000-00-007; 28-24-27-0000-00-014 28-24-27-0000-00-016; 28-24-27-0000-00-011; 29-24-27-0000-00-006; 29-24-27-0000-00-005; 28-24-27-0000-00-006; 33-24-27-6377-00-002; 33-24-27-6377-00-004; 33-24-27-6377-00-005; 33-24-27-6377-00-006; 33-24-27-6377-00-040; 33-24-27-6377-00-050; 33-24-27-6377-00-060; 33-24-27-6377-00-051; 33-24-27-6377-00-052; 33-24-27-6378-00-001; 33-24-27-6378-00-010; 33-24-27-6378-00-030; 33-24-27-6379-00-070; 28-24-27-0000-00-013; 33-24-27-0000-00-001 and 33-24-27-0000-00-019
<b>TRACT SIZE</b>	1,443 gross acres
<b>LOCATION</b>	Generally east of County Road 545 (Avalon Road), north of U.S. Highway 192, and along both sides of Hartzog Road.
<b>REQUEST</b>	<p>A PD substantial change request to amend the Orange Lake County Club Planned Development Land Use Plan (PD / LUP) by using a land use exchange matrix to reduce timeshare / short term rental units from 4,150 to 3,150; reduce the amount of golf holes from 72 to 54; reduce hotel rooms from 400 to 200; reduce retail square footage from 260,000 to 216,800; and by introducing 121,300 square feet of office; 50 single-family conventional residential dwelling units; 825 multi-family residential dwelling units; and 307 age-restricted residential dwelling units. In addition, the applicant is revising existing PD/LUP site datum tables by adding the new uses, and re-designating PD parcels NW1, NW2, and NW3 accordingly.</p> <p>In addition, the following three (3) waivers from Orange County Code have been requested:</p> <ol style="list-style-type: none"><li>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</li></ol>

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.

**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*]. Eighty-three (83) notices were mailed to those property owners in the notification buffer area.

**IMPACT ANALYSIS**

**Special Information**

The 1,443-acre Orange Lake Country Club Planned Development is generally located east of County Road 545 and south of Seidel Road. Its existing development program includes four (4) phases, and entitlements for up to 4,150 timeshare units, 260,000 square feet of retail, 400 hotel rooms, and 72-hole golf course.

Through this substantial change request, the applicant is requesting to use a land use exchange matrix to reduce timeshare/short term rental units from 4,150 to 3,150; reduce the amount of golf holes from 72 to 54; reduce hotel rooms from 400 to 200; reduce retail square footage from 260,000 to 216,800; and by introducing 121,300 square feet of office; 50 single-family conventional residential dwelling units; 825 multi-family residential dwelling units; and 307 age-restricted residential dwelling units. In addition, the applicant is revising existing PD/LUP site datum tables by adding the new uses, and re-designating PD parcels NW1, NW2, and NW3 accordingly. Finally, three (3) waivers from Orange County Code addressing multi-family building height and building separation have also been requested.

**Land Use Compatibility**

The proposed PD Change Determination Request (CDR) would not adversely impact surrounding properties.

**Comprehensive Plan (CP) Consistency**

The PD has an underlying Future Land Use Map (FLUM) designation of Growth Center-Commercial / Medium Density Residential (GC-C/MDR). The proposed substantial change is consistent with this FLUM designation.

**Community Meeting Summary**

A community meeting was not required for this request.

**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**

The Environmental Protection Division reviewed the request and had no comments.

**Transportation / Concurrency**

Transportation concurrency vested rights certificate #92-151 is on file for this project. The project is also subject to the Hartzog Road Right-of-Way Agreement that was approved by the BCC on 6/3/2008 and recorded at OR Book/Page 9712/4850. 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.

Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a Capacity Encumbrance Letter (CEL) prior to construction plan submittal and must apply for and obtain a Capacity Reservation Certificate (CRC) prior to approval of the plat. 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. Finally, the applicant must ensure that development provides pedestrian/bicycle connectivity (e.g. sidewalk) to the public right-of-way (per Policy T3.2.2).

**Schools**

Capacity Enhancement Agreement (CEA) #OC-16-009 was approved by the Orange County School Board on October 25, 2016.

**Parks and Recreation**

Parks and Recreation Division staff reviewed this request and had no comments 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 2, 2016)**

**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 November 16, 2016", subject to the following conditions:**

1. Development shall conform to the Orange Lake Country Club Planned Development / Land Use Plan (PD/LUP) dated "Received November 16, 2016," 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 of this land use plan and the land use plan dated "Received November 16, 2016," 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 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 October 25, 2016.
  - 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 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.
- e. 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.
- 7. The project shall comply with the terms and conditions of the Hartzog Road Right-of-Way Agreement.
- 8. 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).
- 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. 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.
- 11. 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.
- 12. Outside sales, storage, and display shall be prohibited within the commercial and office uses of the PD.
- 13. The following waivers from Orange County Code are granted:
  - a. 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.
  - b. 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.
  - c. 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.

14. 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. Length of stay for short term rentals shall not exceed 179 days.
  - c. 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.
  - d. The Developer shall obtain water, waste water, and reclaimed water service from Orange County Utilities for those portions that are within the Orange County Utilities service area.
  - e. 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.
  - f. 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 (November 18, 2014)**

Upon a motion by Commissioner Boyd, seconded by Commissioner Brummer, and carried with all commissioners voting AYE by voice vote, the Board made a finding of consistency with the Comprehensive Plan; further, approved the substantial change request by Gregory Lee, Baker & Hostetler, LLP, Orange Lake Country Club Planned Development/Land Use Plan (PD/LUP), Case #CDR-14-06-157, to amend the Orange Lake Country Club Planned Development (PD) and Land Use Plan (LUP) by reclassifying the approved land use of "timeshare" as "timeshare/short term rental"; further, incorporated a new condition of approval stating that short term rentals shall not exceed 179 days; further, amended the PD/LUP by reflecting a modified Hartzog Road alignment and access points; an updated trip conversion matrix; updated project phasing dates; and revised notes addressing short term rental setbacks and alley design requirements; further, a note indicating that up to 25,000 square feet of retail uses and 400 hotel rooms may be located in the North Village has been added to the amended PD/LUP; which constitutes a substantial change to the development on the described property; subject to conditions.