

CASE # CDR-17-01-005

Commission District: # 6

GENERAL INFORMATION

APPLICANT	Ryan Von Weller, Hawthorne Park Developer, LLC
OWNER	Silver Star Shopping Center, LLC
PROJECT NAME	Silver Pines Planned Development (PD)
PARCEL ID NUMBER	18-22-29-8052-00-010 (affected parcel only)
TRACT SIZE	157.30 gross acres (<i>overall PD</i>) 15.80 gross acres (<i>affected parcel only</i>)
LOCATION	5300 Silver Star Road, or generally west of N. Pine Hills Road, south of Silver Star Road.
REQUEST	<p>A PD substantial change to allow senior multi-family residential as a permitted use on a portion of "Parcel A" and convert 33,486 square feet of commercial use to 120 senior adult multi-family units. In addition, and applicable to PD Parcel A only, the applicant has requested the following waivers from Orange County Code:</p> <ol style="list-style-type: none">1. <i>A waiver from Section 38-1258(d) to allow a maximum building height of four stories or fifty-five feet (55'), in lieu of a maximum building height of three stories or forty feet (40').</i>2. <i>A waiver from Section 38-1476(a) to allow one (1) parking space for each apartment dwelling unit, in lieu of the requirement for 1.5 parking spaces for 1 bedroom dwelling units and 2 spaces for 2 or 3 bedroom dwelling units.</i>
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>]. Four hundred fifty-one (451) notices were mailed to those property owners in the notification buffer area. A community meeting was held on March 14, 2017 at Silver Star Community Park as summarized in the report below.

IMPACT ANALYSIS

Special Information

The Silver Pines PD is located at 5200 Silver Star Road, or generally west of N. Pine Hills Road, south of Silver Star Road. The PD was originally approved May 25, 1971

and its existing development program allows for up to 150,000 square feet of non-residential uses; 1,500 residential units; and a golf course.

Through this PD substantial change, the applicant is seeking to allow senior multi-family residential as a permitted use on a portion of "Parcel A" and convert 33,486 square feet of commercial use to 120 senior adult multi-family units.

In addition, the applicant has requested two (2) waivers from Orange County Code that would apply to PD Parcel A only. The first waiver would increase maximum building height from three stories or forty feet (40') to four stories or fifty-five feet (55'). Given the vehicular characteristics of senior multi-family residential use, the second waiver would decrease required parking from 1.5 parking spaces for 1 bedroom dwelling units and 2 spaces for 2 or 3 bedroom dwelling units to one (1) parking space for each apartment dwelling unit.

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 Commercial (C). The Silver Pines PD was approved in 1971 and includes uses such as multi-family, single-family and commercial. The proposed PD substantial change is consistent with this designation and all applicable CP provisions; therefore, the request is consistent with the Comprehensive Plan.

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

Portions of this PD site, including the entire area affected by this change determination request and areas outside of this PD, are included in a Orange County Board of County Commissioners approved Resolution #2013-M-14 of April 23, 2013 regarding designating certain land as the Pine Hills ROCC (Redeveloping Orange County Communities) as a "Brownfield Area" for the purpose of environmental remediation, rehabilitation, economic development pursuant to criteria set forth in Section 376.80(2)(a), Florida Statutes. At the PSP or DP stage of development, the required Environmental Site Assessment will have to address related on-site, or adjacent sources, of soil or groundwater contamination and updated documentation of completed remediation activity or on-going assessments.

Transportation / Concurrency

This parcel is in the alternative mobility area and development should be in accordance with Objective T2.3 and related policies of the Comprehensive Plan. A mobility analysis will be required prior to obtaining a building permit.

Community Meeting Summary

A community meeting was held on March 14, 2017 at the Silver Star Community Park. There were ten (10) residents in attendance. The concerns expressed included ease of access to the site, security, and parking availability. There was also the suggestion of providing a pedestrian gate for access to the planned trail nearby, which the applicant agreed to.

Schools

Because the project includes approval for senior housing, prior to Development Plan/PSP approval, the developer shall submit to the DRC, for its review and approval, conditions, covenants, and/or restrictions (CC&Rs) that restrict occupancy to senior adults and that comply with the requirements of the Housing for Older Persons Act [42 U.S.C. §3607(b).] Such CC&Rs shall be recorded in the public records of Orange County, Florida and shall run with the land. The CC&Rs shall include language that at least one owner/resident shall be at least 55 years of age and in no case shall there be any residents aged 18 years or under. No permanent residency by school-aged children shall be generated as a result of any development on this Development Plan. Any proposed future conversion of the senior housing to unrestricted housing or any proposal to add permanent residency by school-aged children shall constitute a substantial change that must be approved by the BCC at a public hearing. If the substantial change is approved, school impact fees in effect at that time shall be paid and the project shall comply with any school capacity and school concurrency regulations in effect at that time.

Parks and Recreation

Orange County Parks and Recreation staff reviewed the PD substantial change 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 8, 2017)

Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Silver Pines Planned Development / Land Use Plan (PD/LUP) dated "Received February 24, 2017", subject to the following conditions:

1. Development shall conform to the Silver Pines Planned Development / Land Use Plan (PD/LUP) dated "Received February 24, 2017," 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 February 24, 2017," 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/LUP 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. 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.
7. This parcel is in the alternative mobility area. A mobility analysis will be required prior to obtaining a building permit.
8. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing wastewater systems have been designed to support all development within the PD.
9. The Developer shall obtain wastewater service from Orange County Utilities.
10. The following four (4) Conditions shall apply to PD Parcel A only:
 - a. Because the project includes approval for senior housing, prior to Development Plan/PSP approval, the developer shall submit to the DRC, for its review and approval, conditions, covenants, and/or restrictions (CC&Rs) that restrict occupancy to senior adults and that comply with the requirements of the Housing for Older Persons Act [42 U.S.C. §3607(b).] Such CC&Rs shall be recorded in the public records of Orange County, Florida and shall run with the land. The CC&Rs shall include language that at least one owner/resident shall be at least 55 years of age and in no case shall there be any residents aged 18 years or under. No permanent residency by school-aged children shall be generated as a result of any development on this Development Plan. Any proposed future conversion of the senior housing to unrestricted housing or any proposal to add permanent residency by school-aged children shall constitute a substantial change that must be approved by the BCC at a public hearing. If the substantial change is approved, school impact fees in effect at that time shall be

paid and the project shall comply with any school capacity and school concurrency regulations in effect at that time.

- b. A waiver from Orange County Code, Section 38-1258(d) is granted to allow a maximum building height of four stories or fifty-five feet (55'), in lieu of a maximum building height of three stories or forty feet (40').
 - c. A waiver from Orange County Code, Section 38-1476(a) is granted to allow one (1) parking space for each apartment dwelling unit in lieu of the requirement of 1.5 parking spaces for 1 bedroom dwelling units and 2 spaces for 2 or 3 bedroom dwelling units.
 - d. Should the occupancy change from age-restricted, the new use or non-age restricted occupancy shall be required to meet then-current parking standards. In the alternative, a parking study acceptable to Orange County may be submitted which substantiates the waiver to County's satisfaction.
11. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated April 3, 1989, shall apply:
- a. Development Plans for the open space / recreation tracts shall be submitted concurrently with the first residential parcel Development Plan along with a proposed construction schedule for recreation facilities.
 - b. Access for each parcel shall be determined at the Development Plan stage. The proposed internal road system is not approved with the Land Use Plan.
 - c. A detailed landscape plan shall be submitted with the Development Plan for the multi-family parcel that provides adequate landscaping for the 40-foot buffer (adjacent to the 19 units per acre multi-family portion).
 - d. There are additional recorded drainage and utility easements through this site which are not shown on the plan. These shall be accommodated at construction plan approval stage.
12. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated May 25, 1971, shall apply:
- a. All buildings within 100 feet of single-family residential areas be limited to single-story.
 - b. All access streets presently maintained by Orange County be upgraded and resurfaced by the Developer as deemed necessary by the Superintendent of the Road and Bridge Department.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (August 3, 2004)

Upon a motion by Commissioner Hartage, seconded by Commissioner Johnson, and carried with all present members and voting AYE by voice vote, the Board made a finding of

consistency with the Comprehensive Plan; and further, approved the rezoning request by Ilene Wilkins, United Cerebral Palsy of Central Florida, Silver Pines Planned Development / Land Use Plan (PD / LUP), to amend the LUP to allow a charter pre-school for United Cerebral Palsy as a permitted use within the Professional Office zoned portion of the Silver Pines Planned Development; which constitutes a substantial change to the development on the above-described property; subject to conditions.