

**CASE # CDR-16-12-403**

Commission District: # 1

**GENERAL INFORMATION**

<b>APPLICANT</b>	Joseph Shuemann, 192 R and R Investors, LLC
<b>OWNER</b>	192 R and R Investors, LLC
<b>PROJECT NAME</b>	Orlando World Resort Planned Development
<b>PARCEL ID NUMBER</b>	33-24-27-0000-00-018 (affected parcel only)
<b>TRACT SIZE</b>	17.15 gross acres ( <i>overall PD</i> ) 2.31 gross acres ( <i>affected parcel / Phase 3 only</i> )
<b>LOCATION</b>	Generally 400 feet east of East Orange Lake Boulevard and north of West Irlo Bronson Memorial Highway.
<b>REQUEST</b>	<p>A PD substantial change to:</p> <ul style="list-style-type: none"><li>- Remove a note from the Land Use Plan (LUP) that requires dedication of a 50-foot wide area for right-of-way along the U.S. Highway 192 corridor, and within Phase 3 only;</li><li>- Change the type of permitted commercial uses within Phase 3 only from C-1 (Retail Commercial) to T-C (Tourist Commercial);</li><li>- Establish and depict a 30-foot building setback (including a 7.5-foot landscaped buffer) along the eastern property line within Phase 3 only; and</li><li>- Establish and depict a reduced 10-foot side yard setback along the western property line of Phase 3 only.</li></ul> <p>The reduced side yard setback also necessitates the following waiver from Orange County Code:</p> <ol style="list-style-type: none"><li>1) A waiver from Section 38-1287 to allow for a 10-foot side yard setback along the western property line of Phase 3 only, in lieu of a required 30-foot side yard setback.</li></ol>
<b>PUBLIC NOTIFICATION</b>	A notification area extending beyond fifteen hundred (1,500) feet was used for this application [ <i>Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet</i> ]. Forty (40) notices were mailed to those property owners in the notification buffer area. A community meeting was not required.

## **IMPACT ANALYSIS**

### **Special Information**

The Orlando World Resort PD was originally approved on January 20, 1972 and includes a development program that allows for a maximum of 136 timeshare units and 21,000 square feet of commercial uses.

Through this PD substantial change, the applicant is seeking to remove a note on the Land Use Plan (LUP) that requires dedication of a 50-foot wide area for right-of-way along the U.S. Highway 192 corridor, and within Phase 3 only; change the type of permitted commercial uses within Phase 3 only from C-1 (Retail Commercial) to T-C (Tourist Commercial); establish and depict a 30-foot building setback (including a 7.5-foot landscaped buffer) along the eastern property line within Phase 3 only; and establish and depict a reduced 10-foot side yard setback along the western property line of Phase 3 only. The reduced side yard setback also necessitates a waiver from Orange County Code to allow for a 10-foot side yard setback along the western property line of Phase 3 only, in lieu of a required 30-foot side yard setback.

### **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 property has an underlying Future Land Use Map (FLUM) designation of Commercial (C). The Orlando World Resort PD was approved in 1972 and includes timeshare and commercial uses. 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**

CAD - Aerial photographs and soil maps indicate that there are wetlands and/or surface waters on site. Prior to submitting a preliminary subdivision plan or development plan (PSP/DP), the Environmental Protection Division (EPD) will require a completed Conservation Area Determination (CAD), consistent with Orange County Code Chapter 15, Article X Wetland Conservation Areas. If wetland permits have been previously approved by Orange County, or if historical documents are located, then submit a copy to EPD for verification. Note that wetland permitting by state or federal agencies does not satisfy the county's requirements.

Habitat Protection - Development of the subject property shall comply with all state and

federal regulations regarding wildlife and plants listed as endangered, threatened, or species of special concern. The applicant is responsible to determine the presence of listed species and obtain any required habitat permits from the U.S. Fish and Wildlife Service (USFWS) and/or the Florida Fish & Wildlife Conservation Commission (FWC).

**Transportation / Concurrency**

Based on the concurrency database dated 03-01-17, there are no failing roadway segments within a one-mile radius and capacity is available to be encumbered. This information is dated and subject to change.

**Schools**

This request would not result in any impacts to Orange County Public Schools.

**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 8, 2017)**

**Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Orlando World Resort Planned Development / Land Use Plan (PD/LUP) dated "Received February 13, 2017", subject to the following conditions:**

1. Development shall conform to the Orlando World Resort Planned Development / Land Use Plan (PD/LUP) dated "Received February 13, 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 and the land use plan dated "Received February 13, 2107," 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. 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).
7. 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.
8. Outside sales, storage, and display shall be prohibited.
9. 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.
10. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 (T-C) standards of the Orange County Code.
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. 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 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.
13. A waiver from Orange County Code Section 38-1287 is granted to allow for a 10-foot side yard setback along the western property line of Phase 3 only, in lieu of a required 30-foot side yard setback.
14. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated April 23, 1991, shall apply:
  - a. The layout/design as shown on the Land Use Plan is not approved. Site design details will be addressed at the Development Stage.
  - b. Project shall comply with the Tourist Commercial Performance Standards of Article XXIX, Orange County Zoning Resolution and Sign Ordinance #90-10. Portable signs shall be prohibited.

- c. Access rights shall be dedicated to Orange County along U.S. 192, except at approved locations.
  - d. Water and sewer service to be provided by Toho Water Authority.
15. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated July 24, 1989, shall apply:
- a. The waiver requests for sidewalks and private roads will be reviewed at the Development Plan submittal stage.
16. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated September 19, 1983, shall apply:
- a. A secondary access shall be provided for emergency access.
  - b. Install a five-foot sidewalk with screening on the north side of U.S. 192.
  - c. Fire protection shall be in accordance with Orange County Fire Department regulations.
  - d. A Florida Department of Transportation permit will be required for any construction within DOT right-of-way.
  - e. Compensating storage will be required for all fill material placed below the 100 Year Flood Elevation as determined by the developer's engineer for approval by the County Engineer. Minimum finished floor elevation is to be established at 12 inches above the 100 Year Storm or 18 inches above centerline grade of internal roads, whichever is greater.
  - f. A detailed lot grading plan and off-site easement shall be required prior to construction plan approval.

**PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (April 23, 1991)**

Upon a motion by Commissioner Staley, seconded by Commissioner Pignone, and carried by all present commissioners voting AYE by voice vote; County Chairman Chapin and Commissioner Butler were absent; the Board accepted the April 18, 1991 recommendations of the Orange County Planning and Zoning Commission (PZC).