

**CASE # CDR-16-09-332**

Commission District: # 1

**GENERAL INFORMATION**

<b>APPLICANT</b>	Deborah L. Martohue, Martohue Land Use Law, P.A.
<b>OWNER</b>	Peace United Methodist Church at Hunter's Creek, Inc.
<b>PROJECT NAME</b>	Hunter's Creek Planned Development (PD)
<b>PARCEL ID NUMBER</b>	29-24-29-3838-00-270 ( <i>affected parcel only</i> )
<b>TRACT SIZE</b>	3,995 gross acres ( <i>overall PD</i> ) 8.29 gross acres ( <i>affected parcel only</i> )
<b>LOCATION</b>	13502 Town Loop Boulevard; or generally on the southwest corner of the Central Florida Greenway and Town Loop Boulevard.
<b>REQUEST</b>	A PD substantial change to construct a 134-foot camouflaged "monocross" communication tower and equipment compound on a 3,600 square foot leased tract within an 8.29-acre parcel.
<b>PUBLIC NOTIFICATION</b>	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> ]. Two hundred seventy-one (271) 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 Hunter's Creek PD was originally approved on November 28, 1983 and has an existing mixed-use development program consisting of shopping, office, hotel, institutional and light industrial/warehouse uses, as well as parks, open space, golf courses and four (4) school sites.

Through this PD substantial change, the applicant is seeking to amend the PD/LUP in order to construct a 134-foot camouflaged "monocross" communication tower and equipment compound on a 3,600 square-foot leased tract within an 8.29 acre parcel.

**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 Low Density Residential (LDR). The Hunter's Creek PD/LUP identifies the subject property as Parcel 372 with a land use designation of Institutional. The proposed PD substantial change is consistent with this designation and all applicable CP provisions; therefore, the request is consistent with the CP.

**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**

Environmental Protection Division (EPD) staff has reviewed the proposed request, but did not identify any issues or concerns.

**Transportation / Concurrency**

Transportation Planning staff has reviewed the proposed request, but did not identify and 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 as there is no change in residential density.

**Parks and Recreation**

Orange County Parks and Recreation staff reviewed the 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 – (April 12, 2017)**

**Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Hunter's Creek Planned Development / Land Use Plan (PD/LUP) dated "Received April 28, 2017", subject to the following conditions:**

1. Development shall conform to the Hunter's Creek Planned Development / Land Use Plan (PD/LUP) dated "Received April 28, 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 April 28, 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 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. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated November 27, 2012 shall apply:
  - a. The following waivers from Orange County Code Sections 38-1258 and 38-1477 are granted to address multi-family residential building setbacks, height, buffering/screening and parking standards for PD Tract 300 – Lot 2 only:
    - 1) A waiver from Section 38-1258(b) to allow all multi-family buildings located within one hundred thirty-five (135) feet of single-family zoned property to be four (4) stories in height (not to exceed 55 feet), in lieu of three (3) stories and 40' to be located 150' from single-family property;
    - 2) A waiver from Section 38-1258(c) to allow a maximum height of fifty-five (55) feet for all multi-family buildings, in lieu of a maximum building height of forty (40) feet;
    - 3) A waiver from Section 38-1258(f) to eliminate the requirement to construct a six (6) foot masonry wall whenever a multi-family development is located adjacent to single-family zoned property; and
    - 4) A waiver from Section 38-1477 to allow thirty-three (33) parking spaces to be located on Hunter's Park Lane, a private right-of-way, subject to HOA approval, in lieu of all required parking spaces to be located on the same lot.
  - b. Additional access to Hunter Park Lane on the NE corner on lot 2 shall obtain approval from the Master HOA to access the private road.
7. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated May 13, 2003 shall apply:

- a. Prior to construction plan approval, certification with supporting calculations shall be submitted which states that this project is consistent with the approved master plan for the Hunter's Creek PD.
  - b. A waiver is approved for a wall along the SR 417 because the parcels are fifteen feet below the Greenway.
  - c. A private easement agreement addressing ownership and maintenance of the common private utilities will be required prior to Certificate of Occupancy.
  - d. Orange County shall not own, operate, or maintain the on-site wastewater system.
  - e. A total of 360 units shall be built with a maximum of 240 for sale as condominium or townhome units allocated to Tract 330A, and a maximum 120 for sale as townhome units on no more than 15 acres allocated to Tract 370.
  - f. The covenants and the restrictions shall include restrictions limiting rental of units to not less than 90 days.
  - g. Additional gas stations and tire stores shall be prohibited.
  - h. No residential development (except access) shall be permitted fronting John Young Parkway.
8. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated December 8, 1992 shall apply:
- a. Access to the outparcels on John Young Parkway shall be from the internal road system.
  - b. As part of the next development plan submitted for parcels adjacent to Shingle creek on the east side and as part of the next development plan submittal for any parcels west of Shingle creek the applicant shall include on the Development Plan all remaining unplatted portions of the Shingle Creek Conservation Area such that these areas can be platted as conservation tracts.
9. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated February 12, 1991, shall apply:
- a. Minimum lot sizes shall be addressed at the Development Plan stage and shall be compatible with the remainder of the project.
  - b. A six-foot (6') masonry wall shall be provided along the northern property line where adjacent residential uses abut the RV/boat storage. A 12-foot height limit shall be required on any vehicle stored adjacent to the property line. Commercial sales shall be prohibited.

- c. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
- 10. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated April 23, 1990, shall apply:
  - a. The apartment complexes in the designated areas shall be no higher than two(2) story;
  - b. The developer shall provide a privacy fence and intensive landscape buffers.
- 11. All previous applicable BCC Conditions of Approval, dated November 28, 1983, shall apply.

**PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (November 27, 2012)**

Upon a motion by Commissioner Edwards, seconded by Commissioner Russell, and carried by with all present members voting AYE by voice vote; the Board made a finding of consistency with the Comprehensive Plan and approved the substantial change request by David C. Lowee, DRMP, Inc., Hunter's Creek Planned Development (PD) Land Use Plan (LUP), Case #CDR-12-09-181, subject to conditions.