

GENERAL INFORMATION

APPLICANT	Khaled Hussein
OWNER	Beulah Striby R., Trustee
PROJECT NAME	Valencia Subdivision Planned Development (PD)
HEARING TYPE	Planned Development / Land Use Plan (PD / LUP)
REQUEST	R-1 (Single-Family Dwelling District) to PD (Planned Development District) <i>A request to rezone 7.9 gross acres from R-1 to PD, in order to construct up to 70 single-family attached dwelling units (townhomes).</i>
LOCATION	8885 Valencia College Lane; or generally northeast of the Central Florida Greenway (State Road 417) and north of Valencia College Lane.
PARCEL ID NUMBERS	24-22-30-0000-00-002
TRACT SIZE	7.9 gross acres
PUBLIC NOTIFICATION	The notification area for this public hearing extended beyond 500 feet [<i>Chapter 30-40(c)(3)(a) of Orange County Code requires 300 feet</i>]. Three hundred fifty three (353) notices were mailed to those property owners in the mailing area. A community meeting was held on Thursday, March 30, 2017 at Little River Elementary School and is summarized below.
PROPOSED USE	70 single-family attached dwelling units.

STAFF RECOMMENDATION

Development Review Committee – (April 12, 2017)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Valencia Subdivision Planned Development / Land Use Plan (PD/LUP), dated “Received February 10, 2017”, subject to the following conditions:

1. Development shall conform to the Valencia Subdivision Planned Development / Land Use Plan (PD/LUP) dated "Received February 10, 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 10, 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. The following Education Condition of Approval shall apply:
 - a. Developer shall comply with all provisions of the Capacity Enhancement Agreement approved by the Orange County School Board on May 9, 2017.
 - 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 3 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. 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).
8. 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.
9. The Developer shall obtain water and wastewater service from Orange County Utilities.
10. A Master Utility Plan (MUP) for the PD shall be submitted to Orange County Utilities at least thirty (30) days prior to submittal of the first set of construction plans. The MUP must be approved prior to Construction Plan approval.
11. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
12. Short term rental shall be prohibited. Length of stay shall be for 180 days or greater.
13. 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.
14. This project is located in the Alternative Mobility Area (AMA) and, therefore, shall be required to provide for alternative mobility strategies related to the development. The applicant shall submit a Mobility Analysis to be reviewed and approved by the Transportation Planning Division prior to or concurrently with PSP approval.

IMPACT ANALYSIS

Land Use Compatibility

The applicant is seeking to rezone the subject parcels from R-1 (Single-Family Dwelling District) to PD (Planned Development District) in order to construct up to 70 single-family attached dwelling units. The proposed development program is compatible with existing development in the area, and would not adversely impact any adjacent properties.

Comprehensive Plan (CP) Consistency

The subject property has an underlying Future Land Use Map (FLUM) designation of Low-Medium Density Residential (LMDR) which allows for a maximum residential density of ten (10) dwelling unit per one (1) net developable acres. The proposed PD zoning district and development program is consistent with the LMDR FLUM designation and the following CP provisions:

OBJ FLU8.2 states that compatibility will continue to be the fundamental consideration in all land use and zoning decisions.

FLU8.2.2 states that continuous stretches of similar housing types and density of units shall be avoided. A diverse mix of uses and housing types shall be promoted.

FLU1.4.1 states that Orange County shall promote a range of living environments and employment opportunities in order to achieve a stable and diversified population and community.

FLU1.1.5 states that the County shall encourage mixed-use development, infill development and transit oriented development to promote compact urban form and efficiently use land and infrastructure in the Urban Service Area.

FLU8.1.1 states that the zoning and future land use correlation shall be used to determine consistency with the Future Land Use Map. Land use compatibility, the location, availability and capacity of services and facilities, market demand, and environmental features shall also be used in determining which specific zoning district is most appropriate. Density is restricted to the maximum and minimum allowed by the Future Land Use Map designation regardless of zoning.

FLU8.2.1 states that land use changes shall be required to be compatible with existing development and development trend in the area. Performance restrictions and/or conditions may be placed on property through the appropriate development order to ensure compatibility. No restrictions or conditions shall be placed on a Future Land Use Map change.

FLU8.2.11 states that compatibility may not necessarily be determined to be a land use that is identical to those uses that surround it. Other factors may be considered, such as the design attributes of the project, its urban form, the physical integration of a project and its function in the broader community, as well its contribution toward the Goals and Objectives in the CP. The CP shall specifically allow for such a balance of considerations to occur.

Community Meeting Summary

A community meeting was held on Thursday, March 30, 2017, at Little River Elementary School, with approximately 26 residents in attendance. Residents were mostly opposed to the request, due to perceived environmental and traffic impacts. Residents also expressed concern with the proposed density (8.8 units per acre), the loss of green space, and the potential negative effect the project would have on existing property values.

SITE DATA

Existing Use	Undeveloped Land
Adjacent Zoning	N: R-1 (Single-Family Dwelling District) (1957)

E: R-2 (Residential District) (1989)
W: R-1A (Single-Family Dwelling District) (1957)
R-2 (Residential District) (2007)
S: Central Florida Greenway (State Road 417)
Adjacent Land Uses N: Single Family Residential
E: Single-Family Residential
W: Single-Family Residential
S: Highway

APPLICABLE PD DEVELOPMENT STANDARDS

PD Perimeter Setback	25 feet
Maximum Building Height:	35 feet
Minimum Lot Size:	1,800 square feet
Minimum Lot Width:	20 feet
Minimum Living Area:	1,000 square feet (under HVAC)

Minimum Building Setbacks

Front Setback:	20 feet
Rear Setback:	20 feet
Side Setback:	10 feet
	15 feet (sidestreet)

SPECIAL INFORMATION

Subject Property Analysis

The applicant is seeking to rezone the subject parcels from R-1 (Single-Family Dwelling District) to PD (Planned Development District) in order to construct up to 70 single-family attached dwelling units.

Comprehensive Plan (CP) Amendment

The property has an underlying Future Land Use Map (FLUM) designation of Low-Medium Density Residential (LMDR) which allows consideration of up to ten (10) dwelling units per developable acre. The proposed use is consistent with this designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

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.

Overlay District Ordinance

The subject property is not located within an Overlay District.

Airport Noise Zone

The subject property is not located within an Airport Noise Zone.

Environmental

Prior to mass grading, clearing, grubbing or construction, 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).

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.

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) submittal and must be approved prior to Preliminary Subdivision Plan (PSP) approval for any streets and/or tracts anticipated to be dedicated to the County and/or to the perpetual use of the public.

Transportation / Concurrency

This project is located in the Alternative Mobility Area (AMA) and, therefore, the applicant is required to provide for alternative mobility strategies related to the development. The applicant must also submit a Mobility Analysis to be reviewed and approved by the Transportation Planning Division prior to obtaining a building permit.

Water / Wastewater / Reclaim

	<u>Existing service or provider</u>
Water:	Orange County
Wastewater:	Orange County
Reclaimed:	Orange County

Schools

A Capacity Enhancement Agreement (CEA) between the applicant and Orange County Public Schools (OCPS) was approved on May 9, 2017.

Parks and Recreation

Orange County Parks and Recreation staff reviewed the request, but did not identify any issues or concerns.

Code Enforcement

No code enforcement, special magistrate, or lot cleaning issues on the subject

property have been identified.

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

Planning and Zoning Commission (PZC) Recommendation – (May 18, 2017)

Make a finding of inconsistency with the Comprehensive Plan and recommend DENIAL of the Valencia Subdivision Planned Development / Land Use Plan (PD/LUP), dated “Received February 10, 2017”.

PLANNING AND ZONING COMMISSION (PZC) PUBLIC HEARING SYNOPSIS

The staff report was presented to the PZC with the recommendation that they make a finding of consistency with the Comprehensive Plan and recommend approval of the requested PD (Planned Development District) zoning, subject to fourteen (14) conditions.

Staff indicated that three hundred fifty three (353) notices were sent to an area extending beyond 500 feet from the subject property, with zero (0) responses in favor and twenty-four (24) in opposition received. Those in opposition expressed concern with traffic, loss of natural areas, school capacity, and overdevelopment in the area. Rick Baldocchi, the representative for the applicant, was present and agreed with the staff recommendation.

During PZC discussion, Commissioner Demostene expressed concern with the compatibility of attached single-family townhomes in an area with predominately detached single-family homes, as well as the lack of what she considered to be an inappropriate buffer from adjacent properties.

Following lengthy discussion, a motion was made by Commissioner Demostene to find the request to be inconsistent with the Comprehensive Plan and recommend **DENIAL** of the Valencia Subdivision Planned Development / Land Use Plan (PD/LUP) dated “Received February 10, 2017”. Commissioner DiVecchio seconded the motion, which was then carried on a 6-3 vote, with Commissioners Melwani, Wean, and Gusler voting in the negative.

Motion / Second

Tine Demostene / Pat DiVecchio

Voting in Favor

Tina Demostene, Pat DiVecchio, JaJa Wade, Jose Cantero, James Dunn, and Gordon Spears

Voting in Opposition

Yog Melwani, Paul Wean, and William Gusler

Absent

None