

GENERAL INFORMATION

APPLICANT	Stephen Allen, Civil Corp Engineering, Inc.
OWNER	Scott and Roxanne Pierson
PROJECT NAME	Nona Center Planned Development (PD)
HEARING TYPE	Planned Development / Land Use Plan (PD / LUP)
REQUEST	R-CE (Country Estate District) to PD (Planned Development District) <i>A request to rezone a portion of one (1) parcel containing 1.52 gross acres from R-CE to PD, in order to allow up to 27,300 square feet of P-O (Professional Office) and C-1 (Retail Commercial) uses. The request also includes the following waivers from Orange County Code:</i> <ol style="list-style-type: none">1. A waiver from Section 38-1254(1) to allow for a PD Perimeter setback on the north property line of 5 feet, in lieu of the required PD Perimeter setback of 25 feet.2. A waiver from Section 38-1476(a) to allow for a minimum of 82 parking spaces, in lieu of the 136 spaces required (1 space per 200 square feet).
LOCATION	East of Narcoossee Road, approximately 430 feet south of Kirby Smith Road.
PARCEL ID NUMBERS	17-24-31-0000-00-019 (portion of)
TRACT SIZE	1.52 gross acres
PUBLIC NOTIFICATION	The notification area for this public hearing extended beyond 1,100 feet [<i>Chapter 30-40(c)(3)(a) of Orange County Code requires 300 feet</i>]. Two hundred twenty-one (221) notices were mailed to those property owners in the mailing area. A community meeting was held on August 25, 2016 as summarized in the report below.
PROPOSED USE	Up to 27,300 square feet of P-O and C-1 uses.

STAFF RECOMMENDATION

Development Review Committee – (July 26, 2017)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Nona Center Planned Development / Land Use Plan (PD/LUP), dated "Received August 7, 2017", subject to the following conditions:

1. Development shall conform to the Nona Center Planned Development / Land Use Plan (PD/LUP) dated "Received August 7, 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 August 7, 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. 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.
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. The Developer shall obtain wastewater and reclaimed water service from Orange County Utilities.
9. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing wastewater and reclaimed water systems have been designed to support all development within the PD.

10. 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.
11. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
12. Outside sales, storage, and display shall be prohibited.
13. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted for review and approval 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.
14. Unless otherwise allowed by County Code, the property shall be platted prior to the issuance of any vertical building permits.
15. The following waivers from Orange County Code are granted:
 - a. A waiver from Section 38-1254(1) to allow for a PD Perimeter setback on the north property line of 5 feet, in lieu of the required PD Perimeter setback of 25 feet;
 - b. A waiver from Section 38-1476(a) to allow for a minimum of 82 parking spaces in lieu of the 136 spaces required (1 space per 200 square feet).

IMPACT ANALYSIS

Land Use Compatibility

The applicant's request to rezone the subject parcels from R-CE (Country Estate District) to PD (Planned Development District) in order to allow up to 27,300 square feet of P-O and C-1 uses (including the requested waivers) would not adversely impact any adjacent properties, and would be compatible with the development trend in the area.

Comprehensive Plan (CP) Consistency

The subject property is designated Planned Development - Commercial (PD-C) on the adopted Future Land Use Map (FLUM). This designation was approved through a FLUM amendment (#2016-2-S-4-4) that was approved by the Board of County Commissioners on November 15, 2016. Concurrently with the approval of the FLUM amendment, the property was removed from the Lake Hart / Lake Whippoorwill Rural Settlement. Staff has determined that the proposed rezoning is consistent with the FLUM designation and all other applicable Comprehensive Plan provisions. These provisions include, but are not limited to, the following (*Note: the following Rural Settlement standards no longer apply but the property is still subject to the Interlocal Agreement for a Joint Planning Area between the City of Orlando and Orange County*):

FLU6.3.1 states that Orange County shall continue to address development impacts to the Lake Hart / Lake Whippoorwill Rural Settlement from adjacent properties in the City of Orlando via agreements or studies. (Added 5/01, Ord. 01-11, Policy 2.4.1-r)
FLU6.3.1.1 The Narcoossee Road-Lake Hart/Lake Whippoorwill Rural Settlement Study refers to properties fronting the eastern side of Narcoossee Road from Kirby Smith Road to Tyson Road. A map depicting this Study Area shall be incorporated into the Future Land Use Element Map Series as Map 19. (Added 10/09, Ord. 2009-28; Amended 11/15, Ord.2015-20)

FLU6.3.2.2 states that compatibility requirements shall address transitional uses, appropriate mass and scale of structures, architectural features, increased buffers, and other performance standards deemed appropriate during review by the Development Review Committee. Proposed future land use changes that include commercial uses also shall be consistent with the requirements of FLU1.4.3 through FLU1.4.15. To provide transition between development occurring on Narcoossee Road and the land adjacent to the lake that will remain in the Rural Settlement, development standards shall be incorporated into the land development code to address the following:

- A. **Building Height Transition.** Building heights and density and intensity of land uses within this Study Area shall transition downward from west to east, with the highest structures and highest density and intensity fronting Narcoossee Road, and development on the eastern boundary of the Study Area remaining compatible with the Rural Settlement, consistent with Policy FLU6.2.14.
- B. **Cross Access.** To minimize ingress and egress onto Narcoossee Road from the Study Area, and/or to provide access to properties remaining within the Rural Settlement, development within the Study Area shall construct an accessway. The accessway shall generally be oriented north and south and located at the junction of the 'transition zone' and the 'rural settlement zone'. It shall accommodate vehicular and pedestrian traffic and, when functionally feasible, on-street parking. The accessway will also be included within a cross-access easement to adjacent developments, consistent with approved land use plans. Additionally, shared parking may be approved by Orange County on a case-by-case basis.
- C. **Access Management.** Any access to Tyson Road or Kirby Smith Road shall be designed to discourage trips heading east into the Rural Settlement.
- D. **Physical Buffering.** Development on the eastern boundary of the Study Area must remain compatible with the Rural Settlement. A buffer averaging 300 feet from the normal high water elevation of Lake Whippoorwill shall be retained and included in the 'rural settlement zone'; and in no case shall such buffer be less than 200 feet. Within this buffer, a minimum of 100 feet shall remain undeveloped. This area may be planted with native species, and invasive species shall be removed as a condition of any future development order. The western boundary of the 'rural settlement zone' shall generally align with the approved Rural Settlement boundary of the adjacent Planned Developments within the Study Area (if any), consistent with the approved land use plans. This land may be utilized for: single-family detached housing at a maximum density

of one (1) dwelling unit per two (2) acres of developable land; passive open space incorporating walks or trails; or conservation through protective covenants running with the land. Along with this transitional use, buffers between Study Area development and adjacent Rural Settlement properties shall be similar to those required in the Code between residential and non-residential uses.

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

FLU8.2.1 states that land use changes shall be required to be compatible with the 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.

FLU8.2.1 states that land use changes shall be required to be compatible with the 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.

FLU8.2.10 states that to ensure land use compatibility with nearby residential zoned areas and protection of the residential character of those areas, office and commercial uses within residential neighborhoods shall be subject to strict performance standards, including but not limited to the following:

- A. Building height restrictions;
- B. Requirements for architectural design compatible with the residential units nearby;
- C. Floor area ratio (FAR) limitations;
- D. Lighting type and location requirements;
- E. Tree protection and landscaping requirements including those for infill development; and
- F. Parking design.

Community Meeting Summary

A community meeting was held for this request on August 25, 2016, with eight (8) residents in attendance. Residents expressed concerns with access, lighting, drainage, and buffering, but no outright opposition was stated.

SITE DATA

Existing Use	Single Family Residential
Adjacent Zoning	N: A-2 (Farmland Rural District) (1957) E: Lake Whippoorwill W: PD (Planned Development) (City of Orlando) S: PD (Planned Development District – Orlando Medical Office Center PD) (2016)
Adjacent Land Uses	N: Single Family Residential E: Wetland / Lake W: Retention Pond / Gas Station S: Single Family Residential

APPLICABLE PD DEVELOPMENT STANDARDS

PD Boundary Setback:	25' (East and South Property Lines) 5' (North Property Line) (<i>waiver requested</i>)
Narcoossee Road Setback:	30'
Maximum Building Height:	35 feet (3 stories) (<i>2 story maximum within 400 feet of Lake Whippoorwill High Water Line</i>)
Maximum Impervious Area:	70%
Maximum Floor Area:	0.35
Minimum Open Space:	20%

SPECIAL INFORMATION

Subject Property Analysis

The applicant is seeking to rezone 1.52 acres from R-CE to PD in order to allow up to 27,300 square feet of P-O and C-1 uses. The property is subject to the Interlocal Agreement for a Joint Planning Area (JPA) between the City of Orlando and Orange County. This agreement allows for properties along Narcoossee Road to request increased density while preserving the rural character of the existing Lake Hart / Lake Whippoorwill Rural Settlement (the residential portion of the property along Lake Whippoorwill). The proposal is in compliance with this agreement and all other applicable Codes and Policies.

Comprehensive Plan (CP) Amendment

The current Future Land Use Map (FLUM) designation is Planned Development – Commercial (PD-C) which was recently approved by the Board of County Commissioners on November 15, 2016 through application #2016-2-S-4-4. Therefore, a CP Amendment is not necessary.

Rural Settlement

The subject property was placed within the County's Urban Service Area (USA) and taken out of the Lake Hart / Lake Whippoorwill Rural Settlement as part of the Future Land Use Map amendment (#2016-2-S-4-4) that was approved by the Board of County Commissioners on November 15, 2016.

Joint Planning Area (JPA)

The subject property is located within a JPA with the City of Orlando.

Overlay District Ordinance

The subject property is within the Narcoossee Road / Lake Whippoorwill Study Area.

Airport Noise Zone

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

Environmental

CAD - The subject parcel includes a portion of Lake Whippoorwill. An Orange County Conservation Area Determination (CAD) must be completed prior to a development plan or lot split submittal, consistent with Chapter 15, Article X Wetland Conservation Areas.

Wildlife - 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).

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.

Transportation / Concurrency

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 a 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.

Water / Wastewater / Reclaim

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

Schools

This request will not result in an increase in the school age population.

Parks and Recreation

Parks 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 – (August 17, 2017)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Nona Center Planned Development / Land Use Plan (PD/LUP), dated “Received August 7, 2017”, subject to the following conditions:

1. Development shall conform to the Nona Center Planned Development / Land Use Plan (PD/LUP) dated "Received August 7, 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 August 7, 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.
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with this condition may result in the withholding of development permits and plat approval(s).

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8. The Developer shall obtain wastewater and reclaimed water service from Orange County Utilities.
9. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing wastewater and reclaimed water systems have been designed to support all development within the PD.
10. 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.
11. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
12. Outside sales, storage, and display shall be prohibited.
13. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted for review and approval 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.
14. Unless otherwise allowed by County Code, the property shall be platted prior to the issuance of any vertical building permits.
15. The following waivers from Orange County Code are granted:
 - a. A waiver from Section 38-1254(1) to allow for a PD Perimeter setback on the north property line of 5 feet, in lieu of the required PD Perimeter setback of 25 feet;
 - b. A waiver from Section 38-1476(a) to allow for a minimum of 82 parking spaces in lieu of the 136 spaces required (1 space per 200 square feet).

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 fifteen (15) conditions.

Staff indicated that two hundred twenty-one (221) notices were sent to an area extending beyond 1,100 feet from the subject property, with one (1) response in favor and one (1) in opposition received. The applicant, Stephen Allen, was present and agreed with the staff recommendation.

Following a brief discussion regarding the minimum building setback and required north-south drive-aisle, a motion was made by Commissioner DiVecchio to find the request to be consistent with the Comprehensive Plan and recommend **APPROVAL** of the Nona Center Planned Development / Land Use Plan (PD/LUP) dated "Received August 7, 2017", subject to the fifteen (15) conditions listed in the staff report. Commissioner Cantero seconded the motion, which was then carried on an 8-0 vote.

Motion / Second	<i>Pat DiVecchio / Jose Cantero</i>
Voting in Favor	<i>Pat DiVecchio, Jose Cantero, Paul Wean, Yog Melwani, Gordon Spears, William Gusler, James Dunn, and JaJa Wade</i>
Absent	<i>Tina Demostene</i>