

**CASE # CDR-18-06-209**

Commission District: # 1

**GENERAL INFORMATION**

<b>APPLICANT</b>	Mark Kassab, M Shapiro Real Estate
<b>OWNER</b>	Macomb Oakland Sand Lake, LLC
<b>PROJECT NAME</b>	Turkey Lake Road Condos Planned Development
<b>PARCEL ID NUMBER</b>	11-24-28-0000-00-010 (affected parcel only)
<b>TRACT SIZE</b>	52.03 gross acres (affected parcel only) 74.52 gross acres (overall PD)
<b>LOCATION</b>	10900 Turkey Lake Road; or generally located west of Turkey Lake Road, south of Sand Lake Reserve Drive, and east of Big Sand Lake
<b>REQUEST</b>	A PD substantial change to change the Future Land Use Map reference of PD Parcel 2 from Medium Density Residential (MDR) to Medium-High Density Residential (MHDR), modify the multi-family residential density calculation for PD Parcel 2, and revise the side setback from 30 feet to 25 feet. No waivers are associated with this request
<b>PUBLIC NOTIFICATION</b>	<p>A notification area extending beyond one thousand (1,000) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. One hundred sixteen (116) notices were mailed to those property owners in the notification buffer area.</p> <p>A community meeting was held for the associated Future Land Use Map amendment on May 10, 2018 at Bay Meadows Elementary School as summarized in this report below.</p>

**IMPACT ANALYSIS**

**Special Information**

The Turkey Lake Road Condos PD was originally approved as the Christian Life World PD in 1979 and through various amendments the PD now reflects its current name and is approved for a development program of 60 units per acre of hotel uses, 30 units per acre of timeshare, 0.50 Floor to Area Ratio (FAR) of office uses, and 20 units per acre of multi-family residential uses.

Through this PD Change Determination Request (CDR), the applicant is seeking to change the Future Land Use Map reference of PD Parcel 2 from Medium Density Residential (MDR) to Medium-High Density Residential (MHDR), modify the multi-family

residential density calculation for PD Parcel 2 to reflect the FLUM change, and revise the side setback from 30 feet to 25 feet.

A recently adopted FLUM amendment (#2018-2-A-1-7) occurred due to the increase of wetland acreage of PD Parcel 2 and the applicant's intent to retain the same number of potential multi-family units on this parcel. This request will not change the development program of this parcel.

A table illustrating the current and proposed development program for this property is shown below:

<b>PD Parcel 2</b> <b>(21.2 previously estimated upland acres,</b> <b>16.82 upland acres today)</b>				
<b>Use</b>	<b>Approved Program</b>	<b>Maximum Units / SF</b>	<b>Proposed Program</b>	<b>Maximum Units / SF</b>
<b>Hotel</b>	60 units / acre	1,272 units	60 units / acre	1,009 units
<b>Timeshare</b>	30 units / acre	636 units	30 units / acre	505 units
<b>Office</b>	0.50 FAR	461,736 SF	0.50 FAR	336,340 SF
<b>Multi-Family Residential</b>	20 du / acre	424 units	25.21 du / acre	424 units

**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 a recently adopted underlying Future Land Use Map (FLUM) designation of Planned Development – Timeshare / Medium-High Density Residential / Hotel / Office (PD-TS/MHDR/Hotel/O) (#2018-2-A-1-7). The proposed Change Determination Request (CDR) is consistent with the designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

**Overlay 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**

Conservation Area Determination CAD-17-08-115 was approved and issued by the Orange County Environmental Protection Division on May 3, 2018. The CAD identified

35.22 acres of Class I wetlands and 0.64 acres of Class III wetlands, a total of 35.86 acres of wetlands. Less the wetland of the property, the property contains 16.81+/- acres of uplands.

The applicant is responsible for addressing any adverse impacts, including secondary impacts, to surface waters or wetlands that may occur as a result of development of the site. Protective measures include but are not limited to: 25-foot minimum undisturbed upland buffer along the wetland boundary, signage, and pollution abatement swales upland of the buffer if adjacent to surface waters and if drainage is not diverted to treatment. Clearly show and label all protective measures in PSP/DP and permit applications.

Approval of this plan does not grant permission for the construction or alteration of boat ramps, docks, observation piers, lake shore vegetation, or seawalls on the lake. Any person desiring these types of structures or to perform shoreline alterations shall first apply for a permit from the Orange County EPD prior to commencement of such activities. Per BCC condition of approval #4 from May 22, 2001, no motorized watercrafts are permitted on Big Sand Lake.

Big Sand Lake has an established Municipal Service Taxing Unit (MSTU) or Municipal Service Benefit Unit (MSBU) for the purpose of funding lake management services. To the extent this project is part of the taxing district or benefits from the lake, this project shall be required to be a participant.

Development of the subject properties shall comply with all state and federal regulations regarding wildlife or 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). The ecological assessment dated October 1, 2017 completed for parcel 2 reported that no listed species were observed onsite.

#### **Transportation / Concurrency**

The PD shall not exceed the 547 P.M. peak hour trips reserved and approved by the BCC in 2001.

#### **Community Meeting Summary**

A community meeting was held on May 10, 2018 at Bay Meadows Elementary School for the associated Future Land Use Map amendment. Thirty (30) residents were in attendance and raised concerns of impacts to schools and traffic on Turkey Lake Road and well as questioned the need for apartments in this area.

#### **Schools**

The Turkey Lake Road Condos PD was previously approved for 620 multi-family dwelling units. As this request does not increase the number of multi-family dwelling units beyond the approved 620 units, a Capacity Enhancement Agreement (CEA) with Orange County Public Schools (OCPS) is not required.

**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 – (November 21, 2018)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Turkey Lake Road Condos Planned Development / Land Use Plan (PD/LUP), dated “October 17, 2018”, subject to the following conditions:**

1. Development shall conform to the Turkey Lake Road Condos PD Land Use Plan (LUP) dated "Received October 17, 2018," 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 October 17, 2018," 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. Approval of this plan does not constitute approval of a permit for the construction or alteration of a boat dock, boardwalk, observation pier, fishing pier, community pier or other similar permanently fixed or floating structures. Any person desiring to construct any of these structures shall apply to the Orange County Environmental Protection Division, as specified in Orange County Code Chapter 15 Environmental Control, Article IX Dock Construction, prior to installation, for an Orange County Dock Construction Permit, as well as to any other Orange County Division(s) for any other applicable permits.
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. Big Sand Lake has an established Municipal Service Taxing Unit (MSTU) or Municipal Service Benefit Unit (MSBU) for the purpose of funding lake management services. To the extent this project is part of the taxing district or benefits from Big Sand Lake, this project shall be required to be a participant.
9. Approval of this plan does not constitute approval of a permit for the construction or alteration of a boat ramp. Any person desiring to construct a boat ramp shall apply to the Orange County Environmental Protection Division as specified in Orange County Code Chapter 15 Environmental Control, Article XV Boat Ramps, prior to installation, for an Orange County Boat Ramp Facility Permit, as well as to any other Orange County Division(s) for any other applicable permits.
10. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water, wastewater, and reclaimed water systems have been designed to support all development within the PD.
11. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
12. Length of stay shall not exceed 179 days within commercial development.
13. Short term/transient rental is prohibited within residential development. Length of stay shall be for 180 consecutive days or greater.
14. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
15. Outside sales, storage, and display shall be prohibited.
16. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated May 22, 2001 shall apply:
  - a. Orange County shall not own, operate, or maintain the on-site water and wastewater systems.
  - b. No motorized watercraft shall be permitted on Big Sand Lake.
  - c. The building height shall transition from east to west with the maximum height along Big Sand Lake reduced from 55-feet as advertised to 50-feet and as shown on the LUP dated May 18, 2001, with a maximum 75-foot height transition area, and a maximum of 100-foot height on the eastern portion of the property. The roof tops shall have a peaked appearance from the west elevation.

**PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (May 22, 2001)**

Upon a motion by Commissioner Jacobs, seconded by Commissioner Johnson, and carried with all members present and voting AYE, the Board approved the request by Paymayesh Engineering, Inc.; Turkey Lake Road / Sand Lake Condo's Planned Development (PD); to add office and hotel uses to the existing timeshare and multi-family uses; and to change the height restriction that was previously approved at 35 feet along Big Sand Lake and 120 for the remainder of the property; the proposed height shall be a stair-step arrangement; which constitutes a substantial change to the development on the above-referenced property; subject to the recommended conditions; and further, made a finding of consistency with the Comprehensive Policy Plan.