

CASE # RZ-19-07-019

Commission District: #3

GENERAL INFORMATION

APPLICANT	Robert Paymayesh, College Park RBP, LLC
APPELLANTS	Rick Pelzer, Rebecca Pelzer, Tami Salter, Colin Salter, Victoria Villegas, Dilmar Villegas, Cassie Lynch, and Stephen Toth
OWNER	College Park RBP, LLC
HEARING TYPE	Planning and Zoning Commission Appeal
REQUEST	A-2 (Farmland Rural District) to R-1 (Single-Family Dwelling District)
LOCATION	8901 Curry Ford Road; generally located north of Curry Ford Road, west of S. Econlockhatchee Trail, and east of S. Chickasaw Trail.
PARCEL ID NUMBER	01-23-30-0000-00-004
TRACT SIZE	4.85 gross acres
PUBLIC NOTIFICATION	The notification area for this public hearing was 1,000 feet [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Two hundred eighty-four (284) notices were mailed to those property owners in the mailing area. A community meeting was not required for this application.
PROPOSED USE	Thirteen (13) Single-Family Residential Dwelling Units.

STAFF RECOMMENDATION

PLANNING

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the requested R-1 (Single-Family Dwelling District), subject to the following restriction:

- 1) Development shall be limited to a maximum of thirteen (13) single-family dwelling units.

IMPACT ANALYSIS

Land Use Compatibility

The R-1 (Single-Family Dwelling District) zoning would allow for development that is compatible with the character of the surrounding area and would not adversely impact adjacent properties.

Comprehensive Plan (CP) Consistency

The underlying CP Future Land Use Map (FLUM) designation of the subject property is Low Density Residential (LDR). The proposed R-1 (Single-Family Dwelling District) zoning is consistent with the Low Density Residential (LDR) FLUM designation and the following Comprehensive Plan provisions:

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

GOAL FLU2 states that Orange County will encourage urban strategies such as infill development, coordinated land use and transportation planning, and mixed-use development, which promote efficient use of infrastructure, compact development and an urban experience with a range of choices and living options.

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.

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 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.

SITE DATA

Existing Use	Undeveloped Land
Adjacent Zoning	N: R-CE (Country Estate District) (1980) E: R-1 (Single-Family Dwelling District) (2009) <i>*Restricted to one (1) single-family lot</i> W: A-2 (Farmland Rural District) (1957) S: R-1 (Single-Family Dwelling District) (2010) (2018)
Adjacent Land Uses	N: Single-Family Residence E: Warehouse / Single-Family Residence W: Single-Family Residences S: Undeveloped Land

R-1 (SINGLE-FAMILY DWELLING DISTRICT) DEVELOPMENT STANDARDS*

Min. Lot Area:	5,000 sq. ft.
Min. Lot Width:	50 ft.
Max. Height:	35 ft.
Min. Floor Area:	1,000 sq. ft.
Building Setbacks:	
<i>Front:</i>	20 ft.
<i>Rear:</i>	20 ft.
<i>Side:</i>	5 ft.

* These regulations may not reflect the actual requirements for all situations; see the Orange County Zoning Code for actual regulations for site requirements for this zoning district.

Permitted Uses

Per Section 38-276 of the Orange County Code, the intent and purpose of the R-1 zoning district is provide residential development similar in general character to the R-1AA and R-1A zoning districts, but with smaller minimum lots and yards, and a corresponding increase in population density.

Specific uses shall be identified by the letter "P" in the use table set forth in Section 38-77 of the Orange County Code.

SPECIAL INFORMATION

Subject Property Analysis

The subject property is located at 8901 Curry Ford Road; which is generally north of Curry Ford Road, west of S. Econlockhatchee Trail, and east of S. Chickasaw Trail.

Through this request, the applicant is seeking to rezone the subject property from A-2 (Farmland Rural District) to R-1 (Single-Family Dwelling District) to construct thirteen (13) single-family residential dwelling units. The applicant intends to improve Woodhill Avenue, which runs along the west side of the property to County standards and use this road as primary access to the subject property.

The subject property and the surrounding area are designated on the Future Land Use Map (FLUM) as Low Density Residential (LDR), which allows up to four (4) dwelling units per acre. The surrounding area is characterized primarily by single-family development, with several detached single-family residential subdivisions. Retail shopping centers are located at the nearby intersections west and east of the subject property along Curry Ford Road at S. Econlockhatchee Trail, and east of S. Chickasaw Trail.

Several properties surrounding the subject property have rezoned from the A-2 (Farmland Rural District) zoning, which is inconsistent with the LDR FLU, to R-1 (Single-Family Residential District). The 29 acre area to the north of the subject property was rezoned to R-CE (Country Estate District) in 1980 to develop the existing residential subdivision.

The two parcels to the east of the subject property were rezoned from A-2 to R-1 in 2009 and 2010, respectively, with the intent to allow the owners to apply for special exceptions. Both rezonings were approved with the restriction limiting them to one (1) single family lot each. The property immediately to the east was subsequently denied a special exception to convert the existing warehouse to a church, and the property currently remains developed with a warehouse. The property to the east of the warehouse was an existing church, and a special exception for this property was approved to allow a modular classroom to be added. Farther east is the Deerwood Landings Planned Development, which was rezoned in 2001 and is developed with a Walmart neighborhood market and a 58 unit single-family subdivision.

The Monaco single-family subdivision is located 500 feet to the west of the subject property. This subdivision was rezoned to R-1 in 1996 and is platted with sixty 60' lots. Located southwest of the subject property, the Bradford Park single-family subdivision was rezoned to R-2 in 1992.

Finally, three parcels to the south were rezoned from A-1 to R-1 in 2010 with the intent to allow the owners to apply for special exceptions to develop two churches. Both rezonings were approved with the restriction limiting them to one (1) single family lot each. Both special exceptions were also approved but the churches were never constructed. The parcels were rezoned again in 2016 and 2018 to remove the restriction, with the intent of developing a single-family subdivision on the property.

State of Florida Notice

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.

Community Meeting Summary

A community meeting was not required for this request.

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 located within Airport Noise Zone "E". Residential development in Airport Noise Zone "E" requires a waiver of claim to be executed between the applicant and the Greater Orlando Aviation Authority for lot-splits and subdivisions.

Environmental

Wetlands are located onsite and extend offsite. Orange County Conservation Area Determination CAD-19-05-077 was issued on August 1, 2019, and depicts 0.09 acres of Class III wetland and 1.37 acres of Class I wetland on the subject property.

The site is vacant and vegetated. Development 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 development is required to treat stormwater runoff for pollution abatement purposes. Discharge that flows directly into wetlands or surface waters without pretreatment is prohibited.

Transportation / Access

The proposed use will generate three (3) net P.M. peak hour trips. The trip generation of the proposed project does not exceed one (1) percent of the maximum volume at the adopted Level of Service on affected transportation facilities. This project will not create an impact on the roadway network.

Code Enforcement

There are no active Code Enforcement cases on the subject property.

Utilities

Water:	Orange County Utilities	A 24-inch watermain is located within Curry Ford right-of-way
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Wastewater:	Orange County Utilities	A 24-inch forcemain is located within Curry Ford right-of-way
Reclaim Water:	Orange County Utilities	Not currently available

Schools

Orange County Public Schools (OCPS) issued a School Capacity Determination Approval Letter for application OC-19-042 on May 31, 2019, that states the subject property is vested for three (3) single-family dwelling units, and that there is sufficient school capacity to support the development of ten (10) new single-family dwelling units. This determination expires on November 27, 2019. In the event this project does not obtain a local government approval by the expiration date, the applicant must resubmit the application to be reevaluated by OCPS.

Parks and Recreation

Orange County Parks and Recreation did not comment on this case, as it does not involve an increase in residential units or density.

Specific Project Expenditure Report and Relationship Disclosure Form

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 – (July 18, 2019)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the requested R-1 (Single-Family Dwelling District), subject to the following restriction:

- 1) Development shall be limited to a maximum of thirteen (13) single-family dwelling units.

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 R-1 (Single-Family Dwelling District) zoning subject to one restriction. Staff and the applicant clarified that the restriction and proposed thirteen (13) dwelling units was based on existing school capacity and the allowable density with 1.37 acres of Class II wetland located on the property. The applicant noted that they were not proposing to impact the Class II wetland area.

Staff indicated that two hundred eighty-four (284) notices were mailed to surrounding property owners within a buffer of 1,000 feet surrounding the subject property, with four (4) responses received in opposition and one (1) in favor. Staff also indicated that an online petition in opposition to the request had been submitted signed by eighty (80) individuals, although only six (6) of which lived within one-mile of the subject property. Those in

opposition cited concerns of loss of habitat, concerns of traffic impacts on Curry Ford Road, and that the proposed development would be incompatible with the rural properties located along Woodhill Avenue. The applicant was present for the hearing and concurred with staff's recommendation. Nine (9) members of the public were present and spoke in opposition to the request, citing concerns that the proposed development would be incompatible with the five (5) rural properties located on Woodhill Avenue.

Discussion ensued regarding access to the property. Staff noted that Woodhill Avenue is a County owned right-of-way, and although currently unmaintained, the applicant would be required to dedicate a portion of the subject property and construct Woodhill Avenue to County standards. Following the discussion, a motion was made by Commissioner Spears to find the request to be consistent with the Comprehensive Plan and recommend APPROVAL of the R-1 (Single-Family Dwelling District) zoning, subject to one restriction. Commissioner Cantero seconded the motion, which then carried on a 6-1 vote.

Motion / Second

Gordon Spears / Jose Cantero

Voting in Favor

Gordon Spears, Jose Cantero, Yog Melwani, JaJa Wade, Carlos Nazario, and Jimmy Dunn

Voting in Opposition

Diane Velazquez

Absent

Eddie Fernandez

(Mohammed Abdallah declared a conflict of interest and recused himself from the vote.)