



Interoffice Memorandum

MEMORANDUM FOR THE BOARD OF COUNTY COMMISSIONERS

[Handwritten signature]

DATE: December 8, 2015

TO: Katie A. Smith, Deputy Clerk of the Board of County Commissioners, County Comptroller's Office

THROUGH: Cheryl Gillespie, Supervisor, Agenda Development Office

FROM: Lisette M. Egipciaco, Development Coordinator Planning Division

[Handwritten initials]

CONTACT PERSONS: **Lourdes O'Farrill,**
Development Coordinator
Planning Division 407-836- 5686
Lourdes.O'Farrill@ocfl.net
&
Lisette M. Egipciaco,
Development Coordinator
Planning Division 407-836- 5684
Lisette.Egipciaco@ocfl.net

SUBJECT: Request for Board of County Commissioners Public Hearing

Project Name: Appeal of a Development Review Committee Decision – Avalon Park PD / Avalon Town Center PSP / Tract 2 – Pinecrest Avalon Academy DP- Case # DP-15-08-228

Type of Hearing: Development Review Committee (DRC) Appeal

Appellant: Diego "Woody" Rodriguez
 Orange County Public Schools (OCPS)
 445 West Amelia Street
 Orlando, Florida 32801

Commission District: 4

General Location: North of Avalon Lake Drive / East of Avalon Park East Boulevard

February 16, 2016 @ 2:00 PM

Parcel ID # (s) 06-23-32-1027-02-000

of Posters: 2

Use: 96,945 Square Foot Charter School

Size / Acreage: 2.69

BCC Public Hearing
Required by: Orange County Code Sec. 38-1203(3)d. and
Administrative Regulation 4.01

Clerk's Advertising
Requirements: No advertising required for appeals.

Applicant/Abutters to
be notified: No – Development Services will forward mailing
labels to the Clerk's office.

Spanish Contact Person: Para más información referente a esta vista
pública, favor de comunicarse con la División de
Planificación (Planning Division) al número 407-
836-5686.

Material being submitted as backup for the public hearing request:

- (1) Development Review Committee (DRC) meeting minutes dated November 18, 2015.
- (2) Location map
- (3) Site Plan

SPECIAL INSTRUCTIONS TO CLERK (IF ANY):

This request is an appeal of a decision of Orange County's Development Review Committee (DRC) to approve a 96,945 square foot Charter School; District 4; North of Avalon Lake Drive / East of Avalon Park East Boulevard.

Unless stated otherwise, the public hearing should be advertised to begin at 2:00 p.m., or as soon thereafter as the matter may be heard.

Please notify Lourdes O'Farrill and Lisette Egipciano of the scheduled date and time. The Planning Division will notify the applicant.

Attachments (location map and site plan)

**APPROVED MEETING MINUTES
NOVEMBER 18, 2015**

**14. CDR-15-09-258 – DISTRICT 1
STILLWATER CROSSINGS & CENTER BRIDGE PD / VINEYARDS TOWNHOMES
PHASES 2A-5 PSP**

Present for discussion were Sean Fortier, Garth Ritter, and Dan Edwards. Pedro Medina, the Project Manager, presented the Summary Report to DRC.

A change determination was requested to the previously approved Vineyards Townhomes Phases 2A-5 PSP to shift lot lines 123 to 138 in order to accommodate a larger utility easement, to adjust a segment of the APF trail, and to adjust the pond shape to accommodate larger easement.

Legal indicated that adjusting the APF trail may require an amendment to the APF agreement. Applicant was advised to submit a copy of the APF agreement for review, and if necessary, to process an amendment.

MOTION by Diana Almodovar, seconded by Art Interiano, TO APPROVE A NON-SUBSTANTIAL CHANGE TO THE PREVIOUSLY APPROVED VINEYARDS TOWNHOMES PHASES 2A-5 PSP, TO SHIFT LOT LINES 123 TO 138, TO ADJUST A SEGMENT OF THE APF TRAIL, AND TO ADJUST THE POND SHAPE, subject to submittal of the APF Agreement for review by the Chair and legal, and, if necessary, an amendment to the APF agreement.

MOTION CARRIED.

CONSENT AGENDA ITEMS / DEVELOPMENT PLAN APPROVALS

**DP-15-08-228- DISTRICT 1
AVALON PARK PD / AVALON TOWN CENTER PSP / TRACT 2 – PINECREST AVALON
ACADEMY DP**

Plan date stamped "Received October 28, 2015"

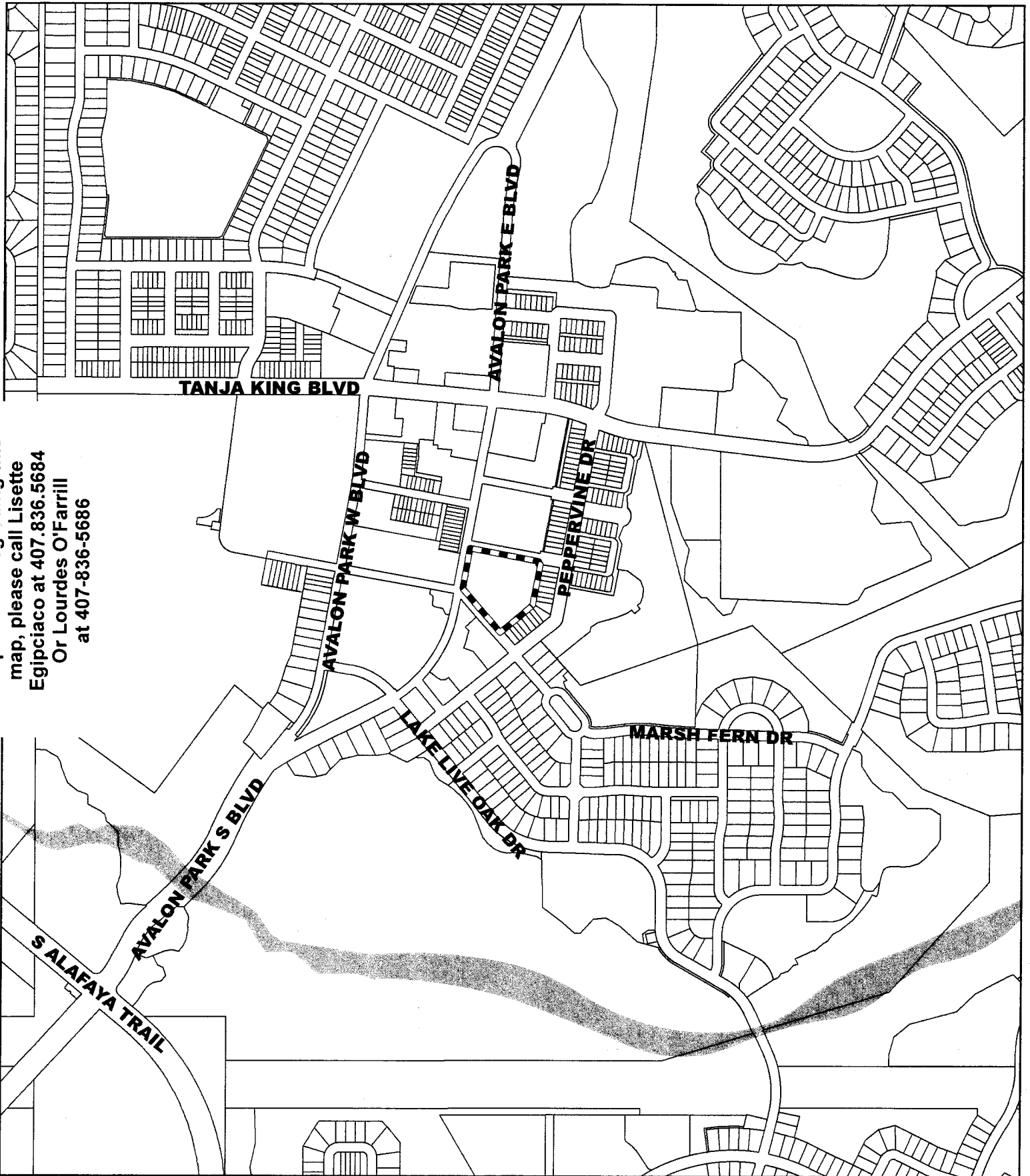
Julie Salvo from OCPS submitted a letter to DRC outlining OCPS' concerns with the above referenced school, which relate to the location of the school, parking, and traffic.

**CDR-15-09-250 – DISTRICT 4
SKY LAKE SOUTH PD / LOT 1 – COSTCO WHOLESALE DP**

Plan date stamped "Received November 6, 2015"

**DP-15-08-238 – DISTRICT 6
UNIVERSAL BOULEVARD PD / WEST AND NORTHWEST PARCELS PSP / EMPIRE HOTEL
DP**

Plan date stamped "Received November 2, 2015"



For questions regarding this map, please call Lisette Egipciano at 407.836.5684 Or Lourdes O'Farrill at 407-836-5686

Avalon Park PD / Avalon Town Center PSP / Tract 2 - Pinecrest Avalon Academy DP

 Subject Property

Location Map





Orange County Public Schools

445 West Amelia Street • Orlando, FL 32801-1129 • Phone 407.317.3200 • www.ocps.net

December 3, 2015

**Via Email john.smogor@ocfl.net
and Hand Delivery**

12-10-15 11:25 (CVD)

John Smogor, Chairman
Development Review Committee
Orange County Government
201 South Rosalind Avenue
Orlando, FL 32801

RE: Orange County Public Schools ("OCPS") Appeal of the Development Review Committee ("DRC") Decision on DP-15-08-228, Avalon Park PD/Avalon Town Center PSP/Tract 2 – Pinecrest Avalon Academy DP

Dear Mr. Smogor:

On November 18, 2015, the DRC voted to approve a Development Plan ("DP") to allow for the construction of a public charter school in the Avalon Park Town Center. The public charter school would serve 1,400 students, grades six through twelve, and be located on a 2.69-acre parcel.

On November 16, 2015, OCPS provided a letter to the DRC outlining our objections to this project. The letter is attached for your reference, but to summarize, OCPS objections fall into the following categories:

- The public school does not adhere to the Public School Siting Regulations of the Orange County Code
- The 2.69 acre parcel is not adequate to support a public school and all of the functions involved in operating a public school
- The traffic study does not accurately reflect the full traffic impact
- The conditions of approval related to traffic are not adequate and will be difficult to enforce

Therefore, in accordance with Section 38-1203(3)d. of the Orange County Code, OCPS is submitting this letter to formally appeal the DRC decision to approve DP-15-08-228.

Thank you for your attention to this matter and please provide me with the next steps in the appellate process. Also, please do not hesitate to contact me should you have any questions or need additional information

Sincerely,

Diego "Woody" Rodriguez
General Counsel, Orange County Public Schools ("OCPS")
Signed in absence to avoid delay

Attachment

December 3, 2015
Page 2

CC (via Email): School Board of Orange County
Board of County Commission, Orange County
Development Review Committee, Orange County
Barbara M. Jenkins, Superintendent, OCPS
Scott D. Howat, Planning, Governmental & Labor Relations, OCPS
Chris Testerman, AICP, Assistant County Administrator, Orange County
Eileen D. Fernandez, Esq., Associate General Counsel, OCPS
Chris Bernier, Associate Superintendent, School Choice Services, OCPS
Julie Salvo, AICP, Senior Administrator, OCPS



Orange County Public Schools

445 West Amelia Street • Orlando, FL 32801-1129 • Phone 407.317.3200 • www.ocps.net

November 16, 2015

Via Email – john.smogor@ocfl.net

And U.S. Mail

John Smogor, Chairman
Development Review Committee
Orange County Government
201 South Rosalind Avenue
Orlando, FL 32801

RE: Orange County Public Schools ("OCPS") Objections to the Pinecrest Avalon Charter School Development Plan ("DP")

Dear Mr. Smogor:

On November 3, 2015, a joint meeting ("Joint Meeting") was held between the Orange County School Board ("OCSB") and the Orange County Board of County Commission ("BCC") to discuss issues of mutual concern, most notably proposed changes to the Public School Siting Regulations ("PSSR"). At this meeting, following statements by School Board Chair Bill Sublette regarding the recent trend of charter schools being permitted to build on small parcels, Mayor Teresa Jacobs stated, "...when it comes to schools size and type that I would agree and I think the Board would generally agree that we would want you all to be treated equally."

OCPS supports the Mayor's comments and, moving forward, objects to the approval of this project or any others like it on a parcel size not adequate to support a public school.

OCPS has reviewed Avalon Park Group's ("APG") October 28, 2015 submittal of the Pinecrest Avalon Academy Development Plan ("DP") and the Traffic Analysis, and has identified several concerns. A primary concern is that Orange County has chosen to review public charter school applications in the same manner as private school applications. As a result, public charter schools are not subject to the PSSRs in the Orange County land development code.

As you know, the BCC recently denied OCPS's rezoning application to construct a 1,215 student station middle school on a 17-acre property. The OCSB then spent over \$1,000,000.00 on additional acreage to meet the standard in the PSSRs. There are no mitigating circumstances that would have permitted a traditional public school to locate on a 2.69 acre site, and we are not asking to do this. We are asking the DRC to seriously consider if 2.69 acres is adequate to house a 1,400 student station public charter school.

APG is proposing queue storage for 55 vehicles (by way of comparison, the development plan for the Avalon Middle School Relief includes roughly 304 spaces for on-site stacking). The traffic study states "Any spill over queues will be staged on Sammy's Way, a minor access road along the School's northern property boundary." In the past, OCPS has not been permitted to use local roads as staging areas. In fact, OCPS was recently denied access to the Wedgefield K-8 site via Paddock Road, and is being required to build a \$1,000,000.00 access road through wetlands to serve as a staging area.

With regard to the traffic study, the analysis uses a combination of Institute of Transportation Engineers (ITE) codes 522 (Middle School) and 530 (High School). ITE's description of these codes note that while

"The Orange County School Board is an equal opportunity agency."

private schools are included in the data set, only schools that provide bus service are included. It is our understanding that bus service is not planned for the proposed public charter school.

The Traffic Study states, "...the proposed school will operate as an urban school and will not exhibit the typical traffic patterns of a suburban school. Urban schools are typified by a large number of walk/bike trips and higher levels of interaction between the school campus and its surrounding residential and commercial properties." For a school to operate as an urban school, it must be located in an urban setting, preferably with access to transit. The proposed public charter school will be located in a suburb, and the DRC should assume traffic operations will mirror the other public schools in this neighborhood, with the exception of the lack of bus service.

In addition, public charter schools serve the entire county and do not have zones, and families can and will travel long distances for their children to attend these types of schools. This fact is supported by how existing public charter schools in Orange County currently attract students. OCPS has conducted extensive research on where public charter schools draw their population. Districtwide, public charter high schools draw 15 percent of their enrollment from within two miles of the school, and middle school grades draw 14 percent of their enrollment from within two miles of the school. A recent analysis of a public charter school located in a more urban area, Cornerstone Charter, indicates that 25 percent of their 6-12 enrollment originates from within two miles of the school. The DRC should assume a minimum of 75 percent of students attending this public charter school will arrive via car.

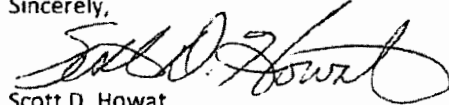
At the November 21, 2015 DRC meeting, conditions of approval (COAs) were placed on the DP to address traffic, but, in our opinion are not adequate and will be difficult to enforce. OCPS has the following questions and concerns over these COAs:

- **Condition #11 – The school shall retain the services of two off-duty sheriff's officers during the afternoon pick-up time to manage congestion during the entire first school year. Why is traffic management needed only during the afternoon pick-up, and not the morning drop-off? If the County's intention is to require the school to manage traffic at this location, provisions are needed to ensure the continuation of the off-duty sheriff beyond the first year. During the discussion on school site size at the Joint Meeting, Commissioner Scott Boyd stated, "... come out on another day when they're [the sheriff's office] not there and you can see how the chaos is, that we are as parents having to deal with and, at Sunset Park Elementary School it's kind of the same thing. I will say that when you all as a School Board put law enforcement officers out there it was like night and day in dealing with the issues over there."**
- **Condition #12 – If congestion surrounding the school becomes a repeated source of complaints to Orange County Traffic Engineering/Government, the school shall mitigate the complaints with appropriate traffic control devices or other measures acceptable to the County. How will the County quantify "repeated source of complaints?" Will the traffic control devices or other measures acceptable to the County be based on the Traffic Circulation Analysis in Condition #13? Do complaints over the use of on-street parking fall into this category?**
- **Condition #13 – The school shall provide a follow-up traffic operational study to assess the morning drop-off and afternoon pick-up traffic plan consistent with the elements provided in the Traffic Circulation Analysis for Cornerstone Charter Academy in Belle Isle, Florida, prepared by a licensed engineer that shall clearly indicate all traffic mitigation determined to be necessary. How will the recommendations of this study be enforced? Does this condition require the school to pay for and implement the mitigation? What if the situation cannot be mitigated?**

In conclusion, we request that the Pinecrest Avalon Public Charter School DP be removed from the DRC agenda until such time the applicant can identify a site more suitable for a public charter school. At this time, Pinecrest does not have an approved charter to operate this school in Orange County. Since their charter is not yet approved, they have time to do the additional work necessary to select a more suitable site.

Thank you for your attention to this matter. Please contact me if you have any questions or need additional information.

Sincerely,



Scott D. Howat
Senior Executive Director

CC: Daryl Flynn, School Board Member District 2
Jennifer Thompson, Orange County Commissioner, District 4
Chris Testerman, AICP, Assistant County Administrator, Orange County
Eileen D. Fernandez, Esq., Associate General Counsel
Julie Salvo, AICP, Senior Administrator, OCPS
Development Review Committee, Orange County
Board of County Commission, Orange County
School Board of Orange County