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March 13, 2023

RE: PD Zoning Enforcement by Orange County

Members of Clarcona Resort,

Last Thursday, March 9<sup>th</sup> a special meeting notice was posted at the direction of the Board to discuss the newly announced PD Zoning enforcement by the Orange County Code Enforcement Office. The purpose of this meeting is for the association's legal counsel to explain the zoning issue and what the association's options are to modify it. The meeting will be held in the rec hall and via Zoom on Tuesday, March 14<sup>th</sup> at 11 a.m. The agenda and Zoom credentials were posted on the bulletin boards, on [ONR](#), and the [association's webpage](#).

Over the weekend the office has received several emails and phone calls from concerned residents regarding next Tuesday's Special Board meeting. The information I have received has been largely erroneous, which has understandably caused panic amongst the membership. I would like to clarify some of the misinformation I have been notified of. It is important to note that the meeting was scheduled as an opportunity to gather more information and approve taking action if the Board determines that is the appropriate next step.

Members of the association are encouraged to submit questions to the manager so that they may be addressed at tomorrow's meeting. Please send you questions to [manager@clarconaresort.org](mailto:manager@clarconaresort.org) or call the office to propose your question. Answers will then be published in next month's Gazette and posted on ONR for members to review.

Below is a statement of facts to guide you through the timeline of events concerning the zoning issue. Also listed below are some definitions relevant to this topic and a Q&A section to address some of the common questions that have been asked at the office.

### Statement of Facts

- On March 1<sup>st</sup>, 2023, Jon Martin, Code Enforcement Officer for Orange County, sent an email to the manager email address in response to an unrelated matter and stated the following.
  - *"Ana, There is nothing required of your office, I merely noticed you as agent so you know what is going on (unrelated matter). Also according to the PD for your property we have several serious violations that I am going to be forced to enforce. They are;*
    - **Residency can not exceed 9 months per lot**
    - **No mobile homes are permitted**
    - **RV's must be removed every 6 months per lot**
    - **Property is to operated as a "time Share" transient occupancy not permanent residences**

*There are several more issues but I do not have the PD in front of me at this time. I would recommend that the association/management team get ahead of the massive amount of violations that are coming and contact the*

Zoning department about changing the particulars of the PD to fit more how the property is being utilized currently.

Once I begin citing each and every lot, there will be a mass upheaval amongst residents who will be required to vacate the property and remove their RVs, mobile homes, permanent structures, etc.

This is going to start soon as there is much pressure from the Sheriff's office for us to intervene due to the high number of calls for services, the drugs, the homeless invasion into the park and the physical condition of the park itself.

I would like to be able to resolve these issues without having to physically cite each property, so I am open to working with your office if you have any ideas on how we can gain compliance.

- Jon"

- On Monday, March 6, 2023, Board members Thom Drake, Gina Rose, Noel Warner, and Kay Knepper, attorney John DiMasi, as well as Zach Drake, Amy Drake, and myself went to the Orange County Administrative Office to sit in for the code enforcement hearing for lot 565. Although the hearing was pushed to April or May, Jon Martin was present and used the opportunity to explain the violations with the current PD, and again stressed the pressure he is receiving to start enforcing these regulations. Attorney John DiMasi proposed to review the PD and draft a revision that could be presented to Orange County Zoning for review and, hopefully, approval. John DiMasi explained that he has successfully completed zoning revisions for other clients and is confident in the firm's ability to represent the association for the same task. Jon Martin stressed the importance of getting started on this project quickly. I requested a copy of the PD zoning regulations for the community and he promised to send a copy to me (it is not available online).
- On Wednesday, March 8, 2023, I sent a follow up email to the code enforcement officer, as I had not yet received a copy of the PD. Attorney John DiMasi was included in the correspondence. By the end of the day, the attorney's office sent a retainer agreement; see message from the attorney below.
  - *"As we believe you are aware, the Association received unexpected information regarding the Planned Development ordinance over the Clarcona Resort community earlier this week. While we do not yet have all of the details regarding what work will need to be done in order to have the daily operations of the community align with the Planned Development ordinance (note: we haven't received or reviewed the PD), we do anticipate at least several months work of work, in various phases, that will need to be accomplished. Unfortunately, we are not anticipating that this matter will be simple to resolve. Given the amount of work anticipated, we are requesting a retainer of \$15,000 for attorneys fees, and \$500 for costs, with the cost retainer and ¼ of the total attorneys fees retainer due upon execution of the engagement letter (\$4250), and the remaining ¾ due at ¼ monthly (\$3750) for the subsequent 3 months."*
- On Thursday, March 9, 2023, this information was presented to the association's President, Carol Baumgartner. Understanding the importance and high priority of the issue at hand, she instructed the association manager to post notice for a Special Board Meeting on Tuesday, March 14<sup>th</sup> at 11 a.m. The time was picked based on another posted meeting for 12 p.m. the same day, when the Board would meet in the rec hall for a Zoom continuing education course.

## Definitions

[The following definitions are directly from the Orange County Zoning Office's website.](#)

- **Zoning (what is it?)** – Zoning is a designation assigned to your property that regulates how that property is allowed to be developed and used. Zoning districts specify the areas in which residential, commercial, industrial, recreational or commercial activities may take place.
- **PD** - Planned Development District, including Regulating Plans (PDRP) and Unified Neighborhood Plans (PD-UNP)
- **OCCE** – Orange County Code Enforcement

## Questions & Answers

Below are some Q&A's addressing information that has been reported to the office so far. **If you have any questions, please submit them to the office so they may be addressed during tomorrow's meeting.**

1. Do I have to remove my shed or addition to my home?

The association has not and will not be requesting members to remove their sheds or additions. Code Enforcement officer Jon Martin has informed the office that these improvements violate the current zoning PD, which could result in violations by OCCE. The purpose of revising the PD is to prevent owners from having to remove these improvements.

2. Do I have to move every 6 or 9 months?

The association has not and will not be enforcing this zoning regulation. Code Enforcement officer Jon Martin has informed the office that yes, residency past 9 months violates the current zoning PD, which could result in violations by OCCE. Additionally, all RV's and park models must be moved off of each lot at least every 6 months, per the PD. The purpose of revising the PD is (also) to allow permanent residency in the community, as has been done for several decades.

3. Is the Board changing the governing documents without membership approval?

The PD is not a governing document of the association. There is no proposed change to the governing documents at this time. If an amendment to the governing documents was proposed, it would require a membership vote. The Board does not have the authority to pass a change in the governing documents without membership approval.

4. Is there a special assessment?

No special assessments are being proposed by the Board at this time. Should one be necessary, notice would be sent to the members in advance of a meeting to discuss a special assessment proposal. No such meeting has been called at this time.

I look forward to seeing everyone at the meeting tomorrow and addressing this very important issue productively.

Respectfully,

*Ana Arias*

General Manager, CAM, CMCA  
Clarcona Resort Condominium Association, Inc.