

GENERAL INFORMATION

APPLICANT	Kathy Hattaway, Poulos & Bennett, LLC
OWNERS	KRPC Hartzog, LLC
PROJECT NAME	KRPC Hartzog Road Planned Development (PD)
HEARING TYPE	Planning and Zoning Commission
REQUEST	R-T-2 (Combination Mobile Home and Single-Family Dwelling District) to PD (Planned Development District) <i>A request to rezone two (2) parcels containing 19.90 gross acres from R-T-2 to PD, in order to construct 54 single-family dwelling units. No waivers from Orange County Code are proposed.</i>
LOCATION	14080 Hartzog Road; or generally located on the north side of Hartzog Road, approximately 3,800 feet east of Avalon Road
PARCEL ID NUMBER	29-24-27-0000-00-013 and 29-24-27-0000-00-014
TRACT SIZE	19.90 gross acres
PUBLIC NOTIFICATION	The notification area for this public hearing was 1,500 feet [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Twenty-three (23) notices were mailed to those property owners in the mailing area. A community meeting was not required for this application.
PROPOSED USE	54 single-family dwelling units

STAFF RECOMMENDATION

Development Review Committee – (August 14, 2019)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the KRPC Hartzog Road Planned Development / Land Use Plan (PD/LUP), dated “Received June 20, 2019”, subject to the following conditions:

1. Development shall conform to the KRPC Hartzog Road Land Use Plan (LUP) dated “Received June 20, 2019,” 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 June 20, 2019," 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 prior to construction plan submittal and must apply for and obtain a capacity reservation certificate 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 capacity encumbrance letter or a capacity reservation certificate.
7. This project shall comply with the Comprehensive Plan Policy FLU4.3.10.
8. The following Education Condition of Approval shall apply:
 - a. Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of May 28, 2019.
 - b. Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Capacity Enhancement Agreement, the County shall immediately cease issuing building permits for any residential units in excess of the six (6) residential units allowed under the zoning existing prior to the approval of the PD zoning. The County may again begin issuing building permits upon Orange County Public Schools' written notice to the County that the developer is no longer in breach or default of the Capacity Enhancement Agreement. The developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, shall indemnify and hold the County harmless from any third party claims, suits, or actions arising as a result of the act of ceasing the County's issuance of residential building permits.
 - c. Developer, and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, agrees that it shall not claim in any future litigation that the County's enforcement of any of these conditions are illegal, improper, unconstitutional, or a violation of developer's rights.
 - d. Orange County shall be held harmless by the developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Capacity Enhancement Agreement.

- e. Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.

9. Prior to mass grading, clearing, grubbing or construction, the applicant is hereby noticed that this site must comply with habitat protection regulations of the U.S. Fish and Wildlife Service (USFWS) and the Florida Fish & Wildlife Conservation Commission (FWC).

10. 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.

11. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.

12. At least thirty (30) days prior to construction plan submittal, the applicant shall submit a Master Utility Plan (MUP) or MUP update for the PD, including hydraulically dependent parcels outside the PD boundaries; such MUP shall include supporting calculations showing that the PD-level MUP is consistent with the approved MUP for the Village, or shall include an update to the Village MUP to incorporate any revisions. The MUP(s) must be approved prior to construction plan approval.

13. The developer shall be responsible for building master utilities transmission and collection infrastructure adequate to serve the PD and to accommodate the ultimate flows for the entire Village. Utilities infrastructure shall be built connecting to the build-out points of connection approved in the Village I Master Utility Plan (MUP).

14. Prior to construction plan approval, all property owners within Village I, excluding public entities, shall be required to sign an agreement between the parties addressing their proportionate share of funds for the costs of the offsite and onsite master utilities sized to Village requirements. Property owners may elect to use alternative financing in lieu of the private proportionate cost share agreement provided master utilities sized for Village requirements are constructed.

15. A 5-year interim Master Utility Plan (MUP) for Village I must be approved prior to Construction Plan approval within this PD.

16. Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP) for Village I. MUP updates shall be submitted to Orange County Utilities at least thirty (30) days prior to the corresponding construction plan submittal. The updated MUP must be approved prior to construction plan approval.

17. 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.

18. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
19. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted 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.

IMPACT ANALYSIS

Land Use Compatibility

The proposed development program is compatible with existing development in the area, and would not adversely impact any adjacent properties.

Comprehensive Plan (CP) Consistency

The subject property has an underlying Future Land Use Map (FLUM) designation of Village (V), indicating that it is within the Horizon West Special Planning Area. More specifically, the subject property is located within Horizon West Village I and is currently designated as Garden Home Mixed Use (GHMU) on the Village I Special Planning Area map, which allows for a required density of four (4) dwelling units per net developable acre.

The proposed use is consistent with the underlying Village FLUM designation and applicable CP provisions, which include (but are not limited to) the following goals, objectives and policies:

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.

FLU1.4.2 states that Orange County shall ensure that land uses changes are compatible with and serve existing neighborhoods.

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.

GOAL FLU4 (Horizon West) states that it is Orange County's goal to ensure sustainable, quality development in Southwest Orange County to allow a transition from rural to urban uses while protecting environmental quality.

OBJ FLU4.1 states that Orange County shall use a Village Land Use Classification to realize the long range planning vision for West Orange County created through the Horizon West planning process. The Village land use classification has been designed to address the need to overcome the problems associated with and provide a meaningful

alternative to the leap-frog pattern of sprawl now occurring in western Orange and eastern Lake County; create a better jobs/housing balance between the large concentration of employment in the tourism industry and the surrounding land uses; create a land use pattern that will reduce reliance on the automobile by allowing a greater variety of land uses closer to work and home; and, replace piecemeal planning that reacts to development on a project by project basis with a long range vision that uses the Village as the building block to allow the transition of this portion of Orange County from rural to urban use through a specific planning process that uses a creative design approach to address regional, environmental, transportation, and housing issues.

OBJ FLU8.2 states that compatibility will continue to be the fundamental consideration in all land use and zoning decisions. For purposes of this objective, the following polices shall guide regulatory decisions that involve differing land uses.

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.

FLU8.2.2 states that continuous stretches of similar housing types and density of units shall be avoided. A diverse mix of uses and housing types shall be promoted.

SITE DATA

Existing Use	Undeveloped Land
Adjacent Zoning	N: A-1 (Citrus Rural District) (1957) E: PD (Planned Development District) (2004) (Orange Lake County Club PD) W: R-T-2 (Combination Mobile Home and Single-Family Dwelling District) (1986) S: R-T (Mobile Home Park District) (1984)
Adjacent Land Uses	N: Grazing Land E: Defunct Orange Grove W: Mobile Home S: Vista Del Lago Mobile Home Park

APPLICABLE PD DEVELOPMENT STANDARDS

PD Perimeter Setback	25 feet
Maximum Building Height:	45 feet / 3 stories

Minimum Lot Width: 32 feet
Minimum Living Area: 1,200 Square Feet (under HVAC)

Minimum Building Setbacks

Front Setback: 15 feet / 7 feet for front porch
Rear Setback: 20 feet
Side Setback: 4 feet (subject to easement)
Side Street Setback: 10 feet
Lakefront Setback: 50 feet (from NHWE)

SPECIAL INFORMATION

Subject Property Analysis

The applicant is seeking to rezone the subject parcels from R-T-2 (Combination Mobile Home and Single-Family Dwelling District) to PD (Planned Development District) in order to construct 54 single-family residential dwelling units. Given the 8.68 net developable acres and given the Garden Home Mixed Use required density of 4.0 dwelling units per net developable acre, the required residential yield is 35 dwelling units. The applicant is proposing to use 19 internal Transferable Development Rights credits from wetlands and upland greenbelts, increasing the development program to the proposed 54 dwelling units. The assignment of these credits by KRPC Hartzog, LLC is recorded in Orange County records under Document # 20190510971.

There are 1.20 acres of Adequate Public Facilities (APF) lands required with this application, with zero (0) acres being dedicated to the County, leaving a 1.20-acre APF deficit. To cover this deficit, 1.20 acres of APF credits are being transferred to this PD from the proposed Withers PD. The APF agreement (Case #APF-19-02-077) was considered and recommended for approval by the Development Review Committee on August 14, 2019 and will be heard concurrently by the Board of County Commissioners (BCC) with this request.

Comprehensive Plan (CP) Amendment

A CP amendment is not required for this application, as the requested zoning is consistent with the underlying Village (V) Future Land Use Map (FLUM) designation.

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 not located within an Airport Noise Zone.

Environmental

A Conservation Area Determination (CAD-18-04-068) was issued for the subject property, which determined 4.72 acres of wetlands. A Conservation Area Impact permit is not proposed for this PD.

If this project site had a prior agricultural land use that resulted in soil and/or groundwater contamination due to spillage of petroleum products, fertilizer, pesticide or herbicide, then prior to the earlier of platting, demolition, site clearing, grading, grubbing, review of mass grading or construction plans, the applicant shall provide documentation to assure compliance with the Florida Department of Environmental Protection (FDEP) regulation 62-777 Contaminant Cleanup Target Levels, and any other contaminant cleanup target levels found to apply during further investigations, to the Orange County Environmental Protection and Development Engineering Divisions.

The applicant is responsible for addressing any adverse impacts, including secondary impacts, to surface waters, wetlands, or conservation areas that may occur as a result of development of the site. Protective measures include but are not limited to: 25-foot average undisturbed upland buffer along the wetland boundary, signage, pollution abatement swales, split rail fence, retaining wall or native plantings adjacent to the wetlands. When a Preliminary Subdivision Plan / Development Plan is submitted, the developer shall clearly show and label the measures employed to prevent adverse conservation area impacts.

Development of the subject property shall comply with all state and federal regulations regarding wildlife and plants listed as imperiled species (endangered, threatened, or species of special concern). The applicant is responsible to determine the presence of these 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).

Transportation / Access

On November 13, 2018 the Board of County Commissioners accepted a Term Sheet for Village I. The Roadway Network Agreement being negotiated currently is based on the terms of the term sheet. Per the County's Comprehensive Plan Policy FLU4.3.10, the Roadway Network Agreement, which must substantially conform with the Term Sheet, must be signed by the owners of a majority of the undeveloped acreage in Village I and approved by the BCC prior to approval of the first Preliminary Subdivision Plan and/or Development Plan in Village I, with the exception of any project that has a Capacity Encumbrance Letter issued prior to November 13, 2018.

Code Enforcement

There are no active code enforcement violations on the subject property.

Utilities

Water: Orange County Utilities

Wastewater: Orange County Utilities

Reclaim Water: Orange County Utilities

Schools

A Capacity Enhancement Agreement (CEA) application, #OC-18-062 was approved by the Orange County School Board on May 28, 2019.

Parks and Recreation

Orange County Parks and Recreation reviewed this request, but did not identify any issues or concerns.

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.

PLANNING AND ZONING COMMISSION (PZC) FINDINGS

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 KRPC Hartzog Road Planned Development (PD) Land Use Plan, subject to nineteen (19) conditions.

Staff indicated that twenty-three (23) notices were mailed to surrounding property owners within a buffer of 1,500 feet from the subject property, with zero (0) commentaries received in support or in opposition to the request. The applicant was present for the hearing and concurred with staff's recommendation. There were no members of the public present to speak on this request.

After a brief discussion, a motion was made by Commissioner Fernandez to find the request to be consistent with the Comprehensive Plan and recommend APPROVAL of the KRPC Hartzog Road PD Land Use Plan, subject to the nineteen (19) conditions listed under the DRC Recommendation. Commissioner Velazquez seconded the motion, which then carried on a 4-0 vote.

Motion / Second *Eddie Fernandez / Diane Velazquez*

Voting in Favor *Eddie Fernandez, Diane Velazquez, JaJa Wade, and Yog Melwani*

Voting in Opposition *None*

Absent *Carlos Nazario*

Jimmy Dunn, Jose Cantero, Gordon Spears and Mohammed Abdallah declared conflicts of interest and recused themselves from the vote.

PZC RECOMMENDED ACTION

Planning and Zoning Commission (PZC) Recommendation – (September 19, 2019)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the KRPC Hartzog Road Planned Development / Land Use Plan (PD/LUP), dated “Received June 20, 2019”, subject to the following conditions:

1. Development shall conform to the KRPC Hartzog Road Land Use Plan (LUP) dated "Received June 20, 2019," 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 June 20, 2019," the condition of approval shall control to the extent of such conflict or inconsistency.
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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 prior to construction plan submittal and must apply for and obtain a capacity reservation certificate 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 capacity encumbrance letter or a capacity reservation certificate.
7. This project shall comply with the Comprehensive Plan Policy FLU4.3.10.
8. The following Education Condition of Approval shall apply:
 - a. Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of May 28, 2019.
 - b. Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Capacity Enhancement Agreement, the County shall immediately cease issuing building permits for any residential units in

- excess of the six (6) residential units allowed under the zoning existing prior to the approval of the PD zoning. The County may again begin issuing building permits upon Orange County Public Schools' written notice to the County that the developer is no longer in breach or default of the Capacity Enhancement Agreement. The developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, shall indemnify and hold the County harmless from any third party claims, suits, or actions arising as a result of the act of ceasing the County's issuance of residential building permits.
- c. Developer, and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, agrees that it shall not claim in any future litigation that the County's enforcement of any of these conditions are illegal, improper, unconstitutional, or a violation of developer's rights.
 - d. Orange County shall be held harmless by the developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Capacity Enhancement Agreement.
 - e. Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.
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proportionate share of funds for the costs of the offsite and onsite master utilities sized to Village requirements. Property owners may elect to use alternative financing in lieu of the private proportionate cost share agreement provided master utilities sized for Village requirements are constructed.

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18. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
19. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted 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.