

**CASE # CDR-14-05-144**

Commission District: # 4

**GENERAL INFORMATION**

**APPLICANT** Brooks Stickler, Kimley-Horn and Associates, Inc.

**OWNER** WSG Coral Springs, LP, HM-Up Development Alafaya Trails, LLC, HM-Up Development Alafaya Trails-Tru, LLC, and FCPT Sunshine Properties, LLC

**PROJECT NAME** Alafaya Trail Property Planned Development

**PARCEL ID NUMBER(S)** 22-22-31-8030-00-001, 22-22-31-8030-00-002, 22-22-31-8030-00-003, 22-22-31-8030-00-004, 22-22-31-8030-01-000, 22-22-31-8030-02-000, 22-22-31-8030-03-000, 22-22-31-8030-04-000, and 22-22-31-8030-05-000

**TRACT SIZE** 50.20 gross acres (*overall PD*)

**LOCATION** Generally located south of E. Colonial Drive and west of Alafaya Trail.

**REQUEST** A PD substantial change to increase retail / commercial (C-1) square footage from 174,000 to 304,000 (an increase of 130,000 square feet), while retaining 6,000 square feet of previously approved Professional Office (P-O) uses.

Additionally, this request also reflects the conservation, impact, and mitigation of on-site wetlands per Conservation Area Impact (CAI) permit #CAI-14-08-025. Also, the applicant is seeking to remove an existing PD/LUP note that requires dedication of PD Tract A development rights to Orange County.

In addition, the applicant has requested the following waiver from Orange County Code:

1. A waiver from Section 38-1476(a) to allow a parking calculation of four (4) spaces per 1,000 square feet, in lieu of five (5) spaces per 1,000 square feet.

***Applicant Justification:*** *This waiver will allow for additional area for a stormwater pond to alleviate existing flooding conditions along O'Berry Hoover Road.*

**PUBLIC NOTIFICATION** A notification area extending beyond one thousand hundred (1,000) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Five hundred forty-

two (542) notices were mailed to those property owners in the notification buffer area. Two community meeting were held on April 5, 2017 and June 13, 2018 at Waterford Lakes Elementary as summarized in this report below.

## **IMPACT ANALYSIS**

### **Special Information**

The Alafaya Trail Property PD was originally approved in 1999 and currently allows for 180,000 square feet of non-residential uses, including 174,000 square feet of commercial uses (C-1) and 6,000 square feet of office uses (P-O).

Through this PD substantial change, the applicant is seeking to increase retail / commercial (C-1) square footage from 174,000 to 304,000 (an increase of 130,000 square feet), while retaining 6,000 square feet of previously approved professional office (P-O) uses.

Additionally, a waiver is being requested to allow a parking calculation of four (4) spaces per 1,000 square feet, in lieu of five (5) spaces per 1,000 square feet.

### **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 an underlying Future Land Use Map (FLUM) designation of PD – C/O (Planned Development – Commercial / Office). The proposed PD substantial change 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**

Through Conservation Area Impact permit #CAI-14-08-025, the applicant is seeking to impact 9.10 wetland acres, preserving 8.93 acres of Class II and III wetlands (while also placing the 8.93 acres of Class II wetlands with PD Tract A into a conservation easement in favor of Orange County), and remediating 0.84 acres of wetlands.

### **Transportation Concurrency**

Due to the roadway deficiencies within the project impact area, a traffic study and proportionate share agreement will be required to mitigate roadway level of service conditions.

Based on the Concurrency Management System database dated June 4, 2014, there are multiple failing roadway segments within a one mile radius of this project along Alafaya Trail, Lake Underhill Road, and Woodbury Road. This information is dated and is subject to change.

**Community Meeting Summary**

Two community meetings have been held related to this request. The first was held on Wednesday, April 5, 2017, at Waterford Elementary School, with approximately thirty-six (36) residents in attendance. Residents expressed concern with drainage onto O’Berry Hoover Road properties, the loss of the wetlands, and the removal of the conservation area. The residents also questioned the need for additional retail commercial development as there are many vacancies in the area.

The second was held on Wednesday, June 13, 2018, at Waterford Elementary School, with approximately thirty-two (32) residents in attendance. Residents again expressed concern with drainage onto O’Berry Hoover Road properties, the loss of the wetlands, and the removal of the conservation area.

**Schools**

Orange County Public Schools (OCPS) reviewed the request and determined that it will not impact public school capacity.

**Parks and Recreation**

Orange County Parks and Recreation staff reviewed the PD substantial change 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 – (July 10, 2019)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Alafaya Trail Property Planned Development / Land Use Plan (PD/LUP), dated “August 2, 2019”, subject to the following conditions:**

1. Development shall conform to the Alafaya Trail Property PD Land Use Plan dated "Received August 2, 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 of this land use plan and the land use plan dated "Received August 2, 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 at the public hearing where this development was approved, 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. 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 or 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 (CEL) prior to construction plan submittal and must apply for and obtain a Capacity Reservation Certificate (CRC) 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 CEL or a CRC.
  7. Due to failing roadway conditions within a one mile radius, a traffic study is required along with an application for a Capacity Encumbrance Letter.
  8. 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.
  9. Unless a Conservation Area Impact (CAI) permit is approved by Orange County consistent with Orange County Code Chapter 15, Article X, "Wetland Conservation Areas", prior to Construction Plan approval, no conservation area or buffer encroachments shall be permitted. Approval of this plan does not authorize any direct or indirect conservation area impacts.
  10. 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).
  11. The remaining portions of wetland and upland areas within Tract "A", not proposed for development on the subject plan, shall be preserved as a conservation easement or tract per code. These areas will remain in substantially natural condition in perpetuity, and will not be considered for future development or modification. Development rights to these conservation easements or tracts shall be conveyed to Orange County prior to plat approval.
  12. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water and wastewater systems have been designed to support all development within the PD.
  13. The developer shall obtain water and wastewater service from Orange County Utilities subject to County rate resolutions and ordinances.
  14. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
  15. Outdoor sales, storage, and display shall be prohibited.

16. 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.
17. Prior to the issuance of the next vertical building permit within this PD, the applicant shall obtain both a Right-of-Way Utilization Permit and a Building Permit for a connection along the northern PD boundary adjacent to Indianhead Trail. Such connection shall be completed prior to issuance of the initial Certificate of Occupancy for the next vertical building permit within this PD.
18. A waiver from Section 38-1476(a) is granted to allow a parking calculation of four (4) spaces per 1,000 square feet, in lieu of five (5) spaces per 1,000 square feet.
19. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated December 2, 2008 shall apply:
  - a. Master water, wastewater, and stormwater plans, including preliminary calculations, shall be approved prior to the submittal of construction plans.
20. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated April 22, 2008 shall apply:
  - a. A 6-foot masonry wall shall be provided along the northern perimeter, with the exception of the connection to Indianhead Trail.
  - b. There shall be no access from ~~Indianhead Trail or O'Berry Hoover Road, as they are~~ it is considered a residential roads.
21. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated October 7, 2003 shall apply:
  - a. A 6-foot-high masonry wall along the west perimeter shall be required.

**PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (December 2, 2008)**

Upon a motion by Mayor Crotty, seconded by Commissioner Segal, and all present commissioners voting AYE by voice vote; the Board approved the request by John A. Walsh for Alafaya Trail Property Planned Development for an amendment to the Land Use Plan to add one (1) acre of A-2 zoned property, subject to conditions.