

CASE # CDR-19-08-265

Commission District: # 4

GENERAL INFORMATION

APPLICANT Kathy Hattaway, Poulos & Bennet, LLC

OWNER Joseph J. Weisenfeld, Rodolfo Stern, David Serviansky

PROJECT NAME Meadow Woods Planned Development (PD)

PARCEL ID NUMBER(S) 30-24-30-0000-00-001

TRACT SIZE 3,324.78 gross acres (*overall PD*)
13.38 gross acres (*affected parcel only*)

LOCATION North of S.R. 417 / East of Rhode Island Woods Circle

REQUEST A Change Determination Request (CDR) to use the approved conversion matrix to convert 22,100 square feet of existing retail commercial entitlements to 68 single-family attached residential units on Parcel 21.

PUBLIC NOTIFICATION A notification area extending beyond five hundred (500) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. One hundred twenty-nine (129) notices were mailed to those property owners in the notification buffer area. A community meeting was not required for this request.

IMPACT ANALYSIS

Special Information

The Meadow Woods Development of Regional Impact (DRI) / Planned Development (PD) was originally approved in 1981 and is generally located south of Wetherbee Road, north of the Orange / Osceola County line, and east of Orange Avenue / C.R. 527. The project contains approximately 3,325 gross acres, and existing development entitlements consist of 8,427 residential units; 752,687 square feet of commercial use; 100,000 square feet of office use; three (3) elementary schools; one (1) middle school; and various parks and golf courses.

Through this PD Change Determination Request (CDR), the applicant is seeking to convert 22,100 square feet of existing retail commercial entitlements to 68 single-family attached residential units on Parcel 21. Parcel 21 is already designated High Density Residential on the Master Development Plan Map, however, there were no remaining residential entitlements left within the PD.

Land Use Compatibility

The proposed PD Change Determination Request (CDR) would not adversely impact any adjacent properties or result in an incompatible land use pattern.

Comprehensive Plan (CP) Consistency

The Meadow Woods PD has an underlying Future Land Use Map (FLUM) designation of Planned Development (PD). More specifically, the PD/LUP reflects the land uses of Agricultural (A), Low Density Residential (LDR), Medium Density Residential (MDR), High Density Residential (HDR), Neighborhood Commercial (NC), Community Commercial (CC), and Business Park (BP).

The proposed PD Change Determination Request is consistent with the Comprehensive Plan.

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

Environmental Protection Division (EPD) staff has reviewed the proposed request, but did not identify any issues or concerns.

Transportation Concurrency

This project is within the Meadow Woods Development of Regional Impact (DRI) and is vested from transportation concurrency (CVRC#92-056). A copy of the vested rights certificate will be required at building permitting.

Community Meeting Summary

A community meeting was not required for this request.

Schools

An amendment to the existing Capacity Enhancement Agreement (CEA) (OC-17-012), was approved by the Orange County School Board on October 22, 2019.

Parks and Recreation

Orange County Parks and Recreation staff reviewed the Change Determination Request 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 – (October 9, 2019)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Meadow Woods Planned Development / Land Use Plan (PD/LUP), dated “Received September 9, 2019”, subject to the following conditions:

1. Development shall conform to the Meadow Woods Planned Development (PD) dated "Received September 9, 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 September 9, 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, or any other development order, 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. 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 10/22/2019.

 - 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 zero (0) 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.

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.

- 7. 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.
- 8. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County code.
- 9. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated August 6, 2019, shall apply:
 - a. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances for the portions of the PD that are within Orange County Utilities utility service areas.
 - b. Applicant has agreed that the uses on Parcel 2.1 and Parcel 3.2 shall be limited to only the following C-1 uses: office, retail, restaurant (including drive-thru), bank, preschool, and convenience store (including gas; provided that no more than one gas station shall be allowed on either or site.
 - c. Prior to any site work permit for Parcel 2.1 and Parcel 3.2, the Developer must obtain a South Florida Water Management District Permit.
 - d. Developer has agreed that at Development Plan approval by DRC, it shall demonstrate that the buffers between Commercial and Single-Family zoned property exceed the County buffer requirements.
 - e. Development of Parcel 2.1 and 3.2 shall not impact the existing wetlands and flood way.
 - f. Development on Parcel 2.1 and 3.2 shall not exceed one-story in height.

10. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated April 5, 2016 shall apply:

1. A current Level One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review and approval as part of any Preliminary Subdivision Plan (PSP) and/or Development Plan (DP) submittal.
2. Short term / transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater.
3. The following Education Condition of Approval shall apply:
 - 1) Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of March 3, 2016.
 - 2) 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 0 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.
 - 3) 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.
 - 4) 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.

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.

11. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated September 22, 2015, shall apply:

- a. Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP). 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.
 - b. A waiver from Orange County Code Section 38-1258(j) is granted to allow for a minimum twenty (20) foot separation between all multi-family buildings within PD Parcel 50 only; in lieu of a minimum separation of thirty (30) feet for two-story buildings, forty (40) feet for three-story buildings, and proportional separations for additional structural heights, where doors, windows, or other openings in the wall of a living unit back up to a wall of another building with doors, windows or other openings.
12. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated August 4, 2015, shall apply:
- a. No trucks or trailers may be parked in the Right of Way.
 - b. For parcels 15, 15.1, and 15.2 only, one truck for hire may be parked in the customer parking area.
 - c. Outside storage of vehicles shall be permitted along the south property line for Parcels 15, 15.1, and 15.2 only.
13. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated May 24, 2011, shall apply:
- a. The access configuration point to Parcel 12 shall be determined at the (Development Plan) DP submittal.
 - b. All previous applicable Conditions of Approval shall apply:
 - 1) Reduce the number of units from 14.9 units per acre to 6 units per acre for a total of 296 units. (This condition pertains only to Parcels 28, 29, AND 30.2)
 - 2) Restrict the type of structure to townhomes with fee simple ownership. (This condition pertains only to Parcels 28, 29, and 30.2)
 - 3) Tower shall meet all the requirements of the communication tower ordinance. Any variance shall require approval by the Board of Zoning Adjustment.
 - c. A waiver from Section 38-1258(e) is granted for Parcel 12 in order to allow for understory trees with a maximum height of ten (10) feet in lieu of all shade trees as required per Type C buffers due to the existing power lines.

- d. A waiver from Section 24-4(a)(3) c. and d. is granted for Parcel 12 in order to allow for understory trees with a maximum height of ten (10) feet in lieu of all required shade trees within interior landscaped areas due to the existing power lines.

- e. A waiver from Section 38-1258(f) is granted to allow a fence in lieu of a six (6) foot high masonry wall. (Note: This applies to Parcel 12, but was not specified, when adopted by the BCC).

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION *(August 6, 2019)*

Upon a motion by Commissioner Gomez-Cordero, seconded by Commissioner VanderLey, and carried on a vote of 6-1 with Commissioner Bonilla voting Nay, the Board made a finding of consistency with the Comprehensive Plan; and approved the substantial change request to change the use on PD Parcels 2.1 and 3.2 from Open Space and Fire / Police, respectively, to Community Commercial and utilize existing unused commercial entitlements within the PD.