



Interoffice Memorandum

DATE: February 11, 2020

TO: Mayor Jerry L. Demings
-AND-
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director
Planning, Environmental and Development
Services Department

CONTACT PERSON: Eric Raasch, DRC Chairman
Development Review Committee *ERR*
Planning Division
(407) 836-5523

SUBJECT: March 10, 2020 – Public Hearing
Kathy Hattaway, Poulos and Bennett, LLC
Spring Grove - Jaffers Planned Development
Case # CDR-18-10-353 / District 1
(Related to APF-19-07-237 - Consent Item)

The Spring Grove - Jaffers Planned Development (PD) is located generally located south of Flemings Road, west of Avalon Road, and east of the Lake County line. The existing PD development program allows for 308 single-family residential dwelling units.

Through this PD Change Determination Request (CDR), the applicant is seeking to transfer 1.44 gross acres to the Serenade at Ovation PD (LUP-18-10-354) and revise development tables based on the removal of that property. The number of required dwelling units is decreasing from 306 to 304. The Transfer of Development Rights (TDR) Summary Table is also being updated to reflect an internal TDR transfer of 2 units to make up the difference in required dwelling units. No change in the overall development program is proposed.

On December 18, 2019, the Development Review Committee (DRC) recommended approval of the request, subject to conditions. A community meeting was not required for this request.

Finally, the required Specific Project Expenditure Report and Relationship Disclosure Forms have been completed in accordance with the requirements of Article X, Chapter 2, Orange County Code, as may be amended from time to time, and copies of these and the PD/LUP may be found in the Planning Division for further reference.

ACTION REQUESTED: Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Spring Grove - Jaffers Planned Development / Land Use Plan (PD/LUP) dated "April 5, 2019", subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1

Attachments
JVW/EPR/nt

CASE # CDR-18-10-353

Commission District: # 1

GENERAL INFORMATION

APPLICANT Kathy Hattaway, Poulos & Bennett, LLC

OWNER Spring Grove, LLC

PROJECT NAME Spring Grove - Jaffers Planned Development (PD)

PARCEL ID NUMBER(S) 19-24-27-0000-00-003; 19-24-27-0000-00-022; 30-24-27-0000-00-028; and 19-24-27-0000-00-004 (portion of)

TRACT SIZE 136.94 gross acres

LOCATION Generally located south of Flemings Road, west of Avalon Road, and east of the Lake County Line.

REQUEST A PD substantial change to transfer 1.44 gross acres to the Serenade at Ovation PD (LUP-18-10-354) and revise development tables based on removal of that property. No change in the development program is proposed.

PUBLIC NOTIFICATION A notification area extending beyond one thousand five hundred (1,500) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Twenty (20) notices were mailed to those property owners in the notification buffer area. A community meeting was not required for this application.

IMPACT ANALYSIS

Special Information

The Spring Grove - Jaffers PD was originally approved on July 19, 2016 (LUP-15-07-218), amended on January 8, 2019, (LUPA-17-10-302) and contains 138.38 gross acres. The PD currently provides for a development program of 308 single-family residential dwelling units.

Through this PD Change Determination Request (CDR), the applicant is seeking to transfer 1.44 gross acres to the Serenade at Ovation PD (LUP-18-10-354) and revise development tables based on removal of that property. The number of required dwelling units is decreasing from 306 to 304. The Transfer of Development Rights (TDR) Summary Table is also being updated to reflect an internal TDR transfer of 2 units to make up the difference in required dwelling units. No change in the overall development program is proposed.

There are 8.76 acres of Adequate Public Facilities (APF) lands required with this application, with 0.37 acres of APF lands being dedicated for rights-of-way, which leaves an APF deficit of 8.39 acres. The second amendment to the APF agreement (APF-19-

07-237), has been submitted with this request to transfer 8.39 APF surplus acreage credits from the Withers PD (CDR-19-10-331) to cover the APF deficit.

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 property has an underlying Future Land Use Map (FLUM) designation of Village (V) and is designated as Garden Home Mixed Use District (GHD) and Village Home District (VHD) on the Village I Special Planning Area Land Use Map. The proposed use is consistent with these designations 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

This request proposes a transfer of 1.44 acres located at the southeastern corner of the Spring Grove - Jaffers PD to the Serenade at Ovation PD. The transfer area includes a portion of Class II wetland W3 that was delineated in Conservation Area Determination (CAD-15-10-135).

Transportation Concurrency

On November 13, 2018 the Board of County Commissioners accepted a Term Sheet for Village I. 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. On January 28, 2020, the BCC approved the Horizon West Village I Road Network Agreement which provides for the dedication of right-of-way, completion of design, engineering, permitting, mitigation and construction of four-laning of C.R. 545 (Avalon Road) and Flemings Road

Community Meeting Summary

A community meeting was not required for this request.

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 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 – (December 18, 2019)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Spring Grove - Jaffers Planned Development / Land Use Plan (PD/LUP), dated “April 5, 2019”, subject to the following conditions:

1. Development shall conform to the Spring Grove - Jaffers Planned Development (PD) dated "Received April 5, 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 April 5, 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. The project shall comply with the terms and conditions of that certain Adequate Public Facilities Right-of-Way Agreement for Village I, Spring Grove, recorded at Official Records Document #20190734332, Public Records of Orange County, Florida, as may be amended.
7. Pursuant to the BCC's acceptance of the Village I Term Sheet on November 13, 2018, this project shall comply with the terms and conditions of the future Village I Roadway Network Agreement, as approved by the BCC and as may be amended from time to time.
8. 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.

9. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated January 8, 2019 shall apply:
 - a. 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 April 26, 2016, and as amended on October 9, 2018.
 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 5 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.
 5. 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.
 - b. A waiver from Orange County Code Section 38-1382(h)(4) is granted to allow alleys to be designed as a tract in lieu of the requirement that they shall be designed as a private easement.
 - c. A waiver from Orange County Code Section 38-1384(i)(2) is granted to allow vehicular access to garages or other off-street parking to be from a rear alley tract in lieu of an easement.
 - d. A waiver from Orange County Code Section 38-1384(g)(2) is granted to allow the reference to pertain to an alley tract in lieu of an easement.

- e. A waiver from Orange County Code Section 38-1384(g)(1) is granted to allow garage access to be setback from an alley tract in lieu of an easement.
 - f. A waiver from Orange County Code Section 34-152(c) is granted to allow lots to front a mews, park, open space, etc. in lieu of the requirement that each lot shall have a minimum access width of twenty (20) feet to a dedicated public paved street.
 - g. Short term/transient rental is prohibited. Length of stay shall be for 180 days or greater.
10. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated July 19, 2016, shall apply:
- a. 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.
 - b. 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.
 - c. The developer shall obtain water, wastewater and reclaimed water service from Orange County Utilities.
 - d. The developer shall be responsible for building master utilities transmission and collection infrastructure adequate to serve the project to accommodate the ultimate flows for the entire Village (SAP). Utilities infrastructure shall be built connecting to the build-out points of connection approved in the Master Utilities Plan (MUP).
 - e. Prior to approval of the first PSP in Village I, the developer shall submit a Village-wide MUP including water, wastewater and reclaimed water transmission main layouts, sizing, and supporting hydraulic calculations.
 - f. At least thirty (30) days prior to construction plan submittal, the applicant shall submit a Master Utility Plan (MUP) for the PSP, including hydraulically dependent parcels outside the PSP boundaries; such MUP shall include supporting calculations showing that the PSP-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.
 - g. Prior to construction plan approval, all property owners within the 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 alternate financing in lieu of the private proportionate cost share agreement provided master utilities sized for Village requirements are constructed.

- h. A two-acre APF tract for a water facility within Village I near Village I's southern boundary shall be identified prior to the approval of the first PSP within Village I and dedicated to the County prior to approval of the first construction plan set within Village I. The tract shall have a minimum width of 150 feet, have an elevation above the 100 year flood plain, be located outside of wetlands and no more than 1,000 feet from Avalon Road with a 30-foot minimum utility access easement or tract connection to public right-of-way.
- i. 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.
- j. The lot grading plan for 32-foot wide single-family detached lots (and similar narrow lots) shall include design features to ensure positive drainage from the side yard to the front roadway or rear alley. These design features may include: (a) A/C units on same side of homes so that A/C units are not located adjacent to each other; (b) A/C units on same side placed at the high elevation point of side yard so that drainage flows away from the A/C units to the front roadway and rear alley; (c) A/C units located behind the home when the garage is detached from the home with courtyard; and/or (d) other lot grading plan features approved by the County Engineer.
- k. This project is subject to, and shall comply with, the terms of an Adequate Public Facilities (APF) Agreement addressing the dedication of right-of-way needed for Fleming Road improvements and an APF deficit.
- l. 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.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (January 8, 2019)

Upon a motion by Commissioner VanderLey, seconded by Commissioner Moore, and carried by all members present voting AYE by voice vote, to approve the request subject to the conditions of approval listed under the Development Review Committee recommendation in the Staff Report; further, approve new condition of approval #13; further, approve and execute the First Amendment to Adequate Public Facilities Agreement for Horizon West - Village I – West Neighborhood Spring Grove - Jaffers PD by and between Spring Grove, LLC, M/I Homes of Orlando, LLC, and Orange County; and further, approve the modification to page one of the agreement.