





Interoffice Memorandum

DATE: March 12, 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 
Planning Division
(407) 836-5523

SUBJECT: April 7, 2020 – Public Hearing
Kathy Hattaway, Poulos and Bennett, LLC
Flamingo Crossings Planned Development
Case # CDR-20-03-070 / District 1

The Flamingo Crossings Planned Development (PD) is generally located east and west of Flamingo Crossings Boulevard and south of Western Way. The existing PD allows for a development program consisting of 150,000 square feet of commercial uses and 2,614 multi-family residential units.

Through this PD substantial change, the applicant is seeking to modify BCC Condition of Approval #10(h) from April 9, 2019, regarding the installation of a traffic signal at the intersection of C.R. 545 and Western Way. The revised condition requires the applicant to install a temporary traffic signal, no later than issuance of the fifth Certificate of Occupancy for a multi-family building in the development, in lieu of it being required by the first Certificate of Occupancy for a multi-family building.

On March 11, 2020, 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 Flamingo Crossings Planned Development / Land Use Plan (PD/LUP) dated “Received March 2, 2020”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1

Attachments
JVW/EPR/nt

CASE # CDR-20-03-070
Commission District: #1

GENERAL INFORMATION

APPLICANT Kathy Hattaway, Poulos and Bennett, LLC

OWNER Flamingo Crossings, LLC

PROJECT NAME Flamingo Crossings Planned Development

PARCEL ID NUMBER(S) 28-24-27-2501-01-001, 28-24-27-2501-01-000, 28-24-27-2500-01-001, 28-24-27-2500-01-000

TRACT SIZE 154.08 gross acres

LOCATION Generally located east and west of Flamingo Crossings Boulevard and south of Western Way.

REQUEST A PD substantial change to revise BCC condition of approval #10(h) regarding installation of a signal at the intersection of C.R. 545 and Western Way.

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]. Sixteen (16) 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 Flamingo Crossings PD was originally approved on February 6, 2018 and currently allows for a development program consisting of 150,000 square feet of commercial uses and 2,614 multi-family residential units.

The original Board approval included a condition that required the applicant, at their expense, to install a traffic signal at the intersection of C.R. 535 and Western Way at the time Western Way is open to traffic between C.R. 545 and S.R. 429, and also required the applicant to submit a traffic impact analysis study with the first Development Plan for the project. On April 9, 2019, the BCC approved a substantial change to the PD (CDR-19-01-003), which was a request to modify this condition allow for the applicant to install a temporary traffic signal to operate in flash mode until warranted. The revised Condition also established a timeline for the temporary signal, which included installation prior to the first multi-family Certificate of Occupancy and a warrant study prior to issuance of the last multi-family Certificate of Occupancy, or at the discretion of the County Engineer.

Through this PD substantial change, the applicant is seeking to further amend the signal condition, which is referenced as condition of approval # 10(h) from April 9, 2019, to revise the timeline for installing the temporary traffic signal.

Applicant's Proposal

The Applicant(s) shall be required at their expense to install a temporary traffic signal no later than ninety (90) days after the first of one of the following occurs:

- 1) *The Applicant(s) receive an executed temporary easement for the westerly signal equipment from Titan-Liberty Lake Underhill Joint venture; Village I 545 LLC, and or their successors, in a form acceptable to Orange County and Orange County issues the Right-of-Way permit; or*
- 2) *Orange County causes and receives from Titan-Liberty Lake Underhill Joint venture; Village I 545 LLC, and or their successors, to provide an temporary easement for the westerly signal equipment in a form acceptable to Orange County as a condition of approval of Titan-Liberty Lake Underhill Joint venture; Village I 545 LLC's The Gem Groves Planned Development and Orange County issues the Right-of-Way permit; or*
- 3) *the Applicant(s) submits revised temporary signalization plans placing the westerly signal equipment in the C.R. 545 right-of-way and Orange County approves the revised plans and issued the Right-of-Way permit.*

The applicant's justification for the request is that property at the intersection is controlled by third parties, and the timing delay is a result of negotiations for necessary easements to accommodate the strain poles for the temporary signal.

After discussion at the meeting on March 11, 2020, the DRC recommended revising the condition to require the applicant to install a temporary traffic signal, no later than issuance of the fifth Certificate of Occupancy for a multi-family building in the development, in lieu of it being required by the first Certificate of Occupancy for a multi-family building.

DRC's Recommendation

Applicant(s) shall be required, at their expense, to install a temporary traffic signal, no later than issuance of the ~~first~~ fifth Certificate of Occupancy for a multi-family building in the development, that will operate on flash mode until warranted at the intersection of C.R. 545 and Western Way. A warrant study shall be submitted to Orange County for review and approval prior to the issuance of the last Certificate of Occupancy for the multi-family development or as directed by the County Engineer.

Post DRC

Subsequent to the DRC meeting, the applicant submitted a parallel request to move the strain pole off of the privately-controlled land at the intersection, and into the County's right-of-way. The applicant submitted this request in good faith, to allow the County to

determine the most efficient and suitable location for the strain pole in the event that there are further delays in obtaining the easement.

Land Use Compatibility

The PD Change Determination Request would not adversely impact any adjacent properties.

Comprehensive Plan (CP) Consistency

The subject property has an underlying Future Land Use Map (FLUM) designation of Growth Center – Commercial / High Density Residential (GC-C/HDR). The Flamingo Crossings PD was approved in 2018 and includes uses such as commercial and multi-family residential. The proposed PD substantial change is consistent with this designation and all applicable CP provisions; therefore, the 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 request, but did not identify any issues or concerns.

Transportation Concurrency

Transportation Planning staff has reviewed the request, but did not identify any issues or concerns.

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 – (March 11, 2020)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Flamingo Crossings Planned Development / Land Use Plan (PD/LUP), dated “March 2, 2020”, subject to the following conditions:

1. Development shall conform to the Flamingo Crossings PD dated "~~Received January 29, 2019~~ March 2, 2020" 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 January 29, 2019~~ March 2, 2020" 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 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 January 9, 2018, and as amended on June 26, 2018.

 - 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.
 - 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. Orange County Public Schools review shall be required if this project converts from intern program housing to market rate housing; such school review will determine the need for the Developer to enter into an additional Capacity Enhancement Agreement with the Orange County School Board for the market rate housing.
7. 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).
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 the property is otherwise vested or exempt, the applicant must apply for and obtain a Capacity Encumbrance Letter (CEL) prior to building permit 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.
10. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated February 6, 2018 shall apply:
- a) 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.
 - b) The Developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.

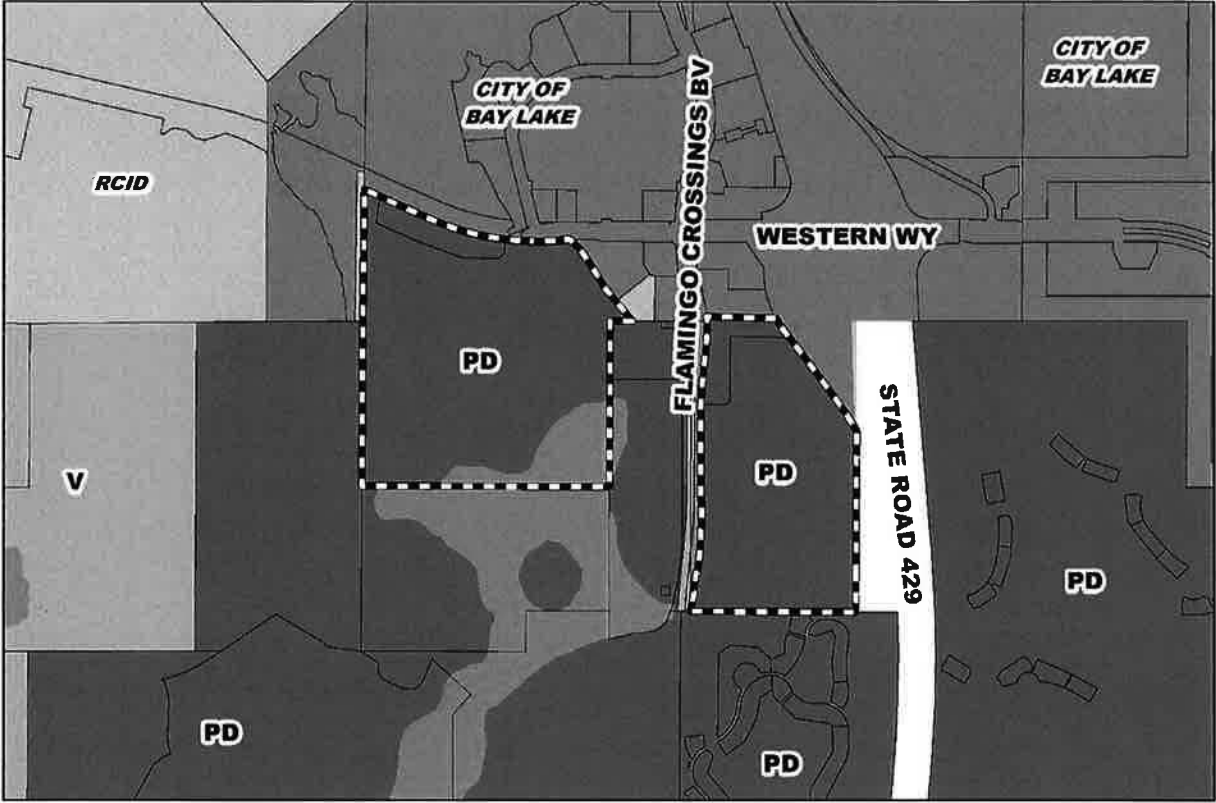
- c) A Master Utility Plan (MUP) for the PD shall be submitted to Orange County Utilities at least thirty (30) days prior to submittal of the first set of construction plans. The MUP must be approved prior to Construction Plan approval.
- d) Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP). The updated MUP shall be submitted to Orange County Utilities as least thirty (30) days prior to the corresponding construction plan submittal. The updated MUP must be approved prior to construction plan approval.
- e) The territorial and wholesale service agreements between Orange County and Reedy Creek Improvement District must be approved by the BCC prior to construction plan approval.
- f) Outside sales, storage, and display shall be prohibited.
- g) Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
- h) The Applicant(s) shall be required, at their expense, to install a temporary traffic signal, no later than issuance of the ~~first~~ fifth Certificate of Occupancy for a multi-family building in the development, that will operate on flash mode until warranted at the intersection of C.R. 545 and Western Way. A warrant study shall be submitted † to Orange County for review and approval prior to the issuance of the last Certificate of Occupancy for the multi-family development or as directed by the County Engineer.
- i) This project shall not commingle internship participants and employees within the same multi-family building. Short-term rental other than internship participants and employees is prohibited.
- j) A waiver from Orange County Code Section 38-1230(a) is granted to allow vehicle parking areas to be located within seven hundred fifty (750) feet of the uses they serve, in lieu of one hundred fifty (150) feet.
- k) A waiver from Orange County Code Section 38-1254(1) is granted to maintain a minimum PD perimeter building setback of twenty-five (25) feet for all structures, in lieu of an increased setback for structures in excess of two (2) stories.
- l) A waiver from Orange County Code Section 38-1254(2)(d) is granted to allow a minimum expressway setback of thirty (30) feet, in lieu of seventy-five (75) feet.
- m) A waiver from Orange County Code Section 38-1258(d) is granted to allow a maximum building height for multi-family residential structures of five (5) stories/sixty (60) feet, in lieu of three (3) stories/forty (40) feet.

- n) A waiver from Orange County Code Section 38-1258(j) is granted to allow for a minimum building separation of twenty (20) feet, in lieu of the required increased separation based on building stories.
- o) A waiver from Orange County Code Section 24-4(a)(2)a-b is granted to allow a 0-foot paving setback between internal lot lines within the development, in lieu of providing a landscape buffer a minimum of seven (7) feet in width.
- p) A waiver from Orange County Code Section 24-5(a)(3) is granted to allow a Type C, opaque buffer to be a minimum of three (3) feet in height and a minimum of five (5) feet wide, in lieu of a height of at least six (6) feet and a minimum of fifteen (15) feet wide.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (April 9, 2019)

Upon a motion by Commissioner VanderLey, seconded by Commissioner Gomez Cordero, and carried by all members present voting Aye by voice vote, the Board approval the substantial change to the Flamingo Crossings PD to amend Condition of Approval # 10(h), regarding the timing of the temporary traffic signal at the intersection of C.R. 545 and Western Way.

CDR-20-03-070



Subject Parcel

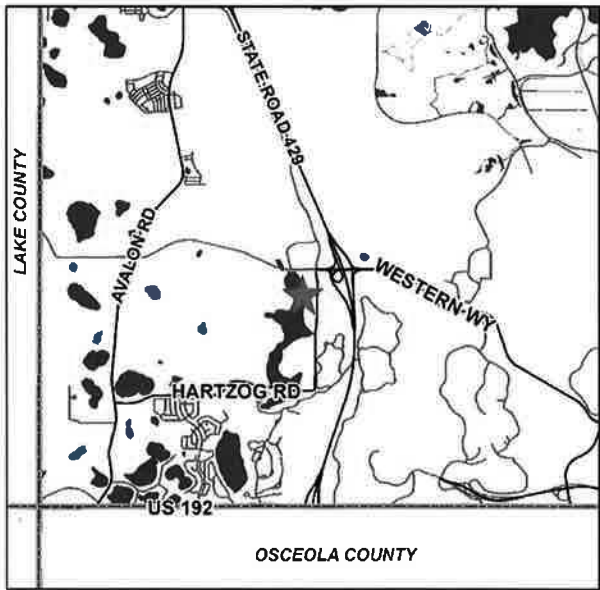


Subject Property

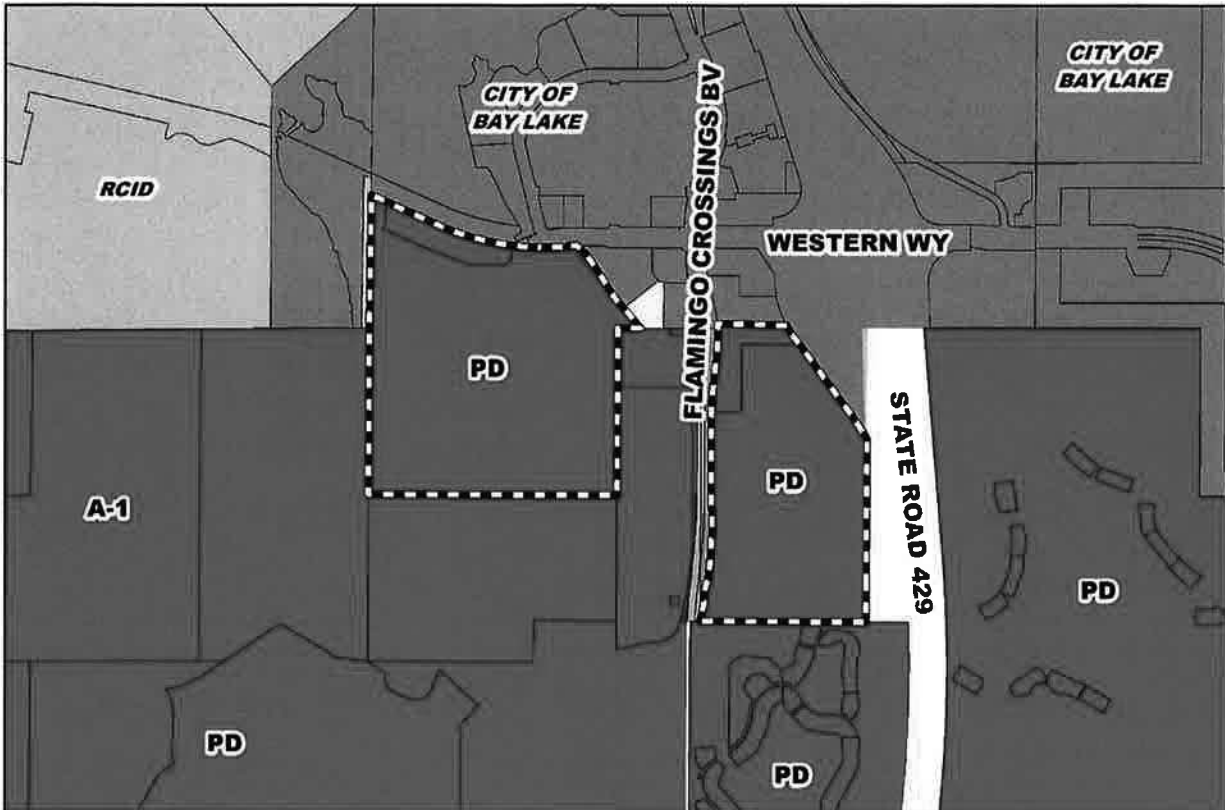
Future Land Use Map

FLUM: Planned Development (PD)
 APPLICANT: Kathy Hattaway, Poulos & Bennett, LLC
 LOCATION: Generally located east and west of Flamingo Crossings Boulevard and south of Western Way
 TRACT SIZE: 154.02 gross acres (overall PD)
 DISTRICT: # 1
 S/T/R: 21/24/27, 28/24/27

1 inch = 1,250 feet



CDR-20-03-070



 Subject Parcel

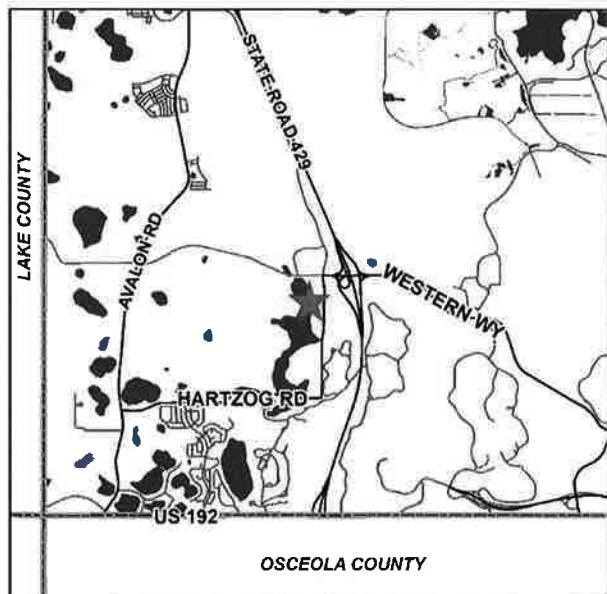


 Subject Property

Zoning Map

ZONING: PD (Planned Development District)
APPLICANT: Kathy Hattaway, Poulos & Bennett, LLC
LOCATION: Generally located east and west of Flamingo Crossings Boulevard and south of Western Way
TRACT SIZE: 154.02 gross acres (overall PD)
DISTRICT: # 1
S/T/R: 21/24/27, 28/24/27

1 inch = 1,250 feet



CDR-20-03-070



 Subject Property



1 inch = 875 feet

Flamingo Crossings PD / LUP (Cover Sheet)

FLAMINGO CROSSINGS PD

CDR-20-XX-XXX

FLAMINGO CROSSINGS BLVD & WESTERN WAY
 ORANGE COUNTY, FL

28-24-27-2500-01-000; 28-24-27-2500-01-001;
 28-24-27-2501-01-001; 28-24-27-2501-01-000

PROPERTY OWNER(S)
 Flamingo Crossings, LLC
 Clifford Timmer, WDI
 PO Box 1033
 Lake Buena Vista, FL 32830
 Phone: 407-560-5032



SHEET #	SHEET TITLE
1	Cover Page
2	Zoning, FLU, Soils & Flood Plain Designations
3	Land Use Plan
4	Site Data & Notes
5, 6	BCC Conditions of Approval Attachments
1	Survey - East Property
1-6	Survey - West Property and Wetlands

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 By DRC Office at 9:51 am, Mar 02, 2020

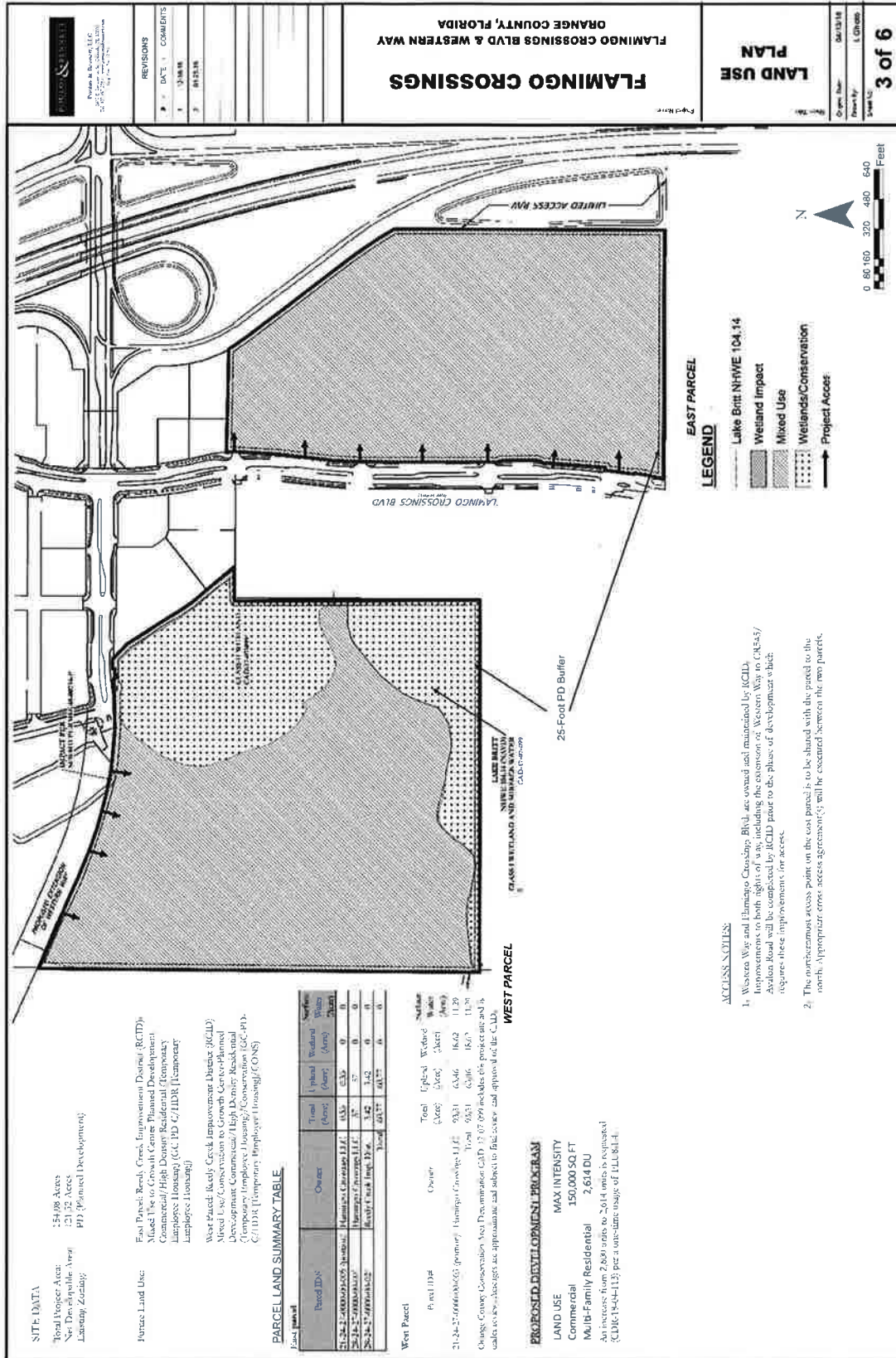
 <p>Poulkos & Bennett, LLC 10000 Lake Nona Blvd, Suite 100 Lake Nona, FL 32153 Phone: 407-277-2594</p>	<p>REVISIONS</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>12-15-18</td> <td>CHANGES</td> </tr> <tr> <td>2</td> <td>20-16-19</td> <td></td> </tr> <tr> <td>3</td> <td>20-18-19</td> <td></td> </tr> <tr> <td>4</td> <td>02-27-20</td> <td></td> </tr> </tbody> </table>	NO.	DATE	DESCRIPTION	1	12-15-18	CHANGES	2	20-16-19		3	20-18-19		4	02-27-20	
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<p>FLAMINGO CROSSINGS PD FLAMINGO CROSSINGS BLVD & WESTERN WAY ORANGE COUNTY, FL</p>	<p>COVER PAGE</p>															

CIVIL ENGINEER
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 Phone: 407-647-7275

SURVEYOR
 Atkins
 Vance Carper, PSM
 482 South Keller Road
 Orlando, FL 32810
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PLANNING CONSULTANT
 Poulkos & Bennett, LLC
 Kathy Hattaway, ACP
 2602 E. Livingston Street
 Orlando, FL 32803
 Phone: 407-487-2594

Flamingo Crossings PD / LUP



FLAMINGO CROSSINGS
 ORANGE COUNTY, FLORIDA
 FLAMINGO CROSSINGS BLVD & WESTERN WAY

LAND USE PLAN

Scale: 1" = 100'-0"

Sheet No: 3 of 6

Project No: 2019-0000000000

Drawn By: E. O'Neil

Scale: 1" = 100'-0"

Sheet No: 3 of 6

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Sheet No: 3 of 6

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Scale: 1" = 100'-0"

SITE DATA
 Total Project Area: 154.08 Acres
 Net Developable Area: 121.32 Acres
 Landmark Zoning: PD (Planned Development)

Future Land Use:
 East Parcel: Recreational, Creek Enhancement District (CED),
 Mixed Use/Growth Center Planned Development
 West Parcel: Recreational, Creek Enhancement District (CED),
 Mixed Use/Growth Center Planned Development

Parcel Land Summary Table

Parcel ID: 21-24-27-0000000000
Owner: Flamingo Crossings LLC
Area (Acres): 154.08
Water (Acres): 0.00
Wetland (Acres): 0.00
Other (Acres): 0.00

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Other (Acres): 0.00

ACCESS NOTES:
 1. Western Way and Flamingo Crossings Blvd are owned and maintained by RCID. Improvements to both rights of way, including the extension of Western Way to CA357/Avellan Road will be completed by RCID prior to the phase of development which requires these improvements for access.
 2. The northernmost access point on the east parcel is to be shared with the parcel to the north. Appropriate cross access agreement(s) will be executed between the two parties.

PROPOSED DEVELOPMENT PROGRAM
 LAND USE: MAX INTENSITY 150,000 SQ FT
 Commercial 2,614 DU
 Multi-Family Residential
 An increase from 2,600 units to 2,614 units is requested (CDC 15-4-112 per a conditional usage of LLC 84-14).

Legend:
 Lake Britt NW/WE 104.14
 Wetland Impact
 Mixed Use
 Wetlands/Conservation
 Project Access

Scale: 0, 80, 160, 240, 480, 640 Feet

North Arrow: N

East Parcel: Lake Britt NW/WE 104.14

West Parcel: Lake Britt NW/WE 104.14

25-Foot PD Buffer:

Flamingo Crossings Blvd:

Western Way:

Avellan Road:

CA357:

CA150:

CA151:

CA152:

CA153:

CA154:

CA155:

CA156:

CA157:

CA158:

