

CASE # CDR-19-05-169

Commission District: # 4

GENERAL INFORMATION

APPLICANT Paul N. Medley, PNM Architecture

OWNER Nona Center, LLC

PROJECT NAME Nona Center Planned Development

PARCEL ID NUMBER 17-24-31-0000-00-053

TRACT SIZE 1.52 gross acres (*overall PD*)

LOCATION 1739 Narcoossee Road; or generally located on the east side of Narcoossee Road and south of Kirby Smith Road

REQUEST A PD substantial change to request the following waiver from Orange County Code:

1. A waiver from Section 38-1272(5) to allow a maximum building height of 40 feet when within 100 feet of any residential zoned property, in lieu of 35 feet.

Applicant Justification: *Per Section 38-1272(5), a height increase may be allowed if “The applicant can demonstrate that there will not be any detrimental impact to adjacent property.” The adjacency of less than 100’ to a residentially zoned property is at the north property line where their project abuts only a 20’ wide non-buildable residential driveway. The width of 20’ precludes any actual residence or structure from ever being built within 100’ of the proposed building. With the closest existing residence of 700’ distance from the back of the proposed building. Furthermore, the height increase will be in keeping with the master plan for a commercial corridor along Narcoossee Road as outlines in the “Interlocal Agreement for A Joint Planning Area between the City of Orlando and Orange County”*

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]. One hundred ninety (190) 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 Nona Center PD was originally approved on October 3, 2017 and is approved for 27,300 square feet of P-O (Professional Office) and C-1 (Retail Commercial) uses.

Through this PD substantial change, the applicant is seeking to request waiver from Section 38-1272(5) to allow a maximum building height of 40 feet when within 100 feet of any residential zoned property, in lieu of 35 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 Planned Development – Commercial (PD-C). 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 located within the Narcoossee Road Corridor Overlay District.

Rural Settlement

The subject property is not located within a Rural Settlement.

Joint Planning Area (JPA)

The subject property is located within the area described within the Narcoossee Roadway Corridor Interlocal Agreement between Orange County and the City of Orlando.

Environmental

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

Transportation Concurrency

Transportation Planning staff has reviewed the proposed 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 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 – (September 11, 2019)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Nona Center Planned Development / Land Use Plan (PD/LUP), dated “August 8, 2019”, subject to the following conditions:

1. Development shall conform to the Nona Center PD Land Use Plan (LUP) dated "Received August 8, 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 August 8, 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. A waiver from Orange County Code Section 38-1272(5) is granted to allow a maximum building height of 40 feet when within 100 feet of any residential, in lieu of 35 feet.
7. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated October 3, 2017 shall apply:
 - a. 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.
 - 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 wastewater and reclaimed water service from Orange County Utilities.
- d. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing wastewater and reclaimed water systems have been designed to support all development within the PD.
- e. 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.
- f. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
- g. Outside sales, storage, and display shall be prohibited.
- h. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted for review and approval 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.
- i. Unless otherwise allowed by County Code, the property shall be platted prior to the issuance of any vertical building permits.
- j. The following waivers from Orange County Code are granted:
 - i. A waiver from Section 38-1254(1) to allow for a PD Perimeter setback on the north property line of 5 feet, in lieu of the required PD Perimeter setback of 25 feet;
 - ii. A waiver from Section 38-1476(a) to allow for a minimum of 82 parking spaces in lieu of the 136 spaces required (1 space per 200 square feet).

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (October 3, 2017)

Upon a motion by Commissioner Thompson, seconded by Commissioner VanderLey, and all present commissioners voting AYE by voice vote; the Board approved the request by Stephen Allen, Civil Corp Engineering, Inc., for Nona Center Planned Development to rezone a portion of one (1) parcel containing 1.52 gross acres from R-CE (Rural Country Estate District) to PD (Planned Development District), to allow up to 27,300 square feet of P-O (Professional Office) and C-1 (Retail Commercial) uses and two (2) waivers from Code; pursuant to Orange County Code, Chapter 30, subject to conditions.