

CASE # CDR-16-03-099

Commission District: # 3

GENERAL INFORMATION

APPLICANT Mark Clayton, Chickasaw Property, LLC

OWNER Chickasaw Property, LLC

PROJECT NAME Expressway Center Planned Development / Land Use Plan (PD/LUP)

PARCEL ID NUMBER 25-22-30-0000-00-059

TRACT SIZE 18.54 gross acres (affected parcel only)

LOCATION 401 North Chickasaw Trail; generally located north of State Road 408 and east of North Chickasaw Trail.

REQUEST A substantial change request to the Expressway Center Planned Development / Land Use Plan (PD/LUP) to add multi-family as a permitted use; and to amend the existing development program by using a trip equivalency matrix to convert 78,778 square feet of Business Park uses into 238 multi-family residential dwelling units, and to convert 143,702 square feet of Business Park uses into 68,414 square feet of commercial uses, as reflected in the following table:

Development Program Comparison Table

<i>Land Use</i>	<i>Current</i>	<i>Proposed</i>
Business Park	222,480 sq. ft.	0 sq. ft.
Multi-Family	0 units	238 MF units
Commercial	0 sq. ft.	68,414 sq. ft.

PUBLIC NOTIFICATION A notification area extending beyond seven hundred (700) feet was used for this application [*Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet*]. Five hundred fifty-three (553) notices were mailed to those property owners in the notification buffer area. A community meeting was also held on June 22, 2015 (*refer to Community Meeting Summary below*).

IMPACT ANALYSIS

Special Information

The Expressway Center Planned Development (PD) was originally approved in 1972 and was designated "Business Park" on the PD/LUP. However, on April 22, 1999, the Development Review Committee (DRC) approved a non-substantial change to further clarify that adult congregate facilities (including assisted living facilities and nursing homes), church, schools, mini-warehouse, office showrooms with no outdoor storage, and mixed office/commercial (C-1) uses not to exceed 190,000 total square feet (95,000

square feet of each) could be considered through subsequent Change Determination Requests (CDR), and consistent with the trip equivalency matrix. Despite the variety of uses permitted within the PD, the applicant has based existing entitlements on a provision that allows business park uses at a ratio of 12,000 square feet per acre, which results in 222,480 square feet.

Therefore, through this request the applicant is seeking to add multi-family as a permitted use; and by using a revised trip equivalency matrix, amending the existing development program by converting 78,778 square feet of business park uses into 238 multi-family residential dwelling units, and converting 143,702 square feet of business park uses into 68,414 square feet of commercial uses.

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 Office (O). The PD was originally approved in 1972, and per Policy FLU8.1.5, PDs approved prior to the 1991 CP adoption are considered to be consistent with CP.

Community Meeting Summary

A community meeting was held on Wednesday, June 22, 2016, at Little River Elementary School, with approximately seventeen (17) residents in attendance. Residents expressed opposition to multi-family residential development, citing traffic, the potential for accidents (in front of the Moss Pointe subdivision across Chickasaw Trail from the subject property to the west), and concern with decreased property values. Residents also noted the amount of vacant commercial in the area, and asked about the status of area transportation improvements. In general, residents expressed a preference for commercial uses over multi-family residential. Lastly, residents also indicated that a previous request to add multifamily residential in 1999 was ultimately was withdrawn by an applicant.

Overlay District 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

The subject parcel was included in Conservation Area Determination CAD 95-095, CAD 08-066 and Impact Permit CAI 09-020, valid through April 14, 2020. This plan shall comply with all related permit conditions of approval.

Transportation / Concurrency

A time of Development Plan (DP), the applicant / developer must provide pedestrian and bicycle access from multi-family uses to the public right-of-way sidewalk (per Policy T3.2.2).

This project is also located within an Alternative Mobility Area (AMA) and is therefore exempt from concurrency. However, prior to obtaining building permits, subsequent Development Plans (DP) are subject to mobility review and approval through the County's Concurrency Management Office. Lastly, a mobility analysis will be required in accordance with Objective T.2.3 and associated policies of the Comprehensive Plan.

Schools

Orange County Public Schools (OCPS) has determined that capacity is available for this project. However, this determination expires on September 14, 2016. In the event this project does not obtain zoning approval by the expiration date, the applicant must resubmit the application and application fee for reevaluation by OCPS.

Parks and Recreation

Orange County Parks and Recreation staff reviewed the substantial change 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 – (July 13, 2016)

Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Expressway Center Planned Development / Land Use Plan (PD/LUP) dated "Received April 29, 2016", subject to the following conditions:

1. Development shall conform to the Expressway Center Planned Development / Land Use Plan (PD/LUP) dated "Received April 29, 2016," 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 29, 2016," 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/LUP 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 necessity for a left turn lane off Chickasaw Trail into the project will be evaluated with the review of the DP for this project.
7. 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.
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. 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.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (June 14, 2005)

Upon a motion by Commissioner Fernandez, seconded by Commissioner Hartage, and carried with all present members voting AYE by voice vote, the Board made a finding of consistency with the Comprehensive Plan; and further, approved the request by Chris Reider; Canin Associates, Inc.; Expressway Center Planned Development / Land Use Plan (PD/LUP); to amend the LUP to allow for a 120-foot-tall monopole cell tower to be constructed (designed as a flag pole), subject to conditions.