

CASE # CDR-16-09-329

Commission District: # 1

GENERAL INFORMATION

APPLICANT	Marc D. Stehli, Poulos and Bennett, LLC
OWNER	Mattamy Orlando, LLC
PROJECT NAME	Reams Road Property Planned Development / Land Use Plan (PD/LUP)
PARCEL ID NUMBERS	34-23-27-0000-00-035; 35-23-27-0000-00-013; 35-23-27-0000-00-015; and 02-24-27-0000-00-005
TRACT SIZE	100.2 gross acres
LOCATION	Southwest of Reams Road, approximately 2,100 feet northwest of Center Drive
REQUEST	A PD substantial change to reduce wetland impacts by 0.98 acres; increase public open space area by 1.31 acres; decrease stormwater area by 2.33 acres; and increase net developable land area by 0.03 acres.
PUBLIC NOTIFICATION	A notification area extending beyond one thousand (1,000) feet was used for this application [<i>Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet</i>]. Five hundred eighty-two (582) 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 100.2-acre Reams Road Property Planned Development was originally approved on March 15, 2016, and is currently entitled for 161 single-family residential dwelling units, including 47 single-family detached homes and 114 townhomes.

Through this PD substantial change, the applicant is seeking to reduce wetland impacts by 0.98 acres; increase public open space area by 1.31 acres; decrease stormwater area by 2.33 acres; and increase net developable land area by 0.03 acres. No changes to the approved development program, Adequate Public Facilities (APF) Agreement, or Transferable Development Rights (TDR) Agreement are proposed or required.

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 is designated Village (V) on the Future Land Use Map (FLUM), indicating that it falls within the boundary of the Horizon West Sector Planning Area. More specifically, the subject property is located within the Lakeside Village Specific Area Plan (SAP), and is designated Village Home District (VHD) and Wetland / Conservation (CONS) on the adopted SAP land use map.

The proposed PD substantial change is consistent with the Comprehensive Plan.

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

Class I Impacts – Class I wetlands should not include stormwater ponds, roads or buildings in Class I wetlands. The removal, alteration or encroachment within a Class I Conservation Area shall only be allowed in cases where: no other feasible or practical alternatives exist, impacts are unavoidable to allow a reasonable use of the land, or where there is an overriding public benefit, as determined before the Orange County Board of County Commissioners.

Prior to issuance of any certificate of completion, all storm drain inlets shall have metal medallion inlet markers installed. Text on the marker shall read "No Dumping, Drains to Waterway." Specification detail will be provided within all plan sets. For details, the National Pollutant Discharge Elimination System (NPDES) Supervisor at the Orange County Environmental Protection Division should be contacted.

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).

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.

Transportation / Concurrency

Reams Road: (Reams Road Property PD Mattamy Homes ROW & APF) Board of County Commissioners approved 3/15/2016 and Recorded at Doc # 20160137846. Owner shall convey a total of 1.75 acres of APF Land. The dedication of right-of-way shall serve to partially satisfy the APF requirement of approximately 3.68 acres. An APF deficit of 1.93 acres at a fee of \$41,388.51 per acre will be satisfied by payment of

\$79,879.82 Deficit Fee to OC and receive \$22,500 per acre for the conveyance of 1.75 acres of row for a total of \$39,375.00 in transportation impact fee credits.

The project shall comply with the terms and conditions of that certain Reams Road Property PD Mattamy Homes ROW & APF Agreement recorded at Document # 20160137846, Public Records of Orange County, Florida, as may be amended.

Schools

Orange County Public Schools (OCPS) did not comment on this case, as it does not involve an increase in residential units or density.

Parks and Recreation

Orange County Parks and Recreation staff reviewed the PD 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 – (November 2, 2016)

Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Reams Road Property Planned Development / Land Use Plan (PD/LUP) dated "Received November 21, 2016", subject to the following conditions:

1. Development shall conform to the Reams Road Property Planned Development / Land Use Plan (PD/LUP) dated "Received November 21, 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 November 21, 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 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 Reams Road Property PD Mattamy Homes ROW & APF Agreement recorded at Document # 20160137846, Public Records of Orange County, Florida, as may be amended.
7. Prior to issuance of any certificate of completion, all storm drain inlets shall have metal medallion inlet markers installed. Text on the marker shall read "No Dumping, Drains to Waterway." Specification detail will be provided within all plan sets. Contact the National Pollutant Discharge Elimination System (NPDES) Supervisor at the Orange County Environmental Protection Division for details.
8. 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).
9. 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.
10. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated March 15, 2016, shall apply:
 - a. A current Level One (1) Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review, as part of the Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) initial submittal.
 - b. 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.
 - c. The following Education Condition of Approval shall apply:
 - 1) Developer shall comply with all provisions of the Capacity Enhancement Agreement approved by the Orange County School Board on May 12, 2015.
 - 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.
- d. At least thirty (30) days prior to construction plan submittal, the applicant shall submit a Master Utility Plan (MUP) for the PD, including hydraulically dependent parcels outside the PD boundaries; such MUP shall include supporting calculations showing that the PD-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.
 - e. The developer shall be responsible for building master utilities transmission and collection infrastructure adequate to serve the PD and to accommodate the ultimate flows for the entire Village (SAP).
 - f. The Developer shall obtain water, wastewater and reclaimed water service from Orange County Utilities.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (March 15, 2016)

Upon a motion by Commissioner Boyd, seconded by Commissioner Edwards, and carried with all present members voting AYE, the Board made a finding of consistency with the Comprehensive Plan; and further, approved the rezoning request by Kathy Hattaway, HCI Planning & Land Development Consultants, Reams Road Property Planned Development / Land Use Plan (PD/LUP), Case # LUP-15-05-139, to rezone four (4) parcels containing 100.20 gross acres from A-1 (Citrus Rural District) to PD (Planned Development District), in order to construct 161 single-family residential dwelling units, including 47 single-family detached homes and 114 attached townhomes; on the described property; subject to conditions.