

CASE # CDR-16-12-415

Commission District: # 5

GENERAL INFORMATION

APPLICANT	David Beyer, MCP Design, Inc.
OWNER	Target Corp.
PROJECT NAME	MCP Retail Planned Development / Land Use Plan (PD/LUP)
PARCEL ID NUMBER	11-22-30-0000-00-003
TRACT SIZE	19.5 gross acres
LOCATION	South of University Boulevard and West of Goldenrod Road
REQUEST	<p>A PD substantial change to incorporate the following waiver from Orange County Code:</p> <ol style="list-style-type: none">1. <i>A waiver from Section 38-1476 to allow four (4) parking spaces for each 1,000 square feet of gross floor area shopping centers with over 50,000 square feet of gross floor area, in lieu of the requirement for five (5) parking spaces for each 1,000 square feet of gross floor area for shopping centers with over 50,000 square feet of gross floor area; pursuant to Orange County Code, Chapter 30, Article III, Section 30-89 and Orange County Code, Chapter 38, Article VIII, Division 1, Section 38-1207.</i>
PUBLIC NOTIFICATION	<p>A notification area extending beyond five hundred (500) feet was used for this application [<i>Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet</i>]. One hundred forty-four (144) notices were mailed to those property owners in the notification buffer area.</p>

IMPACT ANALYSIS

Special Information

The 19.5-acre MCP Retail Planned Development was originally approved on January 28, 2004 and allows for the development of up to 200,000 square feet of retail commercial use.

Through this PD substantial change, the applicant is seeking a waiver from Orange County Code Section 38-1476 in order allow four (4) parking spaces for each 1,000 square feet of gross floor area of shopping centers with over 50,000 square feet of gross floor area, in lieu of the requirement for five (5) parking spaces for each 1,000 square feet of gross floor area of shopping centers with over 50,000 square feet of gross floor area. No change to the approved development program is being sought.

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 affected property has an underlying Future Land Use Map (FLUM) designation of Commercial (C). 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

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

Transportation / Concurrency

Based on the 9th Edition of the ITE Trip Generation, the proposed 200,000 square feet development will generate 638 new pm peak hour trips. Data from the Concurrency Management System database dated 02-20-17 indicates that within a one mile radius of the subject property, Aloma Avenue between Semoran Boulevard and the Orange/Seminole County Line, and Forsyth Road between Hanging Moss Road and University Boulevard are failing. This information is dated and is subject to change. Therefore, a traffic study will be required prior to obtaining an approved Capacity Encumbrance Letter (CEL) and building permit.

Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a 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 / preliminary subdivision plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a CEL or a CRC.

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 – (January 11, 2017)

Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the MCP Retail Planned Development / Land Use Plan (PD/LUP) dated "December 12, 2016", subject to the following conditions of approval:

1. Development shall conform to the MCP Retail PD Land Use Plan dated "December 12, 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 "December 12, 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 Master Sign 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 38-1476 is granted, to allow four (4) parking spaces for each 1,000 square feet of gross floor area of shopping centers with over 50,000 square feet of gross floor area, in lieu of the requirement for five (5) parking spaces for each 1,000 square feet of gross floor area of shopping centers with over 50,000 square feet of gross floor area.
7. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated August 22, 2006 and April 6, 2004, shall apply:
 - a. Outdoor storage and display shall be prohibited.
 - b. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5.

- c. A waiver is granted to substitute an 8-foot-high screen wall with a 7-foot-wide landscape buffer and 6-foot-high screen wall with 7-foot-wide buffer in lieu of a 15-foot-wide landscape buffer along the western and southern perimeter, as illustrated on the LUP.
- d. The westernmost parcel in the PD (Parcel ID#11-22-30-0000-00-006, as shown on the LUP), is proposed for development as a retail outparcel ("Outparcel"). No cross access shall be allowed between the Outparcel and any other portion of the PD until such time as the existing access drive on University Boulevard, east of the Outparcel that serves the adjoining bank parcel ("Bank Parcel"), is relocated farther west and is opened as a shared right-in, right-out access drive serving the Outparcel and the Bank Parcel.
- e. Prior to development plan approval showing access to the apartment entrance, the applicant shall demonstrate to the satisfaction of Orange County that the entire project have legal rights to access the apartment entrance road to the west.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (August 22, 2006)

Upon a motion by Commissioner Segal, seconded by Commissioner Fernandez, and carried with all present members voting AYE by voice vote; Commissioner Sindler was absent; the Board made a finding of consistency with the Comprehensive Policy Plan and approved the request by Mike Rich, MCP Retail Planned Development (PD) Amendment, to rezone from Retail Commercial District (C-1) (1980) to PD, on the above-described property; subject to conditions.