

CASE # CDR-17-02-051

Commission District: # 1

GENERAL INFORMATION

APPLICANT	Robby Moon, KPM Franklin, Inc.
OWNER	Ad 5 Commercial, LLC
PROJECT NAME	Cassis Planned Development
PARCEL ID NUMBER	31-24-27-0000-00-006 (<i>affected parcel only</i>)
TRACT SIZE	73.00 gross acres (<i>overall PD</i>) 57.61 gross acres (<i>affected parcel only</i>)
LOCATION	17509 Bali Boulevard; or generally north of Bali Boulevard and approximately 250 feet west of Avalon Road.
REQUEST	<p>A PD substantial change to convert 300 timeshare units into 500 hotel units within PD Parcel C only, and establish / depict alternative setback, buffer, and access standards. More specifically, the applicant has requested alternative setback and buffer criteria for side and rear property lines interior to the PD; a reduced buffer area along Bali Boulevard; and access to interior PD lots via an easement in lieu of a dedicated public street. These changes would also necessitate the following waivers from Orange County Code:</p> <ol style="list-style-type: none">1. A waiver from Section 38-1287(2) to allow a zero foot (0') minimum side setback (from interior property lines) for buildings and pavement, in lieu of a minimum side property line setback of 30 feet.2. A waiver from Section 38-1287(3) to allow a zero foot (0') minimum rear setback (from interior property lines) for buildings and pavement, in lieu of a minimum rear property line setback of 20 feet.3. A waiver from Section 38-1287(4) to reduce the paving setback intended to create a buffer between paved areas and property lines along the side lot lines (interior to the PD) to zero feet (0'), in lieu of a minimum 7.5-foot paving setback for side lot lines.4. A waiver from Section 38-1287(4) to reduce the paving setback intended to create a buffer between paved areas and property lines along Bali Boulevard (an arterial roadway) to 10 feet, in lieu of the required 25-foot paving setback from arterial roadways.

5. A waiver from Section 34-152(c) to allow access to interior PD lots via an easement, in lieu of the requirement that interior lots have access to a dedicated public street.

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*]. Ninety-nine (99) 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 Cassis PD was originally approved November 28, 1995 and currently allows for the development of 300 timeshare units, 40,000 square feet of tourist-commercial uses, and 20,000 square feet of sales center uses.

Through this PD substantial change, the applicant is seeking to convert 300 timeshare units into 500 hotel units within PD Parcel C only, and establish / depict alternative setback, buffer, and access standards. In order to achieve the alternative standards, the applicant has also requested five (5) waivers from Orange County Code. These waivers are listed as proposed Conditions of Approval.

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 Growth Center - Commercial (GC-C) which indicates the subject property is outside of the Urban Service Area (USA) but is provided urban services by an adjacent jurisdiction. In this case, the subject property is located within the U.S. 192 Growth Center, which provides for a mix of tourist commercial uses and is provided potable water and wastewater from the Toho Water Authority (TWA).

Consistent with the underlying GC-C FLUM designation, the proposed Cassis PD allows for a mix of hotel and tourist commercial retail uses; therefore, a CP amendment is not required.

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

Conservation Area Permits - Orange County Conservation Area Determination 93-042 and Impact Permits CAI 98-128 and CAI 07-044 have been approved. This plan shall comply with all environmental-related permit conditions of approval.

Wildlife - Development shall comply with all state and federal regulations regarding wildlife and plants listed as endangered, threatened, or species of special concern.

Transportation / Concurrency

The applicant provided a trip generation matrix based on the 9th Edition of the Trip Generation Manual to support the request to convert 300 timeshare units to 500 hotel rooms; however, based on the land use conversion rates, 300 time share units can be converted to 375 hotel rooms. The proposed change will result in the following pm peak hour trip generation: 300 timeshare units will generate 225 pm peak hour trips and the equivalent 375 hotels rooms will also generate 225 pm peak hour trips, resulting in a net change of zero trips.

Conversion to 500 hotels rooms as requested will however, result in a trip generation of 300 pm peak hour trips and in a net increase of 75 trips.

Based on the concurrency management system database dated 05-01-2017, there is one failing roadway within the project impact area; Avalon Road from US 192 to Seidel Road is operating at level of service F and there are no trips available to be encumbered. Final permitting of any development on this site will be subject to review and approval under the capacity constraints of the county's Transportation Concurrency Management System and a traffic study will be required. If significant and adverse impacts are identified, the applicant will be required to mitigate deficiencies and coordinate a proportionate share agreement with the County's Road Agreement Committee (RAC) 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 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.

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 this 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 – (May 10, 2017)

Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Cassis Planned Development / Land Use Plan (PD/LUP) dated "Received April 11, 2017", subject to the following conditions:

1. Development shall conform to the Cassis Development Planned Development / Land Use Plan (PD / LUP) dated "Received April 11, 2017," 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 11, 2017," 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 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.
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. Length of stay shall not exceed 179 days.
10. 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.
11. The following waivers are granted for PD Parcel C only:
 - a. A waiver from Section 38-1287(2) to allow a zero foot (0') minimum side setback (from interior property lines) for buildings and pavement, in lieu of a minimum side property line setback of 30 feet.
 - b. A waiver from Section 38-1287(3) to allow a zero foot (0') minimum rear setback (from interior property lines) for buildings and pavement, in lieu of a minimum rear property line setback of 20 feet.
 - c. A waiver from Section 38-1287(4) to reduce the paving setback intended to create a buffer between paved areas and property lines along the side lot lines (interior to the PD) to zero feet (0'), in lieu of a minimum 7.5-foot paving setback for side lot lines.
 - d. A waiver from Section 38-1287(4) to reduce the paving setback intended to create a buffer between paved areas and property lines along Bali Boulevard (an arterial roadway) to 10 feet, in lieu of the required 25-foot paving setback from arterial roadways.
 - e. A waiver from Section 34-152(c) to allow access to interior PD lots via an easement, in lieu of the requirement that interior lots have access to a dedicated public street.
12. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated January 15, 2008 shall apply:
 - a. In order to lessen wetland impacts, a waiver from Section 38-1287(4) is granted to reduce the required 25-foot pavement setback and allow a 10-foot pavement setback along U.S. 192.
 - b. Pole sign and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5.
13. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated November 28, 1995 shall apply:
 - a. Access locations along U.S. 192 and Bali Boulevard and possible intersection improvement requirements will be determined at development plan submittal and review.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION *(January 15, 2008)*

Upon a motion by Mayor Crotty, seconded by Commissioner Brummer, and carried by all members present voting AYE, Commissioner Jacobs was absent, the Board made a finding of consistency with the Comprehensive Plan; and further, approved the substantial change request by Kevin White, Hanson, Walter & Associates, Cassis Planned Development / Land Use Plan (PD/LUP), to grant a waiver from Section 38-1287(4) to reduce the required 25-foot pavement setback and allow a 10-foot pavement setback along US 192; which constitutes a substantial change to the development on the described property; subject to conditions.