

CASE # CDR-17-04-104

Commission District: # 4

GENERAL INFORMATION

APPLICANT	Christina Baxter, Poulos and Bennett, LLC
OWNER	Calatlantic Group, Inc.
PROJECT NAME	Yates Planned Development
PARCEL ID NUMBER	19-24-30-0000-00-011 (affected parcel only)
TRACT SIZE	746.75 gross acres (<i>overall PD</i>) 39.15 gross acres (<i>affected parcel only</i>)
LOCATION	Generally southeast of Sawgrass Plantation Boulevard, approximately 2,500 feet south of East Wetherbee Road.
REQUEST	<p>A PD substantial change to reduce the rear yard building setback for townhouse patio structures only from 20 feet to 10 and 12 feet, and to reduce the side-street building setback for such structures from 15 to 10 feet. The request also necessitates the following waivers from Orange County Code:</p> <ol style="list-style-type: none">1. <i>A waiver from Section 38-79(20)(p) for Phase 1D-3, Lots 1-10, 14-30 and 103-120 only of the associated Preliminary Subdivision Plan (CDR-17-04-106) to allow for a minimum rear yard building setback of 10 feet for townhouse patio structures, in lieu of a minimum rear yard building setback of 20 feet;</i>2. <i>A waiver from Section 38-79(20)(p) for Phase 1D-3, Lots 96 and 97 only of the associated Preliminary Subdivision Plan (CDR-17-04-106), to allow for a minimum rear yard building setback of 12 feet for townhouse patio structures, in lieu of a minimum rear yard building setback of 20 feet; and</i>3. <i>A waiver from Section 38-1405(g) for Phase 1D-3, Lots 31, 78, and 92 only of the associated Preliminary Subdivision Plan (CDR-17-04-106), to allow for a minimum side-street building setback of 10 feet for townhouse patio structures, in lieu of a minimum side-street building setback of 15 feet.</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>]. Three hundred seventy eight (378) notices were mailed to those property owners in the notification buffer area. A community meeting</p>

was not required for this application.

IMPACT ANALYSIS

Special Information

The Yates PD was originally approved March 2, 2004 and currently allows for the development of up to 1,625 single-family detached and 875 single-family attached residential units.

Through this PD substantial change, the applicant is seeking to reduce the rear yard building setback for townhouse patio structures from 20 to 10 feet for 45 designated single-family attached lots; from 20 to 12 feet for 2 other designated single-family attached lots; and reduce the side-street building setback from 15 to 10 feet for 3 designated single-family attached lots. Each of these proposed changes necessitate waivers from Orange County Code.

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 Low-Medium Density Residential (LMDR), which allows consideration of a residential density up to 10 dwelling units per developable acre. The Yates PD was approved in 2004 and includes single-family detached and attached uses. The proposed PD substantial change is consistent with the designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

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

Transportation Planning staff has reviewed the proposed request, but did not identify any issues or concerns. However, 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 the 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 – (April 26, 2017)

Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Yates Planned Development / Land Use Plan (PD/LUP) dated "Received April 27, 2017", subject to the following conditions:

1. Development shall conform to the Yates Planned Development / Land Use Plan (PD / LUP) dated "Received April 27, 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 27, 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. The Developer shall obtain reclaimed water and wastewater service from Orange County Utilities.
7. Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP). MUP updates shall be submitted to Orange County Utilities at least thirty (30) days prior to the corresponding construction plan submittal. The updated MUP must be approved prior to construction plan approval.

8. A waiver from Orange County Code Section 38-79(20)(p) is granted for Phase 1D-3, Lots 1-10, 14-30 and 103-120 only of the associated Preliminary Subdivision Plan to allow for a minimum rear yard building setback of ten feet (10') for townhouse patio structures, in lieu of a minimum rear yard building setback of 20 feet
9. A waiver from Orange County Code Section 38-79(20)(p) is granted for Phase 1D-3, Lots 96 and 97 only of the associated Preliminary Subdivision Plan to allow for a minimum rear yard building setback of twelve feet (12') for townhouse patio structures, in lieu of a minimum rear yard building setback of 20 feet.
10. A waiver from Orange County Code Section 38-1405(g) is granted for Phase 1D-3, Lots 31, 78, and 92 only of the associated Preliminary Subdivision Plan to allow for a minimum side-street building setback of 10 feet for townhouse patio structures, in lieu of a minimum side-street building setback of 15 feet.
11. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated March 2, 2004 shall apply:
 - a. Billboards and pole signs shall be prohibited.
 - b. Prior to construction plan approval, master stormwater management and utility plans for the PO shall be submitted to Orange County for review and approval.
 - c. Right-of-way shall be by the terms of the existing agreement OR 6810 PG 1610. The developer shall show he is in compliance with the conveyance terms prior to platting any subdivision.
 - d. The development shall comply with the Airport Noise Zoning Ordinance.
 - e. The following Education Condition of Approval shall apply:
 - 1) Developer shall comply with all provisions of the Public Education Agreement entered into with the Orange County School Board as of February 5, 2002.
 - 2) Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Public Education Agreement, the County shall immediately cease issuing building permits for any residential units in excess of 65 residential units allowed under the zoning existing prior to the approval of the Planned Development zoning. The County shall 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 Public Education Agreement. The developer and its successor or assign under the Public Education 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, or its successor or assign under the Public Education 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 property rights.

- 4) Orange County shall be held harmless by the developer and its assigns under the Public Education Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Public Education Agreement.
- f. There shall be no more than 500, 50-foot-wide lots and no more than 600, 55-footwide lots. The size of the remaining lots shall be per the Land use Plan.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (March 2, 2004)

Upon a motion by Commissioner Stewart, seconded by Commissioner Jacobs, and carried with all present members voting AYE by voice vote; Commissioner Hartage was absent; the Board made a finding of consistency with the Comprehensive Policy Plan; and further, approved the request by Titan Properties, Miller Sellen Conner & Walsh, Yates Planned Development (PD), to rezone from Agricultural (A-2) (1957) to Planned Development (PD), subject to conditions.