

**CASE # CDR-17-03-067**

Commission District: # 4

**GENERAL INFORMATION**

<b>APPLICANT</b>	Alexis Crespo, Waldrop Engineering
<b>OWNER</b>	Taylor Morrison of Florida, Inc.
<b>PROJECT NAME</b>	AIPO / South Orange Properties Planned Development
<b>PARCEL ID NUMBER</b>	18-24-30-7268-00-490; 17-24-30-0000-00-015; and 18-24-30-7268-00-541 ( <i>affected parcels only</i> )
<b>TRACT SIZE</b>	339.11 gross acres ( <i>overall PD</i> ) 247.89 gross acres ( <i>affected parcels only</i> )
<b>LOCATION</b>	3001 & 4055 East Wetherbee Road; or generally north of East Wetherbee Road, approximately one mile west of Boggy Creek Road.
<b>REQUEST</b>	<p>A PD substantial change to:</p> <ol style="list-style-type: none"><li>1. Convert 115 single-family attached residential dwelling units (townhomes) into 115 conventional single-family detached residential dwelling units;</li><li>2. Eliminate the maximum number of permitted 50-foot wide detached single-family residential lots;</li><li>3. Eliminate the minimum number of required 60 and 70-foot wide detached single-family residential lots; and</li><li>4. Reduce the minimum lot widths for single-family detached residential lots from 50 feet to 40 feet, necessitating the following waiver from Orange County Code:<ol style="list-style-type: none"><li>a. A waiver from Section 38-1501 to allow 40-foot minimum lot widths for single-family detached residential lots within the designated single-family detached residential portions of the PD only; in lieu of minimum 50-foot lot widths.</li></ol></li></ol>
<b>PUBLIC NOTIFICATION</b>	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> ]. Two-hundred five (205) 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 AIPO / South Orange Properties PD was originally approved December 3, 2013, and currently allows for up to 585 single-family detached residential units, 315 single-family attached residential units (townhomes), and 300 multi-family residential units (apartments). The PD also recognizes a maximum of 450 fifty-foot (50') wide lots; a minimum of 70 sixty-foot (60') wide lots, and a minimum of 65 seventy-foot (70') wide lots.

Through this PD substantial change, the applicant is seeking to convert 115 single-family attached dwelling units (townhomes) into 115 single-family detached (conventional) dwelling units, while eliminating a prescribed minimum / maximum amount of lots per lot width; and reducing the minimum lot widths for single-family detached residential lots from 50 feet to 40 feet. The proposed reduction in minimum lot width also necessitates a waiver from Orange County Code Section 38-1501 for designated single-family detached residential areas of the PD only.

### **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 maximum density of ten (10) dwelling units per developable acre. The AIPO / South Orange Properties PD was approved in 2013 and includes single-family (attached and detached) and multi-family uses. The proposed PD substantial change to convert single-family attached units (townhomes) into conventional single-family detached units is consistent with the LMDR FLUM designation and all applicable CP provisions; therefore, 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**

The applicant provided a traffic analysis to support the request to convert 115 townhouse units into 115 detached residential units. The PD is currently approved for 585 single family detached units, 315 townhouses, and 300 apartments. Altogether, the 1,200 dwelling units will generate 9,433 Average Daily Trips (ADTs). Based on trip generation data from the

9<sup>th</sup> Edition of the Trip Generation Manual, the requested change to reduce the existing number of townhomes by 115 units and increase the number of conventional single family residences from 550 to 700 units will generate 9,410 ADTs which is less than the total trips currently approved for this PD.

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 AIPO / South Orange Properties Planned Development / Land Use Plan (PD/LUP) dated "Received May 2, 2017", subject to the following conditions:**

1. Development shall conform to the AIPO (aka South Orange Properties) Planned Development / Land Use Plan (PD / LUP) dated "Received May 2, 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 May 2, 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. 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.
7. 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.
8. Short term / transient rental shall be prohibited. Length of stay shall be for 180 days or greater.
9. The Developer shall obtain reclaimed water, and wastewater service from Orange County Utilities.
10. 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.
11. A waiver from Orange County Code Section 38-1501 is granted to allow 40-foot minimum lot widths for single-family detached residential lots within the designated single-family detached residential portions of the PD only; in lieu of minimum 50-foot lot widths.
12. All previous applicable Conditions of Approval dated March 6, 2007 shall apply:
  - a. In order to provide for rear-loaded parking, a waiver from Section 38-79(20) is granted to allow a rear-to-rear building separation of 58 feet in lieu of 60 feet in order to achieve a neo-traditional design.
  - b. Due to the fact that cars will no longer be parked in front of buildings for those units with rear-loaded parking, a waiver from Section 38-79(20) is granted to allow a front setback of 17 feet for front of building and 10 feet for front porch in lieu of 20 feet for rear-loaded units only in order to achieve a neo-traditional design.
13. All previous applicable Conditions of Approval dated July 19, 2005 shall apply:
  - a. Prior to construction plan approval, a master stormwater management plan including a drainage study to establish the 100-year flood elevations shall be submitted to the Development Engineering Division for review and approval. Prior to construction plan approval, master wastewater and reclaimed water plans including preliminary calculations shall be submitted to the County for review and approval.

- b. The property lies within Airport Noise Zones "D and E." An executed Waiver of Claims between the developer and Greater Orlando Airport Authority shall be required prior to issuance of any building permits.
- c. Developer shall comply with all provisions of the Public Education Agreement entered into with the Orange County School Board as of May 25, 2004 (executed on December 14, 2004).
  - 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 not issue any building permits for any residential units as no residential units were allowed under the zoning existing prior to the approval of the PD 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.
  - 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.
  - The 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.

**PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (December 3, 2013)**

Upon a motion by Commissioner Thompson, seconded by Commissioner Edwards, and carried by all members voting AYE by voice vote, the Board made a finding of consistency with the Comprehensive Plan; further, approved the substantial change request by Mark Jacobson, Bowyer-Singleton, AIPO / South Orange Properties PD/LUP, (Case #CDR-13-05-135), to the previously approved AIPO-South Orange Properties PD/LUP to convert 35 of the previously approved 350 single-family attached (townhouse) units into 35 single-family detached units; further, eliminated a previous condition limiting the maximum number of 50-foot and 55-foot wide single-family detached lots; and further, approved the resulting overall development program consisting of 585 single-family detached units; 315 single-family attached units (townhouses) and 300 multi-family units (apartments and condominiums); which constitutes a substantial change to the development on the described property; subject to conditions.