

**CASE # CDR-17-05-162**

Commission District: # 6

**GENERAL INFORMATION**

<b>APPLICANT</b>	Tara Tedrow, Lowndes, Drosdick, Doster, Kantor & Reed, P.A.
<b>OWNER</b>	2013 West Colonial LLLP
<b>PROJECT NAME</b>	Centennial American Properties Planned Development
<b>PARCEL ID NUMBER</b>	22-22-28-8932-02-010
<b>TRACT SIZE</b>	8.99 gross acres ( <i>overall PD</i> )
<b>LOCATION</b>	751 Good Homes Road; generally located north of State Road 50 and east of Good Homes Road.
<b>REQUEST</b>	A PD substantial change to modify BCC condition of approval #7 from August 4, 1998 to modify the prohibition on 24-hour facilities within the PD. The applicant has indicated that they are seeking this change to construct a freestanding automatic teller machine (ATM) near the southwest corner of the property.
<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> ]. Five hundred forty (540) 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 Centennial American Properties PD, which was processed as an amendment to the Good Homes Road PD, was approved by the Board of County Commissioners on August 4, 1998 and allows for 85,000 square feet of C-1 (Retail Commercial District) uses. At that hearing, the BCC added conditions of approval regulating the use and appearance of the site, including the following:

*“7. No 24-hour facilities shall be allowed.”*

Through this PD substantial change, the applicant is seeking to add a 24-hour, freestanding ATM near the southwest corner of the property, which is in conflict with the above-referenced condition of approval from 1998. As such, the applicant has requested to modify condition #7 from the existing approval to permit the 24-hour, freestanding ATM 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 Commercial (C). The proposed PD substantial change is consistent with this designation and all applicable CP provisions; therefore, the request is consistent with the Comprehensive Plan.

**Overlay District Ordinance**

The subject property is located within the West State Road 50 Corridor 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**

Orange County EPD reviewed the plan, but did not identify any issues or concerns.

**Transportation / Concurrency**

Based on the concurrency management system database dated 06-08-17, capacity is available to be encumbered for this project within a one mile radius. This information is dated and subject to change. An approved capacity encumbrance letter is required prior to obtaining a building permit.

**Community Meeting Summary**

A community meeting was not required for this request.

**Schools**

Orange County Public Schools reviewed the plan, but did not identify any issues or concerns.

**Parks and Recreation**

Orange County Parks and Recreation reviewed the plan, 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 – (June 28, 2017)**

**Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Centennial American Properties Planned Development / Land Use Plan (PD/LUP) dated "Received July 3, 2017", subject to the following conditions:**

1. Development shall conform to the Centennial American Properties PD Land Use Plan (LUP) dated "Received July 3, 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 July 3, 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. Outside sales, storage, and display shall be prohibited.
7. New pole signs and billboards shall be prohibited. Ground signs shall comply with the Master Sign Plan and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
8. The developer shall obtain water and wastewater service from Orange County Utilities subject to County rate resolutions and ordinances.
9. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water and wastewater systems have been designed to support all development within the PD.
10. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated August 4, 1998, shall apply.
  - a. A 7.5-foot sidewalk easement in lieu of a 5-foot right-of-way is acceptable and a waiver from Chapter 34-180 of the Orange County Code is approved.

- b. Waiver of Section 38-1476 to provide 4.5 parking spaces per 1,000 square feet in lieu of five parking spaces per 1,000 square feet is approved.
- c. A detailed lighting plan shall be submitted with the Development Plan.
- d. Additional C-1 uses not permitted are:
  - 1) Drive-through restaurants;
  - 2) Convenience stores.
- e. No 24-hour facilities shall be allowed, except for a freestanding drive-thru ATM.
- f. All buildings within the Planned Development shall have a unified architectural theme.

**PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (August 4, 1998)**

Upon a motion by Commissioner Butler, seconded by Commissioner Johnson, and carried with all members present and voting AYE by voice vote, the Board approved the request by Dick Davis, Centennial American Properties (fka Good Homes Road) Planned Development / Land Use Plan (PD/LUP), to amend the LUP to change the land use from new and used automobile dealership to 85,000 square feet of retail commercial; which constitutes a substantial change to the development; subject to conditions.