

CASE # CDR-19-01-003

Commission District: # 1

GENERAL INFORMATION

APPLICANT	Kathy Hattaway, Poulos and Bennett, LLC
OWNER	Flamingo Crossings, LLC
PROJECT NAME	Flamingo Crossings Planned Development
PARCEL ID NUMBER(S)	21-24-27-0000-00-003 (portion of); 21-24-27-0000-00-005 (portion of); 21-24-27-0000-00-061; 21-24-27-0000-00-063; 21-24-27-0000-00-064; 28-24-27-2500-01-000; 28-24-27-2500-01-001; 28-24-27-0000-00-022
TRACT SIZE	154.02 gross acres (overall PD)
LOCATION	Generally located east and west of Flamingo Crossings Boulevard and south of Western Way.
REQUEST	A PD substantial change to amend Board Condition of Approval #10(h) to address timing of a traffic signal installation.
PUBLIC NOTIFICATION	A notification area extending beyond fifteen hundred (1,500) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Fifteen (15) 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 Flamingo Crossings PD was originally approved February 6, 2018 and currently allows for a development program consisting of 150,000 square feet of commercial uses and 2,614 multi-family residential units.

The original Board approval included a condition that requires the applicant, at their expense, to install a traffic signal at the intersection of C.R. 535 and Western Way at the time Western Way is open to traffic between C.R. 545 and S.R. 429. The condition also requires the applicant to submit a traffic impact analysis study with the first Development Plan for the project.

Through this PD substantial change, the applicant is seeking to amend the signal condition, which is referenced as condition of approval # 10(h), as follows:

The Applicant(s) shall be required, at their expense, to install a temporary traffic signal, no later than issuance of the first Certificate of Occupancy for a multi-family building in the development, that will operate on flash mode until warranted at the intersection of C.R. 545 and Western Way at the time Western Way is open to traffic between C.R. 545 and S.R. 429. A traffic impact analysis warrant study shall be submitted with the first development plan submittal to Orange County for review and approval prior to the issuance of the last Certificate of Occupancy for the multi-family development or as directed by the County Engineer.

The proposed amendment would allow for the applicant to install a temporary traffic signal to operate in flash mode until warranted. The proposed language also establishes a timeline for the signal, which includes installation prior to the first multi-family Certificate of Occupancy and a warrant study prior to issuance of the last multi-family Certificate of Occupancy, or at the discretion of the County Engineer.

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 / High Density Residential (GC-C/HDR). The Flamingo Crossings PD was approved in 2018 and includes uses such as commercial and multi-family residential. 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 Ordinance

The subject property is not located in an Overlay District.

Rural Settlement

The subject property is not located in a Rural Settlement.

Joint Planning Area (JPA)

The subject property is not located in a Joint Planning Area (JPA).

Environmental

Environmental Protection Division staff have reviewed the proposed request but have not identified any issues or concerns.

Transportation Concurrency

Transportation staff have reviewed the proposed request and have not identified any issues of concerns.

Community Meeting Summary

A community meeting was not required for this request.

Schools

Orange County Public Schools (OCPS) did not comment on the proposed request as it does not involve an increase in residential units.

Parks and Recreation

Parks and Recreation staff have reviewed the proposed request and have not identified 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 23, 2019)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Flamingo Crossings Planned Development / Land Use Plan (PD/LUP), dated “January 29, 2019”, subject to the following conditions:

1. Development shall conform to the Flamingo Crossings PD dated "Received January 29, 2019," 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 January 29, 2019," 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 following Education Condition of Approval shall apply:
 - a) Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of January 9, 2018, and as amended on June 26, 2018.
 - b) Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Capacity Enhancement Agreement, the County shall immediately cease issuing building permits for any residential units in excess of the zero (0) residential units allowed under the zoning existing prior to the approval of the PD

zoning. The County may 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 Capacity Enhancement Agreement. The developer and its successor(s) and/or assign(s) under the Capacity Enhancement 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.

- c) Developer, and its successor(s) and/or assign(s) under the Capacity Enhancement 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 rights.
 - d) Orange County shall be held harmless by the developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Capacity Enhancement Agreement.
 - e) Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement. Orange County Public Schools review shall be required if this project converts from intern program housing to market rate housing; such school review will determine the need for the Developer to enter into an additional Capacity Enhancement Agreement with the Orange County School Board for the market rate housing.
- 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. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a Capacity Encumbrance Letter (CEL) prior to building permit 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.
 - 10. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated February 6, 2018 shall apply:
 - a) 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.

- b) The Developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
- c) A Master Utility Plan (MUP) for the PD shall be submitted to Orange County Utilities at least thirty (30) days prior to submittal of the first set of construction plans. The MUP must be approved prior to Construction Plan approval.
- d) Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP). The updated MUP shall be submitted to Orange County Utilities as least thirty (30) days prior to the corresponding construction plan submittal. The updated MUP must be approved prior to construction plan approval.
- e) The territorial and wholesale service agreements between Orange County and Reedy Creek Improvement District must be approved by the BCC prior to construction plan approval.
- f) Outside sales, storage, and display shall be prohibited.
- g) Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
- h) The Applicant(s) shall be required, at their expense, to install a temporary traffic signal, no later than issuance of the first Certificate of Occupancy for a multi-family building in the development, that will operate on flash mode until warranted at the intersection of C.R. 545 and Western Way at the time Western Way is open to traffic between C.R. 545 and S.R. 429. A traffic impact analysis warrant study shall be submitted with the first development plan submittal to Orange County for review and approval prior to the issuance of the last Certificate of Occupancy for the multi-family development or as directed by the County Engineer.
- i) This project shall not commingle internship participants and employees within the same multi-family building. Short-term rental other than internship participants and employees is prohibited.
- j) A waiver from Orange County Code Section 38-1230(a) is granted to allow vehicle parking areas to be located within seven hundred fifty (750) feet of the uses they serve, in lieu of one hundred fifty (150) feet.
- k) A waiver from Orange County Code Section 38-1254(1) is granted to maintain a minimum PD perimeter building setback of twenty-five (25) feet

for all structures, in lieu of an increased setback for structures in excess of two (2) stories.

- l) A waiver from Orange County Code Section 38-1254(2)(d) is granted to allow a minimum expressway setback of thirty (30) feet, in lieu of seventy-five (75) feet.
- m) A waiver from Orange County Code Section 38-1258(d) is granted to allow a maximum building height for multi-family residential structures of five (5) stories/sixty (60) feet, in lieu of three (3) stories/forty (40) feet.
- n) A waiver from Orange County Code Section 38-1258(j) is granted to allow for a minimum building separation of twenty (20) feet, in lieu of the required increased separation based on building stories.
- o) A waiver from Orange County Code Section 24-4(a)(2)a-b is granted to allow a 0-foot paving setback between internal lot lines within the development, in lieu of providing a landscape buffer a minimum of seven (7) feet in width.
- p) A waiver from Orange County Code Section 24-5(a)(3) is granted to allow a Type C, opaque buffer to be a minimum of three (3) feet in height and a minimum of five (5) feet wide, in lieu of a height of at least six (6) feet and a minimum of fifteen (15) feet wide.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (October 30, 2018)

Upon a motion by Commissioner VanderLey, seconded by Commissioner Love, and carried by all present voting members, the Board made a finding of consistency with the Comprehensive Plan, and further, approved the substantial change request to increase the multi-family development program from 2,600 dwelling units to 2,614 dwelling units, update wetland delineations, and revise existing Condition of Approval #8 to apply for an obtain a Capacity Encumbrance Letter (CEL) prior to building permit submittal, instead of applying prior to construction plan submittal.