

CASE # CDR-18-09-307

Commission District: # 1

GENERAL INFORMATION

APPLICANT	Robert B. Paymayesh, PE Group LLC
OWNER(S)	Sierra Orlando Inc., Sierra Orlando Properties LTD, Sierra Florida Properties LP, Sierra International Drive LLC
PROJECT NAME	Nadeen Tanmore II Planned Development (PD)
PARCEL ID NUMBER(S)	35-24-28-0000-00-001 / 056 / 068; 35-24-28-5844-00-090; 34-24-28-4337-00-010; 34-24-28-0000-00-052
TRACT SIZE	130.32 gross acres
LOCATION	Generally located north of World Center Drive, east of State Road 535 and, east and west of International Drive.
REQUEST	A PD substantial change to assign the existing PD entitlements to Parcels 1, 2, and 3, and to increase the overall PD entitlements by adding 100,000 square feet of commercial uses, 341 multi-family residential units, and 300 hotel rooms on Parcel 4. The request is also to remove BCC Condition of Approval #13C from April 5, 2011, which prohibits residential uses on the PD; to amend BCC Condition of Approval #7 from July 10, 2018 to increase the overall PD entitlements; to add two new access points to Parcel 3; to add an access point (right-in/right-out) to Parcel 4; to show two previously approved access points that were omitted on the latest PD amendment; to revise the Parcel 4 area from 36.26 acres to 37 acres per an updated survey; and to delete the 50' building setback from existing onsite drainage ponds
PUBLIC NOTIFICATION	A notification area extending beyond one-thousand five-hundred hundred (1,500) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Sixty three (63) 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 Nadeen Tanmore II PD was originally approved on September 19, 1991, along with an associated Development of Regional Impact (DRI), and was comprised of 960 hotel rooms, 64,390 square feet of associated hotel retail, 480 restaurant seats, and 15,760

square feet of tourist commercial uses. Today, through various amendments and DRI rescissions, the PD includes development entitlements for 100,000 square feet of commercial uses, 481 hotel rooms, 897 timeshares, and a convention center hotel consisting of 1,618 hotel rooms and 200,000 square feet of convention meeting space.

Through this PD substantial change, the applicant is seeking to assign the existing PD entitlements to Parcels 1, 2, and 3, and to increase the PD entitlements by adding 100,000 square feet of commercial uses, 341 multi-family residential units, and 300 hotel rooms on Parcel 4. The request is also to remove BCC Condition of Approval #13C from April 5, 2011, which prohibits residential uses on the PD; to amend BCC Condition of Approval #7 from July 10, 2018 to increase the overall PD entitlements; to add two new access points to Parcel 3; to add an access point (right-in/right-out) to Parcel 4; to show two previously approved access points that were omitted on the latest PD amendment; to revise the Parcel 4 area from 36.26 acres to 37 acres per an updated survey; and to delete the 50' building setback from existing onsite drainage ponds.

Land Use Compatibility

The proposed PD Change Determination Request (CDR) 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 Activity Center Mixed Use (ACMU) and Institutional (INST). The proposed Change Determination Request (CDR) is consistent with the designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

Overlay Ordinance

The subject property is located within the Tourist Commercial Signage 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 Conservation Area Determinations CAD 94-110 and CAD 98-060, and Impact Permits CAI 95-117 and CAI 99-058 were completed for the former Sierra Land PD (area west of International Dr.), which was merged into the Nadeen Tanmore II PD. This plan shall comply with all related permit conditions of approval.

Conservation Area Determination application CAD-18-10-153 was submitted for parcel 4 and is currently under review. The new CAD must be completed with a certified wetland boundary survey approved by the Environmental Protection Division (EPD) prior to approval of any Preliminary Subdivision Plan (PSP) or Development Plan (DP).

Transportation Concurrency

Lake Bryan Beach Boulevard - Sierra (formerly known as Lake Avenue Extension): A Right-of-Way Agreement was approved the Board of County Commissioners on April 22, 2008 and was recorded at OR Book/Page 9667/3737. The agreement is based on

a Memorandum of Agreement between Sierra Florida Properties, L.P. and Orange County for the dedication of Right-of-Way through a Pre-Development Agreement. The agreement provides that Orange County would exchange 1.187 acres of property along World Center Drive and 0.205 acres known as the Garduno Sliver along with the 3.215 acre retention pond located in the center of the subject property to the Developer, who, in turn, would provide Orange County with 0.492 acres of Right-of-Way (65 feet along the northern boundary of the property) along Lake Bryan Beach Boulevard (formerly known as Lake Avenue Extension) to complete the 120-foot corridor necessary to complete a four-lane roadway. In addition, the Developer would provide Orange County with 1.546 acre easement over a Box Culvert located on the property and a 3.244 acre Drainage and Access Easement over the relocated retention pond which the Developer wishes to relocate within the property and a 0.845 acre Drainage and Access Easement for a Storm Sewer and Waste Water Force Main. A Special Warranty Deed conveying the Sierra right-of-way to Orange County was approved by Board of County Commissioners on August 25, 2009. All obligations under this agreement have been met through this property exchange.

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 issuance of the initial certificate of occupancy. Nothing in this condition and nothing in the decision to approve this development plan shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a CEL or a CRC.

The proposed trip generation at build-out exceeds the total vested average daily trips of 32,628 as approved by the BCC on July 10, 2018 (condition #24). Any development beyond this threshold will be subject to review and approval under capacity constraints of the County's Transportation Concurrency Management System. Such approval will not exclude the possibility of a proportionate share payment in order to mitigate any transportation deficiencies.

Community Meeting Summary

A community meeting was not required for this request.

Schools

A Capacity Enhancement Agreement (CEA) application, #OC-19-010, was approved by the Orange County School Board on April 9, 2019.

Parks and Recreation

Orange County Parks and Recreation staff reviewed the Change Determination 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 – (January 9, 2019)

Make a finding of consistency with the Comprehensive Plan and APPROVE the Nadeen Tanmore II Planned Development / Land Use Plan (PD/LUP), dated “Received December 18, 2018”, subject to the following conditions:

1. Development shall conform to the Nadeen Tanmore II Planned Development (PD) dated "Received December 18, 2018," 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 December 18, 2018," 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 issuance of the initial certificate of occupancy. Nothing in this condition and nothing in the decision to approve this development 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. 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 April 9, 2019.
 - 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.

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.

- 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. 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).
- 10. Residential uses are prohibited on Parcels 1, 2, and 3. Multi-family uses shall be permitted within PD Parcel 4 only, not to exceed 30% of the total PD area.
- 11. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code (Tourist Commercial Standards).
- 12. Outside sales, storage, and display shall be prohibited.
- 13. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated July 10, 2018 shall apply:
 - a. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water, wastewater, and reclaimed water systems have been designed to support all development within the PD.
 - b. Tree removal/earthwork shall not occur unless and until construction, plans for the first Preliminary Subdivision Plan and/or Development Plan with a tree removal and mitigation plan have been approved by Orange County.
 - c. This project shall comply with the County's International Drive Activity Center Comprehensive Plan requirement for a 15-foot transit easement and a separate 20-foot landscape, pedestrian and utility easement needed for future roadway

improvements. The easement areas required shall be shown on all plans and shall be conveyed concurrently at time of platting or dedicated to the County via separate instrument prior to Development Plan Approval.

14. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated April 5, 2011 shall apply:

- a. The Developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities
- b. A waiver from Section 38-1300 of the Orange County Code is granted to allow an increase in height for hotel and timeshare uses from 200 feet to 250 feet for Parcel 4, to be consistent with the previously approved 250-foot height on the balance of the PD.
- c. The following conditions were previously included in the Sierra Land DRI and Nadeen Tanmore II DRI Development Orders which are being rescinded concurrently with this change. These former ongoing conditions are now incorporated into the Nadeen Tanmore II PD and are listed as follows:
 1. Tourist Commercial uses shall be those consistent with Policies 1.1.3 and 1.1.6 of the International Drive Activity Center Element of the Orange County Comprehensive Plan.
 2. The Developer shall comply with the Orange County Concurrency Management System, as amended, for any non-vested trips. The Developer shall comply with the Orange County Transportation Impact Fee Ordinance, as amended.
 3. In the interest of safety, and to promote alternative forms of transportation, the Developer will provide a safe and convenient system for cyclist and pedestrian circulation on-site. On-site bicycle and pedestrian systems shall be connected at Project entrances with the ten (10) foot wide bicycle/pedestrian facility along World Center Drive. The provision of showers and lockers for employees is strongly encouraged at places of employment.
 4. Transit passenger shelters and transit parking bays shall be constructed where necessary to augment and facilitate the operation and comfortable use of off-site public transit. The Developer shall provide for bus shuttle systems which service hotel patrons and shall operate between the Project and Orlando International Airport and between the Project and major area tourist attractions. The Developer shall make known to employees that the Nadeen Tanmore II area is served by an existing transit and ridesharing program operated by LYNX. Current transit and ridesharing information shall be prominently displayed in all public gathering areas, in employment centers and in commercial center areas.
 5. The following provisions will be required of the Developer:

- a. Appropriate signage and sufficient area lighting at all bus stops and shelter locations.
 - b. Transit schedule and information displays will be provided, at a minimum, at each on-site bus stop.
 - c. Maintenance of transit amenities shall be the responsibility of the property owner or the property owner's association.
 - d. Details, standards, and phasing of all transit amenity provisions must be approved by LYNX.
 - e. Pedestrian movement between bus stops shall not exceed 1,300 feet.
6. In order to minimize the impacts to the roadway network, parcels within the Project shall, subject to environmental constraints, be interconnected to adjacent developments to the maximum extent feasible as determined by the County. This access is for ease of movement and maintenance of International Drive traffic capacity and specifically is not intended to provide a primary means of ingress and egress to any other property. Any adjacent development must have separate means of ingress/egress to Orange County standards. The Developer shall cooperate with any County supported efforts to continue roadways from or through the site with other roadway facilities that are hereafter endorsed by Orange County.
7. To minimize dependence on ground irrigation and to promote retention of wildlife habitat, xeriscape principles of landscaping using native vegetation (see xeriscape plant guide published by the South Florida Water Management District) shall be utilized in areas not subject to reclaimed water irrigation. Ecologically viable portions of natural upland plant communities shall be preserved and maintained in their original state to the greatest practicable extent.
8. Access rights along International Drive shall be dedicated to Orange County, except at approved locations.
9. Left turn lanes shall be provided along International Drive at the median openings.
10. The stormwater management system shall be designed to comply with the Orange County Code and the requirements of the South Florida Water Management District.
11. The Developer shall establish and implement an inspection and maintenance program for all components of the surface water management system for the project site, to include schedules for the performance of: (a) Stormwater facility operating inspection on a regular basis (e.g., quarterly) and following major rainfall event (e.g. ½ inch of rainfall) for the removal of excessive sediment, debris, or other flow obstructions; (b) routine maintenance activities (e.g., mowing, trash removal, etc.); (c) ongoing education programs for maintenance staff personnel regarding the correct usage of application

rates for fertilizers and chemicals (e.g., herbicides near the stormwater management facilities), the removal of noxious weeds and retention of desirable aquatic vegetation, and correct procedures for other maintenance/landscaping related activities which have the potential for adversely affecting surface or groundwater quality conditions on the project site.

12. The Developer will incorporate additional water quality treatment and/or water management methods into the project's surface water management system to correct or mitigate any degradation if the measures implemented by the Developer are found to be ineffective or adversely impacting water quality/quantity conditions on or downstream of the project site.
13. The Developer shall ensure that if a property owners' association is proposed to assume operation and maintenance responsibilities for the surface water management system, then the proposed property owners' association shall be created with defined duties and responsibilities regarding the operation and maintenance of the surface water management system. The property owners' association shall have sufficient legal authority and power to establish the mandatory collection of fees and/or assessments from all property owners for use in financing the operation and replacement and maintenance of property's surface water management system.
14. The Development Guidelines of the International Drive Activity Center shall apply to the subject property for future development. Existing development on Parcels 1 and 2 shall not be required to meet the current International Drive standards for paving setback and parking orientation.
15. To ensure consistency with the International Drive Activity Center Plan and the Comprehensive Plan, if the housing linkage program is in place prior to development plan approval, development shall be conditioned upon the development of residential units within the area designated as Activity Center Residential on the Future Land Use Map unless a developer's agreement addressing housing linkage is executed.
16. Parcel owners shall be required to participate in a property owners' association upon its creation.
17. The property is located within the International Drive Activity Center as adopted in the Orange County Comprehensive Plan and, as such, development on the property shall be subject to:
18. A funding mechanism, such as but not limited to an MSTU(s) and/or MSBU(s), for financing underground utilities and lighting along major roads, including International Drive;
19. A funding mechanism, such as but not limited to an MSTU(s) and/or MSBU(s), for financing maintenance of landscaping on public right-of-way, including International Drive.

20. Sidewalks shall be a minimum of ten (10) feet wide along all major roads.
21. Electrical distribution lines shall be underground.
22. Fire flow shall meet Orange County standards.
23. The following Trip Equivalency Matrix, included on the PD Land Use Plan, may be utilized for the exchange of commercial square footage, hotel/motel units, or timeshare units from one approved land use to another in accordance with the formulas or exchange rates contained in the Equivalency Matrix. The exchange rates and formulas contained in the Equivalency Matrix ensure that the total traffic impacts of the PD will remain unchanged or below the maximum impacts approved.

	Hotel (1 Room)	Timeshare (1 Unit)	Tourist Commercial (KSF)	Multi- Family	ADT Rate
Hotel (1 Room)	N/A	1.417	0.324	1.671	12.23
Multi- Family	0.599	0.848	0.194	N/A	7.32
Timeshare (1 Unit)	0.706	N/A	0.229	1.179	8.63
Tourist Commercial (KSF)	3.087	4.374	N/A	5.157	37.75

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (July 10, 2018)

Upon a motion by Commissioner VanderLey, seconded by Commissioner Love, and carried by all present members voting Aye by voice vote, to approve the request to transfer 7.63 acres from PD Parcel 3 to PD Parcel 2 and amend April 5, 2011 BCC Condition of Approval #12a to increase the amount of convention center space from 180,000 square feet to 200,000 square feet in order to permit an approximately 85,408 square feet expansion of the existing convention center.