



Interoffice Memorandum

DATE: October 14, 2021

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

FROM: Jon V. Weiss, P.E., Director
Planning, Environmental and Development
Services Department

CONTACT PERSON: Eric Raasch, DRC Chairman
Development Review Committee
Planning Division
(407) 836-5523

SUBJECT: October 26, 2021 – Public Hearing
Applicant: Brian Potts, Tannath Design, Inc.
Waterleigh Planned Development / Phase 3 Preliminary Subdivision
Plan / Waterleigh Kiddie Academy Development Plan
Case # DP-21-04-126 / District 1

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of September 22, 2021, to approve the Waterleigh Planned Development (PD) / Phase 3 Preliminary Subdivision Plan (PSP) / Waterleigh Kiddie Academy Development Plan (DP) to construct a 12,500 square foot building on 1.49 acres.

In addition, a waiver from Orange County Code is being requested:

A waiver from Orange County Code Section 38-1388(a) to allow a maximum building size of 12,500 square feet in lieu of a maximum building size of 10,000 square feet.

The required Specific Project Expenditure Report and Relationship Disclosure Forms have been completed in accordance with the requirements of Article X, Chapter 2, Orange County Code, as may be amended from time to time, and copies of these and the PSP may be found in the Planning Division for further reference.

ACTION REQUESTED: Make a finding of consistency with the Comprehensive Plan and approve the Waterleigh PD / Phase 3 PSP / Waterleigh Kiddie Academy DP dated "Received August 23, 2021", subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1

JVW/EPR/lme
Attachments

CASE # DP-21-04-126

Commission District # 1

1. REQUEST

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of September 22, 2021, to approve the Waterleigh Planned Development (PD) / Phase 3 Preliminary Subdivision Plan (PSP) / Waterleigh Kiddie Academy Development Plan (DP) to construct a 12,500 square foot building on 1.49 acres.

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2. PROJECT ANALYSIS

- A. Location: North of Atwater Bay Drive / East of Lost Creek Drive
- B. Parcel ID: 07-24-27-7506-06-001
- C. Total Acres: 1.49 (Kiddie Academy Site)
2.44 (Overall DP)
- D. Water Supply: Orange County Utilities
- E. Sewer System: Orange County Utilities
- F. Schools: N/A
- G. School Population: N/A
- H. Parks: Deputy Scott Pine Community Park – 6 Miles
- I. Proposed Use: 12,500 Square Foot Daycare
- J. Site Data: Maximum Building Height: 45' (3-stories)
Building Setbacks:
10' Front
10' Side
10' Rear
6' Side Street
50' NHWE
- K. Fire Station: 44 – 16990 Porter Road

L. Transportation: Village H Horizon West Road Network Agreement for C.R. 545 among Orange County and D.R. Horton, Inc. ("DRHI"); Avalon Properties, Ltd. ("Avalon"); Horizon West Properties ("HWP"); HAP, Inc. ("HAP"); Titan Western Beltway, LLC ("Titan"); Hanover Hickory Nut, LLC, ("Hanover"); Zanzibar Properties, LLC ("Zanzibar"); and Seidel West I, LLC ("Seidel"). DRHI, Avalon, HWP, HAP, Titan, Hanover, Zanzibar, and Seidel are collectively referred to herein as "Signatory Owners" was approved by the Board of County Commissioners on 2/12/2013 and recorded at OR Book/Page 10525/6172. The Village H Horizon West Road Network Agreement provides for the dedication of right-of-way, design, engineering, permitting, mitigation and construction of C.R. 545 to four lanes in four phases according to specific trip allocations and performance thresholds. Concurrency Vesting shall be provided pursuant to Table 1 based on achieved thresholds of the road improvements. Conveyance shall be by general warranty deed at no cost to the County prior to each phase of roadway construction. The Signatory Owners will receive Road Impact Fee Credits in Road Impact Fee Zone 4 for the lesser of (a) 95% of the actual, reasonable unreimbursed sums incurred by Signatory Owners for permitting, design, mitigation, inspection and construction expense exclusive of enhanced landscaping and street lighting or (b) 60% of the countywide average total cost of road construction per lane mile. This agreement was negotiated based on the approved Horizon West Global Road Term Sheet.

A Fifth Amendment was approved by the Board of County Commissioners on January 26, 2021 and recorded at Document # 20210063422. Under the terms of the Fifth Amendment Table 1 was updated to allow the release of a portion of the Road Segment 1 trip allocation before acquisition of right-of-way and Section 5.4 was updated to clarify that a change order for Road Segments 2, 3, and 4 shall be considered for the entirety of the applicable design or construction contract, rather than for individual Road Segments, as the segments were managed as one project/contact by the Owners. Avalon Road (C.R. 545): (Village H Road Network First Amendment) A First Amendment was approved by the Board of County Commissioners on December 16, 2014 and recorded at OR Book/Page 10851/0626. Under the terms of the First Amendment, a portion of the Zanzibar property is removed from the area covered under the Village H Road Network Agreement. This portion lies within the Town Center rather

than within Village H and was included in the original Agreement in error.

Assignment of Vested Trips will be required from the Village Escrow Agent. Applicant to submit a Horizon West Building Permit Form or Plat Verification Form to the Concurrency Management Office in order to verify Transportation Entitlements under the Village H Road Network Agreement and a copy of the assignment of vested trips.

3. COMPREHENSIVE PLAN

The property's Future Land Use Map (FLUM) designation is Village, indicating that it is within the Horizon West Special Planning Area. Per the Village H SPA map, this site is designated as a Neighborhood Center District. This request is consistent with the Comprehensive Plan.

4. ZONING

PD (Planned Development District) (Waterleigh PD)

5. REQUESTED ACTION:

Approval subject to the following conditions:

1. Development shall conform to the Waterleigh Planned Development; Orange County Board of County Commissioners (BCC) approvals; Phase 3 Preliminary Subdivision Plan; BCC approvals; Waterleigh Kiddie Academy Development Plan dated "Received August 23, 2021" and to the conditions of approval listed below. Development based upon this approval shall comply with all applicable federal, state, and county laws, ordinances, and regulations, which are incorporated herein by reference, except to the extent any applicable county laws, ordinances, or regulations are expressly waived or modified by these conditions, or by action approved by the BCC, or by action of the BCC.
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, or any other development order, if the applicant 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 development 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) 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. Development plan (DP) approval by the DRC (or BCC, as applicable), shall automatically expire if construction plans are required and have not been submitted and approved within two (2) years from DP approval; if construction plans are not required, such DP shall expire two (2) years from approval unless a building permit has been obtained within such two-year

period. The foregoing notwithstanding, the DRC may, upon good cause shown, grant successive one (1) year extensions to the date of a DP if the developer makes written request to the DRC chair prior to the expiration date.

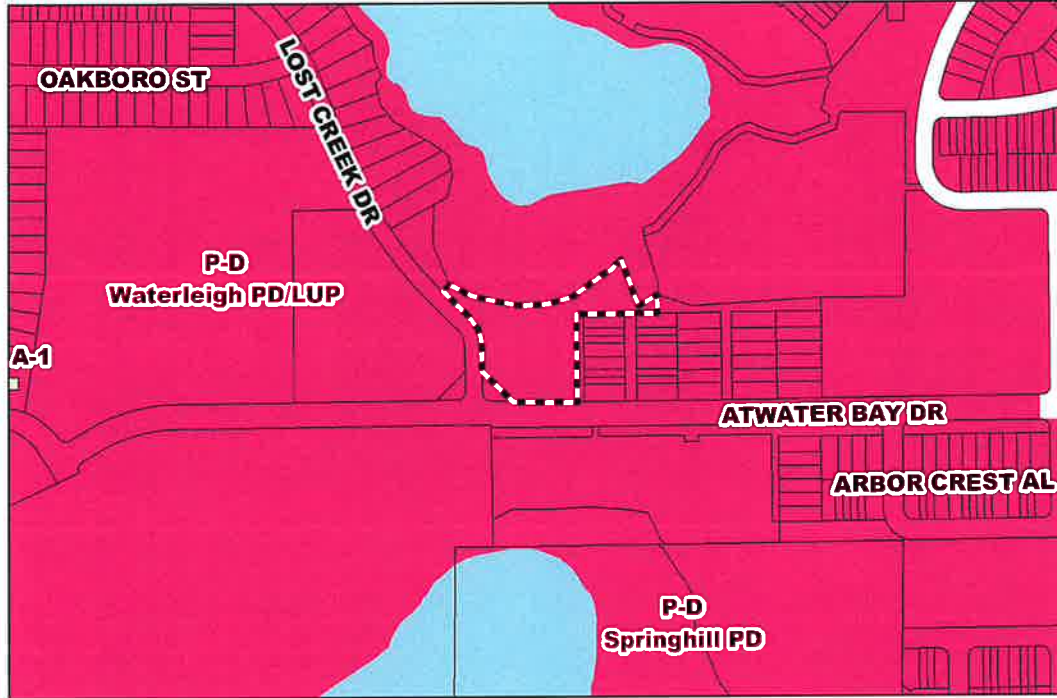
7. A mandatory pre-application / sufficiency review meeting for the re-plat shall be required prior to re-plat submittal and concurrent with construction plan submittal. The applicant shall resolve, to the County's satisfaction, all items identified in the pre-application / sufficiency review meeting prior to formal submittal of the re-plat to the County.
8. Unless otherwise allowed by County Code, the property shall be re-platted prior to the issuance of any vertical building permits.
9. The project shall comply with the terms and conditions of that certain Village H Horizon West Road Network Agreement approved on 02/12/2013 and recorded at OR Book/Page 10525/6172 Public Records of Orange County, Florida, as may be amended.
10. Pole signs and billboards shall be prohibited. All other signage shall comply with Chapter 31.5 of the Orange County Code.
11. Outside sales, storage, and display shall be prohibited.
12. Prior to construction plan approval, documentation with supporting calculations shall be submitted which certifies that the existing drainage system and pond have the capacity to accommodate this development and that this project is consistent with the approved master drainage plan (MDP) for this PD.
13. Prior to construction plan approval, documentation must be provided certifying that this project has the legal right to tie into the master drainage system.
14. Prior to issuance of any certificate of completion, all storm drain inlets shall have metal medallion inlet markers installed. Text on the marker shall read "No Dumping, Only Rain in the Drain." Specification detail will be provided within all plan sets. Contact the National Pollutant Discharge Elimination System (NPDES) Supervisor at the Orange County Environmental Protection Division for details.
15. 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).
16. Prior to commencement of any earth work or construction, if one acre or more of land will be disturbed, the developer shall provide a copy of the completed National Pollutant Discharge Elimination System (NPDES) Notice of Intent

(NOI) form for stormwater discharge from construction activities to the Orange County Environmental Protection Division, NPDES Administrator. The original NOI form shall be sent to the Florida Department of Environmental Protection by the developer.

17. 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 DP, and that construction plans are consistent with an approved and up-to-date Master Utility Plan for the PD.
18. The sidewalk connection to Lost Creek Drive, shown on Tract OS-28, shall be permitted and constructed with the overall development.
19. A Municipal Service Benefit Unit (MSBU) shall be established for the fair share cost participation from this site into the maintenance of the joint use retention pond located within the Waterleigh Phase 2D Subdivision (Tract SW-9, PB 97, Pg. 79).
20. A waiver from Orange County Code Section 38-1388(a) is granted to allow a maximum building size of 12,500 square feet, in lieu of a maximum building size of 10,000 square feet.

Zoning Map

DP-21-04-126



Subject Property



Subject Property

Zoning Map

ZONING: PD (Planned Development District)

APPLICANT: Brian Potts, Tannath Design, Inc.

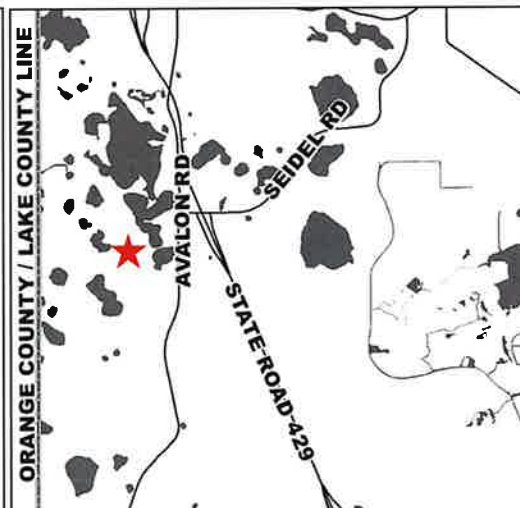
LOCATION: North of Atwater Bay Drive /
East of Lost Creek Drive

TRACT SIZE: 2.44 gross acres

DISTRICT: # 1

S/TIR: 07/24/27

1 inch = 400 feet



Notification Map

S:\Business Systems\Board Administrations\SUBSTANTIAL CHANGE\2021\BRC\Waterleigh Kiddie Academy_DP-21-04-126\Waterleigh Kiddie

