

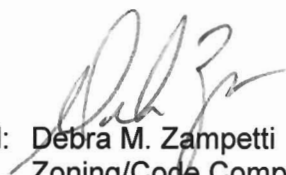
PASCO COUNTY, FLORIDA
INTEROFFICE MEMORANDUM

TO: Development Review Committee

DATE: 5/26/10

FILE: ZN10-206

SUBJECT: Class III, Commercial Development Review – Tender Care Center Commercial Subdivision, Preliminary/Construction Plan, Stormwater Management Plan and Report, and Alternative Standards Request (Project No. SDU09-004)
DRC: 6/10/10, 1:30 p.m., DC


FROM: Debra M. Zampetti
Zoning/Code Compliance
Administrator

REFERENCES: Land Development Code, Section 306, Development Review Procedures; Comm. Dist. 2

It is recommended that the data herein presented be given formal consideration by the Development Review Committee (DRC).

Commission District:	The Honorable Pat Mulieri, Ed. D.
Project Name:	Tender Care Center Subdivision
Developer's Name:	Philip Mazzuco and K&M Properties of Florida LLC
Location:	On the south side of County Line Road North (CR 578), approximately 1 and ¼ miles west of the Suncoast Parkway, Section 04, Township 24 South, Range 18 East.
Parcel ID No.:	04-24-18-0000-00800-0010 and 04-24-18-0000-00600-0000 (portion of)
Land Use Classification:	RES-1 (1 du/ga) and COM Commercial
Zoning District:	A-C Agricultural and C-1 Neighborhood Commercial
Transportation Corridors:	County Line Road North
Existing Right-of-Way:	90 Feet from Centerline
Required Right-of-Way:	83 Feet from Centerline
Acreage:	11.8 acre project site
Number of Units/Square Feet:	7
Type of Units:	Commercial Lots
Water/Sewage:	Well/Septic
Transportation Impact Fee (TIF) Zone:	2
Transportation Analysis Zone:	133
Certificate of Capacity:	Initial

DEVELOPER'S REQUEST:

The developers of Tender Care Center Subdivision are requesting preliminary/construction site plan and Stormwater Management Plan and Report approval to subdivide 11.8 acres into seven commercial lots.

Also requested is an alternative standard from the Land Development Code (LDC) as listed below and further described herein:

Alternative Standard:

Section 610.3.M, Cul-de-sacs

BACKGROUND:

1. On December 19, 1989, the BCC approved a request for a change in zoning district from AC Agricultural District to C1 Neighborhood Commercial District (Petition No. 4260).

2. On December 6, 1995, the BCC approved a special exception request for a cell tower to be located within a C1 Neighborhood Commercial District (Petition No. 4943).
3. On February 28, 2001, 50 feet of right-of-way was dedicated to Pasco County by Philip Mazzuco, owner of the referenced parcel, as recorded with the Pasco County Clerk of the Court on March 30, 2001 in OR Book 4571, Page 1092.
4. On October 23, 2008, the DRC approved the K&M Pasco County Mine Site for the excavation and removal of approximately 2,642,358 cubic yards of sand (DR09-002).
5. On March 24, 2009, the BCC approved a Conditional Use request from K&M Properties of FL, LLC for a Class I Mine (CU08-64).
6. On January 13, 2010, the Planning Commission recommended approved of a Special Exception request for a 1,604-square-foot veterinary clinic to be located with the 2,186-square-foot existing commercial building in a C-1 Neighborhood Commercial District (SE 6896).

FINDINGS OF FACT:

1. Presently, the subject site contains a 2,186-square-foot commercial building and a cell-tower site.
2. The subject property is located in Flood Zones "C." Development is subject to the requirements of the LDC, Article 700, Flood Damage Prevention.
3. The surrounding zoning is as follows and, for reference purposes, the buffer requirements for the abutting properties is also provided:

	<u>Zoning Districts</u>	<u>Types/Buffer Requirements</u>
North:	Hernando County and County Line Road Right-of-Way	Type D Buffer 20 Feet
South:	AC Agricultural	Type B Buffer 15 Feet
East:	AC Agricultural	Type A Buffer 10 Feet
West:	AC Agricultural	Type A Buffer 10 Feet

4. The preliminary/construction plan, Stormwater Management Plan and Report, and alternative standards request have been reviewed by the Zoning and Site Development Department, and it has been determined that the proposed use is consistent with the above-referenced zoning district's permitted uses.
5. The preliminary/construction plan, Stormwater Management Plan and Report, and alternative standards requests for the above-subject project were prepared for Philip Mazzuco and K&M Properties, by Dave Schmitt Engineering, Inc., Inc., and consist of 12 sheets dated October 2008; the sheets were last revised on November 11, 2009. The plans were originally received by the Zoning and Site Development Department on October 23, 2008, and revisions were received on December 29, 2009.
6. Access to the property is from County Line Road North (CR 578), a County-maintained road which has 80 feet of right-of-way and 32 feet of pavement.
7. On June 27, 2006, the BCC adopted the Corridor Preservation Tables in the Transportation Element of the Comprehensive Plan necessitating the preservation of right-of-way along certain roadways. In accordance with Corridor Preservation Table 7-4a, County Line Road, a County maintained right-of-way, has been designated as a 6-lane collector facility with a proposed corridor width of 166 feet.
8. The proposed request is consistent with the Pasco County applicable provisions of the Comprehensive Plan as conditioned.
9. An Initial Certificate of Capacity is being issued for a 5,000-square-foot day care with a maximum of 58 attendees, a 1,604-square-foot veterinary clinic, 5,000 square feet of office, and 28,396 square feet of specialty retail/commercial. Any conditions required pursuant to the issuance of the certificate are attached to the Initial Certificate of Capacity.

ALTERNATIVE STANDARDS REQUEST:

The applicant/developer has requested specific alternative standards from the following provisions of the LDC to be considered as part of this application:

1. Section 610.3.M, Cul-de-sacs, which, if approved, would allow the developer to provide a T-Type turn-around at the east end of Mazzuco Drive, in lieu of the required 50-foot-radius cul-de-sac required for subdivisions.

Relief is being sought pursuant to the LDC, Section 316.1.A.1, which reads as follows:

1. "The strict application of the land development regulation creates an unreasonable or unfair, noneconomic hardship, or an inordinate burden that was not created by the alternative standards applicant."

The applicant states:

1. "Mazzuco Drive is a 50-foot access easement to be dedicated as a public street. There are no plans to extend Mazzuco Drive and the requirement per Section 618.12 of the LDC for a 24-foot cross-access drive to abutting parcels on the east and west is being provided with the installation of Blanket Road to the south of the proposed development.
2. The proposed development is for a seven lot commercial subdivision and each individual lot will be required to provide vehicular use areas to include: internal access drives, parking spaces and loading zones. The vehicular use areas internal to each lot are required for employees, patrons; refuse pick-up and service delivery's to support the day to day operations of a commercial development. Mazzuco Drives' function is to provide access to Lots 2 and 4 with the hammer head design also serving as a turn around area as required for emergency service vehicles on dead end roadways within a commercial development. "

Staff has reviewed the applicant's request and recommends approval with the following condition.

A T-type turnaround shall be provided on all dead-end roadway stubs. Dead ends shall be barricaded in a manner found acceptable to the Development Services Branch and the Emergency Services Department.

RECOMMENDATION:

The Zoning and Site Development Department recommends approval of the preliminary/construction plan, Stormwater Management Plan and Report, and alternative standards request with the following conditions:

Hard-Copy Site Development Permit

1. The owner/developer or project contractor shall obtain a hard-copy Site Development Permit from the Zoning and Site Development Department prior to commencing any construction. To obtain this permit, the following must be submitted to the Zoning and Site Development Department:
 - a. The completed notarized acknowledgment portion of the attached agenda memorandum.
 - b. Completion of any site-specific conditions listed as requiring completion prior to the issuance of the Site Development Permit.
 - c. A copy of the approved Southwest Florida Water Management District (SWFWMD) Permit and Plan must be submitted to the Zoning and Site Development Department. In the event the SWFWMD Permit and Plan require any changes to the County-approved plan, an amendment to the County-approved plan shall be submitted for review and approval prior to the issuance of the Site Development Permit.
 - d. National Pollutant Discharge Elimination System Permit/permit application.
 - e. Revised plans and geotechnical/geological Engineering Report incorporating all changes required to show compliance with the conditions of approval including, but not limited to:

Tender Care Center Subdivision Conditions of Approval:

1. Revise the Type 1B Street Pavement Design on Plan Sheet 11 and revise the Complex Drive, (Type 1B Street) Flexible Pavement Design Calculations to provide the required minimum of three (3) inches of Type S asphaltic concrete surface course.
2. Provide Certification that the proposed project complies with the Geotechnical/Geological Engineering Report recommendations.

Provide development and construction recommendations based upon the engineering/geotechnical analysis of the site including but not limited to, the following:

- a. Fill placement and sub-grade preparation.
- b. Pavement designs consideration.
- c. Foundation construction requirements.
- d. Maximum allowable soil bearing pressure.
- e. Discussion of potential settlement issues.
- f. Minimum requirements for construction inspection and testing.

No construction shall commence until the permit has been properly posted on the site.

2. The owner/developer or project contractor shall notify the Engineering Services Department at least two working days prior to commencing any activity on the site.

General

3. The developer acknowledges that any provisions of Pasco County ordinances and any rezoning conditions of approval not specifically waived shall be in full force and effect, including all impact fee ordinances.
4. In the event ordinances/resolutions are adopted by the BCC including, but not limited to, solid waste, public safety, or wildlife, the developer shall be required to comply with such ordinances/resolutions.
5. Any roadway construction required herein as a condition of development approval shall not be entitled to TIF credits unless such credits have been granted pursuant to prior written agreement or as provided herein. Appeal from this provision shall be made in accordance with the TIF Ordinance.
6. The owner/developer or successors in interest are advised of the following restrictions:
 - a. No owner of the property within the development may construct or maintain any building, residence, or structure, or undertake or perform any activity in the wetlands, buffer areas, and upland conservation areas described in the approved plan or record plat unless prior approval is received from the SWFWMD pursuant to environmental resource permitting.
 - b. No owner of the property within the development may construct or maintain any building, residence, or structure, or undertake or perform any activity within the 100-year floodplain described in the approved plan and/or record plat of the subdivision unless prior approval is received from the SWFWMD pursuant to environmental resource permitting.
 - c. No owner of the property may undertake any roadway improvements within this development unless prior written authorization or notification of exemption is received from the SWFWMD pursuant to environmental resource permitting.

The owner/developer acknowledges for a Class IIIU development, 50 percent of the project must be platted, or where no plat is required, 50 percent of the infrastructure must be constructed or 50 percent of the Building Permits for the project must be issued within six years of the original preliminary plan or preliminary site plan approval. Further, 100 percent of the project must be platted, or where no plat is required, 100 percent of the infrastructure must be constructed or 100 percent of the Building Permits for the project must be issued within ten years of the original preliminary plan or preliminary site plan approval. In the event that the developer does not comply with this provision, the preliminary plans or preliminary site plans, Stormwater Management Plan and Report, and construction plans related to the uncompleted portion of the preliminary plans or preliminary site plan shall be deemed void and approval shall be deemed withdrawn unless an extension has been obtained from the Development Review Committee (DRC) prior to expiration of any of the above time limits. An extension shall be applied for at least 60 days prior to expiration of any of the above time limits (Section 306.3.H.2).

8. All construction work, including roads, drainage, and utilities, shall be constructed in accordance with Pasco County design standards and tested in compliance with the Engineering Services Department's *Testing Specifications for Construction of Roads, Storm Drainage, and Utilities*.
9. Unless otherwise approved by the Development Review Committee (DRC) or Board of County Commissioners (BCC), the applicant agrees to complete construction of all improvements required as a condition of platting within one year from the date that the plat is approved by the BCC. If the applicant fails to complete construction of the improvements within such time period, the County may exercise any of the following nonexclusive remedies: 1) enforce the assurance of completion of improvements guarantee document, 2) revoke the Final Certificate of Capacity or concurrency exemption issued for the platted entitlements, 3) vacate the plat, or 4) immediately cease the issuance of Building Permits within the plat. The applicant's signature of the acknowledgment form shall be considered an application for, and consent to, County vacation of the plat pursuant to Section 177.101, Florida Statutes, in the event of a default pursuant to this condition. Until such time that construction of such improvements is complete, the applicant agrees to include the following disclosure in all sales literature and sales documents for lots within the plat:

"CONSTRUCTION OF THE REQUIRED IMPROVEMENTS FOR THE LOT(S) IS NOT YET COMPLETE. COUNTY ISSUANCE OF CERTIFICATES OF OCCUPANCY AND OTHER COUNTY APPROVALS FOR VERTICAL IMPROVEMENTS MAY BE DELAYED OR WITHHELD UNTIL THE REQUIRED IMPROVEMENTS ARE COMPLETE."

For the purposes of this condition, the term "complete" shall mean that 1) the improvements have been completed in accordance with the standards set forth in the Land Development Code and in accordance with approved plans and specifications, 2) a Certificate of Completion has been issued by the County Administrator, or his designee(s), and other appropriate departments of the County; and 3) the assurance of completion guarantee has been released by the BCC.

10. When drainage facilities, which are not within a previously recorded drainage easement, are utilized for off-site drainage, the owner(s)/developer(s) shall provide a drainage easement on the approved form, with a legal description and sketch (certified by a Registered Land Surveyor) for each off-site drainage facility. The drainage easement shall be submitted to the County Administrator, or his designee, prior to the construction plan approval of the individual unit or phase affected. Any variation from the approved stormwater-management or construction plans shall be submitted to the County Administrator, or his designee, for review.

The drainage system for the Tender Care site and subdivision connect to the drainage system of the K&M Pasco Site mine. The mining site borrow pit (pond 10) receives and treats the stormwater run-off from the Tender Care site and subdivision and shall be completed prior to record plat and/or issuance of the first Certificate of Occupancy.

11. The owner/ developer shall acknowledge that should Pasco County collect funds under a guarantee document, the developer shall authorize the County, or its designee, access to the property in question to complete the required work.
12. The owner/developer shall acknowledge that should Pasco County be required to institute legal proceedings in order to collect any funds under a guarantee document, the developer shall be responsible for attorney's fees and court costs incurred by the County in such action.
13. All driveway cuts shall be installed to local streets and not collector streets.

14. The developer acknowledges that an appeal may be filed against the decision of the DRC within 30 days of the date of this approval. Any development that takes place within the 30-day appeal deadline shall not establish vested rights with respect to construction of the project.
15. Where underground water mains and hydrants are to be provided, they shall be installed, completed, and in service prior to combustibles being brought on-site (National Fire Protection Association, NFPA-1, 16.4.3.1.3).
16. The owner is hereby notified that the effective date of this development approval shall be the date of the final County action; however, no activity shall commence on site until such time as the acknowledgment portion of this document is completed (including notarization) and received by the Zoning and Site Development Department.

Construction Plan

17. No fill shall be placed within the 100-year floodplain designation unless compensating volume to mitigate the fill is provided on site or off site within the same basin and reviewed and approved by Pasco County.
18. Where excavation in excess of 30,000 cubic yards is proposed to be removed from the site by using publicly dedicated rights-of-way, roadways, or easements, a Class I Mining Permit and Conditional Use Permit shall be required. Prior to construction plan approval, the developer shall submit calculations indicating the amount of excess fill that will result from development of the site. Prior to construction plan approval, the developer shall submit, along with a statement as to where and how the excess material will be disposed of, calculations indicating the amount of excess fill that will result from development of the property.
19. The owner/developer acknowledges that a Building Permit shall be obtained for all structures that have a footer, regardless of size, through the Central Permitting Division; i.e., including, but not inclusive of, buildings, accessories, and retaining walls.
20. Driveway, road, and intersection improvements requiring roadway widening and/or left-turn, storage-lane construction shall also include an asphaltic concrete overlay of the entire limits of intersection improvement area to Pasco County specifications as approved by the County.
21. Unless otherwise approved, the developer(s) shall construct all local and collector streets within the development to current Pasco County standards; however, in no instance shall roadway standards be less than those required by the State of Florida *Manual of Uniform Minimum Standards*.
22. Curb ramps are required at all intersections of curbs and sidewalks and shall be constructed in conformance with the uniform *Federal Accessibility Standards* published by the General Services Administration, Department of Housing and Urban Development, Department of Defense, and United States Postal Service (Chapter 336.045, Florida Statutes).
23. All construction within Pasco County right-of-way will require a Right-of-Way Use Permit. The review and issuance of the Right-of-Way Use Permit shall be conducted in accordance with LDC, Section 311, Right-of-Way Use Permit, and must be obtained prior to commencement of construction. The developer shall ensure that any improvements installed in rights-of-way are constructed to County standards.

All construction within non-County-maintained right-of-way will require a Driveway Connection Permit. The owner/developer shall obtain a Driveway Connection Permit from the Zoning and Site Development Department's New Port Richey office.
24. The developer shall provide fire protection in compliance with the Pasco County Code of Ordinances, Chapter 46, Article III, and any subsequent amendments. The developer shall show hydrant site locations on the construction plans. Raised pavement markings shall be installed.
25. If a Pasco County Global Positioning System (GPS) network point is located within the boundary of the site or within 50 feet of the same, the point shall be re-established using GPS methods and "Blue Booked" prior to the issuance of any Building Permits or the recording of any plat. Proof of the said Blue Booking shall be submitted to the County Surveyor prior to the issuance of the said permit or the recording of the said plat. If it is discovered that the said point has been destroyed by construction, then the owner/developer of the land will be responsible for payment to Pasco County in the amount of \$5,000.00 each.

26. Prior to any construction activity, the developer shall ensure that proper erosion and sediment control measures are in place. The developer shall control all fugitive dust originating from the project site and shall indicate on the construction drawings the manner in which fugitive dust is to be controlled. Further, all retention pond side slopes and associated swales shall be sodded to prevent soil erosion.
27. If, during construction activities, any evidence of historic resources including, but not limited to, aboriginal or historic pottery, prehistoric stone tools, bone or shell tools, historic trash pits, or historic building foundation, are discovered, work shall come to an immediate stop, and the Florida Department of Historic Resources (State Historic Preservation Officer) and Pasco County shall be notified within two working days of the resources found on the site.
28. If, during construction activities, any evidence of the presence of State and Federally protected plant and/or animal species is discovered, work shall come to an immediate stop, and Pasco County shall be notified within two working days of the plant and/or animal species found on the site.
29. The traffic study submitted by the applicant assumes the following land use and conditions of approval as listed in Exhibit 1.

Building Permit/Record Plat/Certificate of Occupancy

30. Prior to platting, or where platting is not required prior to the issuance of the first CO, the developer shall submit all necessary State and Federal permits including, but not limited to, dredge and fill, surface water, water distribution, wastewater collection, and reclaimed water from the appropriate agencies. The permit shall include the copies of the actual permit itself and all drawings that are approved by the respective regulatory agency. Any annual reports required by such agencies shall be submitted to the biologist and the stormwater engineer.
31. Two unique and/or independent corners on the boundary of the subdivision plat shall have State plane coordinates noted on them and shall be tied by bearing and distance to the current GPS network. The coordinates for the said corners shall be noted on the plat.
32. The developers shall create a mandatory homeowners'/merchants' association in the form of a nonprofit corporation registered with the Secretary of State, State of Florida, or, where such association currently exists, proof of good standing shall be submitted and shall provide for the maintenance of all open space, drainage areas, common areas, buffer areas, preservation areas, recreation areas, and other special purpose areas by the said association. Prior to platting the first unit or phase, homeowners'/merchants' documents, including Articles of Incorporation with proof of being filed with the Secretary of State, State of Florida, the bylaws, restrictive covenants and conditions, and all exhibits, shall be recorded in the Clerk's Office, Pasco County, Florida, and submitted to the Engineering Services Department, Survey Division, for review along with copies of instruments to be used to convey the above-mentioned areas to the said association.
33. Prior to record platting of any unit or phase, the developers shall submit documents sufficient to guarantee that all required improvements have been completed and maintenance of all improvements will be the responsibility of the developers. There shall be no Building Permits issued prior to record platting.
34. Unless otherwise approved by the Emergency Services Director, when the development is record platted, or where a plat is not required, prior to the issuance of the first Building Permit, the development shall be included into a Pasco County Municipal Fire Service Taxing Unit to provide fire protection. The developer shall submit a petition for inclusion into the Pasco County Municipal Fire Service Taxing Unit at the time of record plat submission, or when no plat is required, prior to the issuance of the first Building Permit. In no case shall a Building Permit be issued until such a petition has been received by the Emergency Services Director.

The DRC's approval of this preliminary/construction plan, Stormwater Management Plan and Report, and alternative standards requests constitutes a finding by the DRC that the preliminary/construction plan, Stormwater Management Plan and Report, and alternative standards requests, as conditioned, are consistent with those Goals, Objectives, and Policies of the Comprehensive Plan and those provisions of the LDC that are applicable to preliminary/construction plan, Stormwater Management Plan and Report, and alternative standards request approvals. This action is based on the office review of the plans, supporting documentation, and certifications of the Engineer of Record.

DEVELOPER'S ACKNOWLEDGMENT:

The developer acknowledges that it has read, understood, and accepted the above-listed conditions of approval.

Date PHILIP MAZZUCO
STATE OF FLORIDA
COUNTY OF _____

Title

The foregoing instrument was acknowledged before me this _____ (date),
by _____ (name of corporation
acknowledging) a _____ (State or
place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or
who has produced _____ (type of identification) as identification.

Seal: _____
NOTARY

Date K&M PROPERTIES OF FLORIDA LLC
STATE OF FLORIDA
COUNTY OF _____

Title

The foregoing instrument was acknowledged before me this _____ (date),
by _____ (name of corporation
acknowledging) a _____ (State or
place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or
who has produced _____ (type of identification) as identification.

Seal: _____
NOTARY

ATTACHMENTS:

- 1. Location Map
- 2. Site Plan Layout
- 3. Alternative Standards Request
- 4. Initial Certificate of Capacity
- 5. Exhibit 1

DHW
DMZ/CR/ecm/drc061010/zn10206

DEVELOPMENT REVIEW COMMITTEE ACTION: