

CASE # CDR-18-02-062

Commission District # 5

1. REQUEST

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of May 23, 2018, to approve a substantial change to the Lake Pickett Cluster Parcels 1, 2, & 3 Preliminary Subdivision Plan (PSP), to revise phasing and delete the August 22, 2017, BCC condition of approval #36, which requires the Home Owners' Association to maintain failing septic tanks at the homeowners' expense.

This request also proposes to be a gated community; however, DRC recommended denial of this request. If the Board chooses to allow the gates, Condition of Approval #9(d) and #9(h) would need to be stricken. If the Board chooses to deny the gates, Condition of Approval #6 would need to be stricken.

2. PROJECT ANALYSIS

- A. Location: North of Lake Pickett Road / East of Chuluota Road
- B. Parcel ID: 03-22-32-0000-00-004; 03-22-32-0000-00-006
03-22-32-0000-00-008; 10-22-32-0000-00-003
03-22-32-0000-00-002; 03-22-32-0000-00-009
03-22-32-0000-00-010
- C. Total Acres: 292.79
- D. Water Supply: Orange County Utilities
- E. Sewer System: Septic
- F. Schools: East Lake ES – Capacity: 756 / Enrollment: 753
Corner Lake MS – Capacity: 1,215 / Enrollment: 1,276
East River HS – Capacity: 3,002 / Enrollment: 2,098
- G. School Population: 102
- H. Parks: Bithlo Community Park - 2.5 Miles
- I. Proposed Use: 235 Single-Family Residential Dwelling Units
- J. Site Data: Maximum Building Height: 35' (2-stories)
Minimum Living Area: 1,500 Square Feet
Building Setbacks:
 - 30' Front
 - 10' Side Street
 - 15' Side
 - 25' Rear

50' NHWE

- K. Fire Station: 82 - 500 North Story Partin Road
- L. Transportation: Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a capacity encumbrance letter prior to construction plan submittal and must apply for and obtain a capacity reservation certificate prior to approval of the plat. Nothing in this condition, and nothing in the decision to approve this land use plan / preliminary subdivision plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a capacity encumbrance letter or a capacity reservation letter.

A traffic study will be required prior to obtaining an approved capacity encumbrance letter.

3. COMPREHENSIVE PLAN

The property's Future Land Use Map (FLUM) designation is Rural Settlement 1/1 and is within the Lake Pickett Rural Settlement. The zoning is R-CE-C. The request is consistent with the Comprehensive Plan.

4. ZONING

R-CE-C (Country Estate Cluster District)

5. REQUESTED ACTION:

Approval subject to the following conditions:

1. Development shall conform to the Lake Pickett Cluster Parcels 1, 2, & 3 Preliminary Subdivision Plan dated "Received April 24, 2018," 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. In the event of a conflict or inconsistency between a condition of approval of this preliminary subdivision plan and the preliminary subdivision plan dated "Received April 24, 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 preliminary subdivision 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. This project shall be a gated community and shall comply with the minimum requirements of the Gated Community Ordinance, Orange County Code Sections 34-280, 34-290, and 34-291, as they may be amended from time to time.

NOTE: DRC RECOMMENDS DENIAL OF THE PRECEDING CONDITION

7. Unless otherwise specified to the County's satisfaction in the PSP, a Development Plan, in conformance with the requirements of Section 34-131(b) (20), including the appropriate group type, is required for the park / recreation tract(s) within this Preliminary Subdivision Plan (PSP), or phase thereof, as appropriate. Regardless of whether the park / recreation tract is included in the PSP or approved via a separate Development Plan, the park / recreation area tract(s) shall be constructed as part of the subdivision infrastructure and completed prior to issuance of the Certificate of Completion (C of C) for the infrastructure for the phase in which the park / recreation tract(s) is located. Temporary addressing must be provided for permits and the C of C must be issued prior to approval and recording of a plat.
8. Developer shall contribute its pro-rata share of the safety improvements on Lake Pickett Road.
9. Except as amended, modified, and/or superseded, the following BCC Conditions of Approval, dated August 22, 2017, shall apply:
 - a. The stormwater management system shall be designed to retain the 100-year/24-hour storm event onsite, unless documentation with supporting calculations is submitted which demonstrates that a positive outfall is available. If the applicant can show the existence of a positive outfall for the subject basin, then in lieu of designing for the 100-year/24-hour storm event, the developer shall comply with all applicable state and local stormwater requirements and regulations. An emergency high water relief outfall shall be provided to assure overflow does not cause flooding of surrounding areas.
 - b. A mandatory pre-application/sufficiency review meeting for the plat shall be required prior to plat submittal, but after approval of the site construction plans. 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 plat to the County.
 - c. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any Construction Plan submittal and must be approved prior to Construction

Plan approval for any streets and/or tracts anticipated to be dedicated to the County and/or to the perpetual use of the public.

- d. A Municipal Service Benefit Unit (MSBU) shall be established for the standard operation and maintenance of street lighting inventory including leasing, fuel, and energy costs for this project. Street lighting fixtures, poles, and luminaries used in this project shall be selected from the approved inventory list supplied by the Orange County Comptroller. Street lighting fixtures, poles, and luminaries used in this project shall be supplied and installed by the utility company that services the area of the project, as authorized by law or agreement, and thereafter maintains the street lighting inventory. The developer shall obtain approval of the street lighting fixtures, poles, and luminaries from the Orange County Comptroller Special Assessments Department via a "Letter of Commitment" prior to the installation of the street lighting fixtures, poles, and luminaries and prior to the plat being recorded by Orange County Comptroller Official Records section. All installation costs and street lighting operational costs prior to the effective date of the MSBU approval by the Orange County Board of County Commissioners shall be the sole responsibility of the developer.

NOTE: IF APPROVED AS A GATED COMMUNITY, THE PRECEDING CONDITION NEEDS TO BE DELETED

- e. Provide a rear yard drainage swale for all type "C & B" graded lots abutting the stormwater ponds and a set of inlets and storm sewer pipes to convey the runoff to the ponds, or revise the lots to "Type B Mod" grading which only conveys the rear lot runoff to the back, except as provided for herein. The entire residential structure (house) and side yard runoff shall drain to the front, unless the Applicant demonstrates that the sheet flow from that lot will be less than 2 feet per second by performing a velocity analysis for each lot, signed and sealed by an engineer registered in the state of Florida and such analysis approved by the County, in which part of the residential structure (House) and side yard runoff may drain to the rear. The velocity analysis shall be submitted for County approval with final engineering plans submittal for each phase in accordance with the PSP.
- f. The minimum and maximum lot grades for all Type B Mod lot grading shall be 1% and 10% respectively.
- g. The CC&Rs shall provide a notice to owners adjacent to any stormwater tract with Type B Mod grading that the property owner shall be responsible for all costs incurred by the County to repair any erosion damage to the County stormwater pond slopes or maintenance berm caused by runoff from their lot. In the event the PSP is subsequently approved as a gated community and the ponds are not County owned, such CC&Rs shall provide that the property owner shall be responsible for all costs that the property owners' association may incur to repair any damage to the

stormwater pond slopes or the maintenance berm caused by runoff from the owner's lot.

- h. Roads and drainage system(s), including any retention pond(s), will be owned and maintained by Orange County with a Municipal Service Benefit Unit (MSBU) established for stormwater system functionality. Routine maintenance, including mowing, beyond that provided by the County, shall be the responsibility of the Homeowners' Association.

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- i. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a capacity encumbrance letter prior to construction plan submittal and must apply for and obtain a capacity reservation certificate prior to approval of the plat. Nothing in this condition, and nothing in the decision to approve this land use plan / preliminary subdivision plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a capacity encumbrance letter or a capacity reservation certificate.
- j. The project shall comply with the terms and conditions of the Proportionate Share Agreement for Lake Pickett Cluster Parcels 1, 2 and 3, approved together with the PSP.
- k. Unless a Conservation Area Impact (CAI) permit is approved by Orange County consistent with Orange County Code Chapter 15, Article X, "Wetland Conservation Areas", prior to Construction Plan approval, no conservation area or buffer encroachments shall be permitted. Approval of this plan does not authorize any direct or indirect conservation area impacts.
- l. No activity will be permitted on the site that may disturb, influence, or otherwise interfere with: areas of soil or groundwater contamination, or any remediation activities, or within the hydrological zone of influence of any contaminated area, unless prior approval has been obtained through the Florida Department of Environmental Protection (FDEP) and such approval has been provided to the Environmental Protection Division (EPD) of Orange County. An owner/operator who exacerbates any existing contamination or does not properly dispose of any excavated contaminated media may become liable for some portion of the contamination pursuant to the provisions in section 376.308, F.S.
- m. 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.

- n. Approval of this plan does not constitute approval of a permit for the construction of a boat dock, boardwalk, observation pier, fishing pier, community pier or other similar permanently fixed or floating structures. Any person desiring to construct any of these structures shall apply for an Orange County Dock Construction Permit. Application shall be made to the Orange County Environmental Protection Division as specified in Orange County Code Chapter 15 Environmental Control, Article IX Dock Construction prior to installation.
- o. The site shall be stabilized following grubbing, clearing, earth work or mass grading to establish a dense stand of grass, or shall incorporate other approved Best Management Practices, on all disturbed areas if development does not begin within 7 days. Final stabilization shall achieve a minimum of seventy percent (70%) coverage of the disturbed land area and shall include a maintenance program to ensure minimum coverage survival and overall site stabilization until site development. Prior to clearing or grubbing, or approval of mass grading or constructions plans a letter of credit or cash escrow acceptable to the County shall be submitted to guarantee the required site stabilization and maintenance of all disturbed areas. The County Engineer shall establish the amount of the letter of credit or cash escrow.
- p. 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.
- q. 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).
- r. Master Utility Plan (MUP) 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.
- s. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
- t. 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.

- u. The Developer / HOA shall provide access to the lake for water quality sampling and lake management services.
- v. A boat ramp is not part of the infrastructure and is not approved with this plan. This plan approves only a location for a ramp should the applicant meet all permitting requirements and receive approval from Orange County. A boat ramp shall require additional permitting under Chapter 15, Article XV Boat Ramps, and action by the Board of County Commissioners.
- w. The subdivision shall join into the MSTU / MSBU for Lake Pickett for the purpose of funding lake management services.
- x. The developer shall submit a Letter of Commitment to participate in the Lake Pickett MSTU with the preliminary plat.
- y. Individual on-site sewage disposal systems shall be located in the front yards of the lakefront lots in order to increase the separation distance between Lake Pickett and the proposed system.
- z. Length of stay shall be for 180 days or greater. Short term/transient rental shall be prohibited.
- aa. A 6-foot tall screen wall/fence shall be constructed by the developer along lots 168-182 within a 10-foot wide easement per Sec. 34-209. The wall shall have a minimum of 2 foot offsets a minimum of every 20 feet. Wall may be brick, stone, CMU with a brick or artificial stone veneer, precast, or some combination thereof with integrated decorative caps. A wrought iron look aluminum fence with pillars shall be installed along the retention ponds that front on Lake Pickett Road. A continuous hedge along the wall, except where understory trees are planted, along the same lots and within the same easement as the wall/fence. Understory trees planted 30-foot on center along the same lots and within the same 10-foot wide easement as the wall/fence and hedge.
- bb. Two of the six foot trees to be planted on lots 168-182 as required by Sec 15-306 will be located near the wall/fence to provide a visual buffer to the rear of the houses.
- cc. Subdivision lighting will be consistent with Orange County lighting code and will contain full cutoff fixtures.
- dd. The rear setback for lots 168-182 will be increased to 50 feet.
- ee. The CCR's (Covenants, Conditions and Restrictions) for this subdivision shall contain the following conspicuous notice: High radio frequencies emitted from the CMS TV/Radio/ and Doppler Radar towers located on the TV Tower Road may have adverse effects on electronic devices as well as cellular phone and cellular internet service.