

**CASE # CDR-16-12-420**

Commission District # 1

**1. REQUEST**

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of January 11, 2017, to approve a substantial change to the Stillwater Crossings & Center Bridge PD / Summerport Parcel CB-8 Preliminary Subdivision Plan to modify April 9, 2013 BCC condition of approval #13, which states that Tracts C-4 and C-5 shall revert from Commercial to Civic uses if a building permit for retail / restaurant uses has not been issued for either tract within five (5) years of Preliminary Subdivision Plan (PSP) approval. The applicant's proposal is to remove the five (5) year time restriction to permit commercial uses on Tracts C-4 and C-5 in perpetuity.

**2. PROJECT ANALYSIS**

- A. Location: East of Lake Speer / West of Bridgewater Crossings Boulevard, at the western terminus of Village Lakeview Avenue / Big Fish Court
- B. Parcel ID: 15-23-27-8446-03-004; 15-23-27-8446-03-005 (affected parcels only)
- C. Total Acres: 187.32 acres (total PSP) / 0.54 acre (affected Tracts C-4 & C-5 only)
- D. Water Supply: Orange County Utilities
- E. Sewer System: Orange County Utilities
- F. Schools: Keene's Crossing ES – Capacity: 859 / Enrolled: 893  
Bridgewater MS – Capacity: 1,176 / Enrolled: 1,559  
West Orange HS – Capacity: 3,276 / Enrolled: 4,161
- G. School Population: 105
- H. Parks: R.D. Keene – 3.8 Miles
- I. Proposed Use: 12 Lots (5 Commercial Tracts / 4 Residential Tracts / 3 Civic Tracts)
- J. Site Data: Maximum Building Height: 50'  
Building Setbacks:  
    10' Build-to-Line  
    20' Building-to-Building
- K. Fire Station: 34 – 4000 Winter Garden Vineland Road

- L. Transportation: There is a transportation vested rights certificate # 02-148 on file associated with the Summerport Village Center. A copy of this certificate is required with the application for a building permit.

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 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 capacity encumbrance letter or a capacity reservation certificate.

### **3. COMPREHENSIVE PLAN**

The property's Future Land Use Map (FLUM) designation is Village Center District within the Village of Bridgewater SAP of Horizon West.

### **4. ZONING**

PD (Planned Development) (Stillwater Crossings & Center Bridge PD)

### **5. REQUESTED ACTION:**

Approval subject to the following conditions:

1. Development shall conform to the Stillwater Crossings & Center Bridge Land Use Plan; Orange County Board of County Commissioners (BCC) approvals; Summerport Parcel CB-8 Preliminary Subdivision Plan dated "Received February 14, 2013," 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 February 14, 2013," 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. Tracts C-4 and C-5 shall be commercial uses only, consistent with the Village PD Code.
7. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated April 9, 2013, shall apply:
  - a. Commercial properties that drain to a County maintained pond shall join the MSBU established for that pond and shall pay commercial MSBU rates that will be established when the property is re-platted.
  - b. 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 Section 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 Department. 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.
  - c. The applicant must apply for and obtain a capacity encumbrance letter prior to construction plan submittal. 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 capacity encumbrance letter or a capacity reservation certificate.
  - d. At the time of platting, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement. Unless the property is vested and/or exempt, the applicant shall be subject to school concurrency and required to go through the review process prior to platting.
  - e. Prior to earthwork or construction, 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.
- f. Unless a Conservation Area Impact (CAI) permit is approved by Orange County consistent with Chapter 15 prior to Construction Plan approval, no conservation area or buffer encroachments shall be permitted.
  - g. 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 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, approval of mass grading or constructions plans a letter of credit or cash escrow shall be submitted to the County to guarantee the required site stabilization and maintenance of all disturbed areas. The County Engineer shall establish the amount of the letter of credit.
  - h. Prior to, or concurrent with issuance of the building permit for the last multi-family building in Tracts R-2, R-3 or R-4 to be built within the PO, permits for the following improvements, to be owned and maintained by the Property Owners Association for this PSP, shall be obtained: (i) Construct a community park to include a children's play area, dog park, benches, exercise stations, and a performance platform on Civic Tract CV-1. (ii) Construct a multi-purpose field on a portion of the Park Tract P-1. (iii) Install a fountain in Lake Caruso, if possible, or in the pond within Stormwater Tract CB-80. A Certificate of Completion for Civic Tract CV-1 Park Tract P-1 and fountain installation shall be obtained prior to issuance of a Certificate of Occupancy for the last multi-family buildings.
  - i. Developer shall provide pedestrian pathways to interconnect all property owned by developer. Pedestrian interconnection shall be completed concurrent with each phase of the improvements.
  - j. Prior to issuance of a building permit for Tract R-5, developer shall install a 20' landscape buffer along the common property boundary between Tract R-5 and the Eden Isle subdivision.
  - k. Prior to issuance of a Certificate of Occupancy for the commercial development on Tract C-1, developer shall install a 20' landscape buffer between the commercial tract and the adjacent townhome community.
  - l. The commercial buildings along Village Lakeview Avenue and Lake Smith Circle shall either be two story buildings or include front elevations which give the appearance of a two story building.

- m. There shall be no access allowed between commercial Tract C-1 and parcel CB-24.
  - n. Prior to construction plan approval, certification with supporting calculations shall be submitted which demonstrate that this project is consistent with the approved Master Utility Plan and Master Stormwater Plan for the PD.
  - o. Billboards and pole signs shall be prohibited. All other signage shall comply with the Village Center signage code Sec. 38-1389(c) (5).
8. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated August 2, 2005, shall apply:
- a. Prior to platting, an MSTU shall be established for recreational trail maintenance for trails which range in width from over 5 feet to less than 14 feet in width.
  - b. Outdoor storage and display shall be prohibited.