

Applicable Code:

§38-1380(6) of the Code provides that, with respect to pedestrians and bicycles the “intent and purpose” of the Village Planned Development Code is “To provide a system of fully connected streets and paths which provide interesting routes and **encourage** pedestrian and bicycle use by being spatially defined by buildings, trees and lighting”

The Village Planned Development Code does not mandate that businesses in the Village Center be oriented to serve pedestrians and bicyclists.

§38-1389 clearly states that, “**Commercial development within the village center district should be primarily oriented to serve the residents of the immediate neighborhood.**”

As you can see, the Code does not even imply, let alone dictate, that commercial uses serving the neighborhood be pedestrian or bicycle oriented.

The fact that the Code does not limit Village Center businesses to pedestrian or bicyclist-oriented uses is further evidenced by the number of non-pedestrian/bicycle centric uses permitted by right under §38-1389(c)(2) of the Code, including: Furniture Stores; Household Appliance Stores; Floor Covering Stores; Funeral Services; Valet Parking; Appliance and Furniture Rental; Appliance Repair; Radio & Television Studios; and, R&D Testing Services.

I don't know about you, but I have never once road my bicycle to a funeral home, valeted it and then hopped back on after the service to follow the hearse to the interment. Nor have I ever thrown my washing machine on my bike to take it to the appliance repair shop.

Under the law, a “county is bound by the language of its own ordinances and regulations.” Mt. Plymouth Land Owners League v. Lake Cnty., Slip. Op., Case 5D9-780, (Fla. 5th DCA 2019) (string citation omitted); see also, Miami-Dade Cnty. v. Omnipoint Holdings, Inc., 863 So.2d 375, 376 (Fla. 3rd DCA 2003) (neither a quasi-judicial body nor a court is permitted to add to or detract from the terms of a local ordinance).

The only restrictions on self-storage facilities in the Village Center are that they be “developed in an architecturally compatible fashion, while not precluding pedestrian accessibility.” See, Code §38-1389(c)(2), fn. **. If the county intended to prohibit self-storage facilities in the Village Center, why does the Code include language saying that if a self-storage facility is built in the Village Center it must be built in a manner that does not totally block pedestrian accessibility in the area?

Polling of the neighbors is not CSE:

As noted in City of Apopka v. Orange County, 299 So.2d 657, 659 (Fla. 4th DCA 1974):

“public notice of the hearing of an application ... is not given for the purpose of polling the neighborhood on the question involved, but to give interested persons an opportunity to present facts from which the board may determine whether the particular provision of the ordinance, as applied to the applicant’s property, is reasonably necessary for the protection of ... public health”

Furthermore, as noted in Balm Rd. Inv., LLC v. Hillsborough Cnty. Bd. of Cnty. Commissioners, 336 So.3d 776 (Fla. 2nd DCA 2022):

While it is appropriate for a county commission to hear and consider residents’ presentations pertaining to their general concerns about a proposed development, such statements do not generally constitute the type of competent substantial evidence necessary to support a denial.

Competent evidence is defined as such relevant evidence as a reasonable mind would accept as adequate to support a conclusion. Degroot v. Sheffield, 95 So.2d 912 (Fla. 1957).

Finally, as evidenced by the staff report, the pending application submitted demonstrates that the proposed use is consistent with the future land use map, is allowed in the PD zoning district and satisfies all code criteria. Accordingly, the burden is on the opposition to demonstrate, by substantial competent evidence adduced at the hearing, that approval of the proposed development will have a demonstrable adverse impact on the public health, safety, morals or welfare. Jesus Fellowship, Inc. v. Miami-Dade County, 752 So.2d 708 (Fla. 3rd DCA 2000); Irvine v. Duval County Planning Comm., 495 So.2d 167 (Fla. 1986).

Sec. 38-1380. - Intent and purpose.



The intent and purpose of this division are as follows:

- (1) To implement the goals, objectives and policies of the village land use classification of the Orange County Comprehensive Plan, future land use element;
- (2) To ensure development in accordance with the Horizon West Special Planning Area Land Use Map (referred to throughout this Division 8 as the "SPALUM") and Comprehensive Plan provisions related to any particular village;
- (3) To promote the development of neighborhoods, villages and community centers that reflect the characteristics of a traditional southern town; where streets are convenient and pedestrian-friendly, and where parks, open space and civic facilities are a focus for public activity;
- (4) To provide for development that has a variety of land uses and housing types in a compact integrated community pattern which creates opportunities for pedestrian, bike and transit use;
- (5) To promote development that utilizes a neighborhood focus as a building block to provide a sense of place and community;
- (6) To provide a system of fully connected streets and paths which provide interesting routes and encourage pedestrian and bicycle use by being spatially defined by buildings, trees, and lighting;
- (7) To provide a system of public open space in the form of accessible squares, greens and parks whose frequent use is encouraged through placement and design;
- (8) To enhance the character of the neighborhoods through the use of building massing, building placement, materials and architectural features which create interesting spaces and pedestrian scaled street frontages.
- (9) To provide that these Village PD Code regulations shall be administered by the zoning division, except that any non-zoning aspects of these regulations shall be administered by the appropriate department or division.

(Ord. No. 97-09, § 1, 5-20-97; Ord. No. [2016-19](#), § 30, 9-13-16; [Ord. No. 2022-21](#), § 1, 6-7-22)

Sec. 38-1389. - Village center district.



- (a) *Generally.* The village center district shall be located generally at the center of the village adjacent to a collector road which serves that particular village. Commercial development within the village center district should be primarily oriented to serve the residents of the immediate neighborhood. The total maximum size of all development within the village center district shall be sixty (60) acres and the maximum total floor area for office and commercial nonresidential uses shall be four hundred thousand (400,000) square feet, unless otherwise expressly allowed in the comprehensive plan. The maximum floor area ratio shall be four-tenths (0.4). Development in the village center district shall conform to the block standards and conceptual master street and block plan approved with the PD land use plan approval and shall meet accessibility requirements of currently-adopted editions of federal and state standards.

- (c) *Development standards.* The following development standards shall apply to all development within the village center district.

- b. Permitted non-residential uses in the village center district shall be limited to the following and subject to all of the conditions for permitted uses within the C-1 zoning district as listed in [section 38-79](#) of this chapter:

4225	Self storage facility **
------	--------------------------

** Specific design standards for self storage facilities shall be established at the time of PD approval, PD substantial change approval, or PSP and DP approval (as may be applicable), and included on the respective land use plan or site plan. Notwithstanding application type, the specific design standards shall be subject to approval at a public hearing before the board of county commissioners. To ensure that self storage facilities are developed in an architecturally compatible fashion, while not precluding pedestrian accessibility, design standards shall include the following:

- Building modulation shall be employed to break up long façades and create a visually unique project. Building modulation may be achieved through the use of horizontal and vertical projections or recesses, including awnings, overhangs or other similar architectural features. Color and textural changes that diminish the perceived horizontal scale and massing of buildings, with particular attention given to building corners and primary entrances, may also be used. Regardless of building modulation, self storage facilities shall have a maximum building length of two hundred seventy-five (275) feet;
- At least one primary building facade shall have a minimum transparency of fifty (50) percent on the ground floor, and a minimum transparency of twenty-five (25) percent on all remaining floors. Each other primary building facade shall have a minimum combined transparency of twenty-five (25) percent for all floors. For purposes of these design standards, transparency may consist of transparent windows, vehicular breezeways, or spandrel glass features (without opening into building wall or structure); and dormers, shutters or other architectural elements may be used to further enhance facades;
- Building elements shall not function as signage, and unique or symbolic business elements shall be secondary to the overall architectural design;
- Access to storage units shall be encouraged from the interior of the building; however, any outdoor storage or outdoor access to storage units shall be screened from street view and shall not face or be visible from any street; and
- Regardless of street frontage, projects shall be limited to two (2) curb cuts on any block face and no more than three (3) curb cuts for any parcel.