



Interoffice Memorandum

DATE: January 28, 2019

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

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

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

SUBJECT: February 26, 2019 – Public Hearing
Applicant: Chris Straub, River Oaks Landing HOA
Pegasus PD / River Oaks Preliminary Subdivision Plan
Case # CDR-18-11-373

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of December 19, 2018, to approve a substantial change to the Pegasus Planned Development (PD) / River Oaks Preliminary Subdivision Plan (PSP) to amend the previously approved December 12, 1995 BCC Conditions of Approval to require the inspection of the streets and drainage systems every three years instead of annually, and to require the engineering report to be submitted to each owner of property within the subdivision in lieu of the County Engineer.

This PSP was approved by the BCC in 1995 and pre-dates the County's current gated communities ordinance, which was approved by the BCC in 2002 and amended in 2009. The requested changes are consistent with the current standards found in Sec. 34-290 of Orange County Code. There are no proposed changes to the entitlements, development program, or PSP layout associated with this change.

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 (CP) and approve the Pegasus PD / River Oaks PSP dated "Received March 13, 1995", subject to the conditions listed under the DRC Recommendation in the Staff Report. District 5**

JVW/EPR/lme
Attachments

CASE # CDR-18-11-373

Commission District # 5

1. REQUEST

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of December 19, 2018, to approve a substantial change to the Pegasus Planned Development (PD) / River Oaks Preliminary Subdivision Plan (PSP) to amend the previously approved December 12, 1995 BCC Conditions of Approval to require the inspection of the streets and drainage systems every three years instead of annually, and to require the engineering report to be submitted to each owner of property within the subdivision in lieu of the County Engineer. To facilitate these changes, the December 12, 1995 conditions are proposed to be modified as follows:

- e. *Three (3) years after the certificate of completion require ~~an annual~~ a triennial inspection of the streets and drainage systems by a registered civil engineer. This inspection shall, using good engineering practice, determine the level of maintenance and identify any needed repairs. The inspection shall be written into a report format.*
- g. *Provide that ~~the annual~~ each triennial engineering report shall be submitted to ~~County Engineer~~ each owner of property in the gated community within 30 days after written receipt of the report by the HOA.*
- h. *Require that the streets shall be resurfaced every 15 years unless the ~~annual~~ triennial engineering report referenced in subsection (e) above makes a recommendation to either shorten or lengthen that timeframe based on the documentation of conditions as contained in the report.*
- i. *Declare that upon any default in any of these requirements, the County, at its option and after due notice of its declaration of a default and the stated time to cure, may remove the gates and upon dedication of the rights-of-way assume responsibility for maintenance, using those HOA funds dedicated to streets and/or drainage systems maintenance and repair, or if none or an insufficient amount exists, a temporary Municipal Service ~~Taxing~~ Benefit Unit in an amount necessary to accomplish the task.*

This PSP was approved by the BCC in 1995 and pre-dates the County's current gated communities ordinance, which was approved by the BCC in 2002 and amended in 2009. The requested changes are consistent with the current standards found in Sec. 34-290 of Orange County Code.

There are no proposed changes to the entitlements, development program, or PSP layout associated with this change.

2. PROJECT ANALYSIS

- A. Location: North of Lokanotosa Trail / West of Rouse Road
- B. Parcel ID: 09-22-31-7503-00-005
- C. Total Acres: 35.85 gross acres
3.27 (affected parcel) (private road)
- D. Water Supply: Orange County Utilities
- E. Sewer System: Orange County Utilities
- F. Schools: Riverdale ES Capacity: 607 / Enrolled: 623
Union Park MS Capacity: 1,478 / Enrolled: 782
University HS Capacity: 2,674 / Enrolled: 2,848
- G. School Population: 27
- H. Parks: Blanchard Park – 0.3 Miles
- I. Proposed Use: 65 Single-Family Residential Dwelling Units
- J. Site Data: Maximum Building Height: 35' (2-stories)
Minimum Living Area: 1,700 Square Feet
Building Setbacks:
25' Front
0' / 10' Side
15' Rear
35' Rouse Road R-O-W
25' Adjacent to Northern Property Line
15' Adjacent to Southern Property Line
- K. Fire Station: 67 – 10679 University Boulevard
- L. Transportation: The PSP is currently developed with 65 single-family residential dwelling units and the proposed change will not generate any new trips.

3. COMPREHENSIVE PLAN

The subject property is designated on the Future Land Use Map (FLUM) as Low Density Residential (LDR). The request is consistent with the Comprehensive Plan.

4. ZONING

PD (Planned Development District) (Pegasus PD)

5. REQUESTED ACTION:

Approval subject to the following conditions:

1. Streets and drainage systems shall be platted as separate tracts.
2. Street and drainage system tracts shall be conveyed to and owned by a mandatory property owners association that shall be responsible for the operation, maintenance and repair of the streets and drainage systems.
3. Nonexclusive easement rights for ingress, egress, and drainage over the street(s) and drainage system tracts shall be granted to the property lot owners with an undivided interest among all lot owners.
 - a. The right, license, or easement granted to a Utility supplier shall include the nonexclusive right to ingress and egress over street tracts for access and maintenance of their utilities.
4. The developer shall construct the streets and drainage systems to county standards and shall comply with the provisions of Orange County Code Sections 34-203 and 34-204 regarding letters of credit, certificates of completion, and approval for maintenance as if the streets and drainage system were "public improvements."
5. Entryway gates shall be equipped with an audio (siren) override device to allow emergency access to the subdivision by fire/rescue, sheriff, and other emergency response personnel. Such audio override device shall be approved in writing by the Orange County Fire and Rescue Service Division prior to installation of the gates.
6. Prior to or simultaneously with the recording of the subdivision plat, the developer shall record in the Official Records of Orange County a document or documents (e.g., deed restrictions) which, to the County's satisfaction, are legally sufficient and enforceable to accomplish or otherwise ensure the following:
 - a. Establish a "mandatory" homeowners'/property owners' association with the ability and duty to levy and collect regular and special assessments for repair and maintenance (including resurfacing) of the streets and repair and maintenance of the drainage system, such assessments to be in an amount or amounts approved by the County prior to recordation as sufficient for such routine annual maintenance. The homeowners'/property owners' association shall have the right to enforce payment of

assessments by the imposition and enforcement of liens for unpaid assessments, such enforcement to be by way of foreclosure or other remedy authorized by statute, ordinance, or case law in the State of Florida.

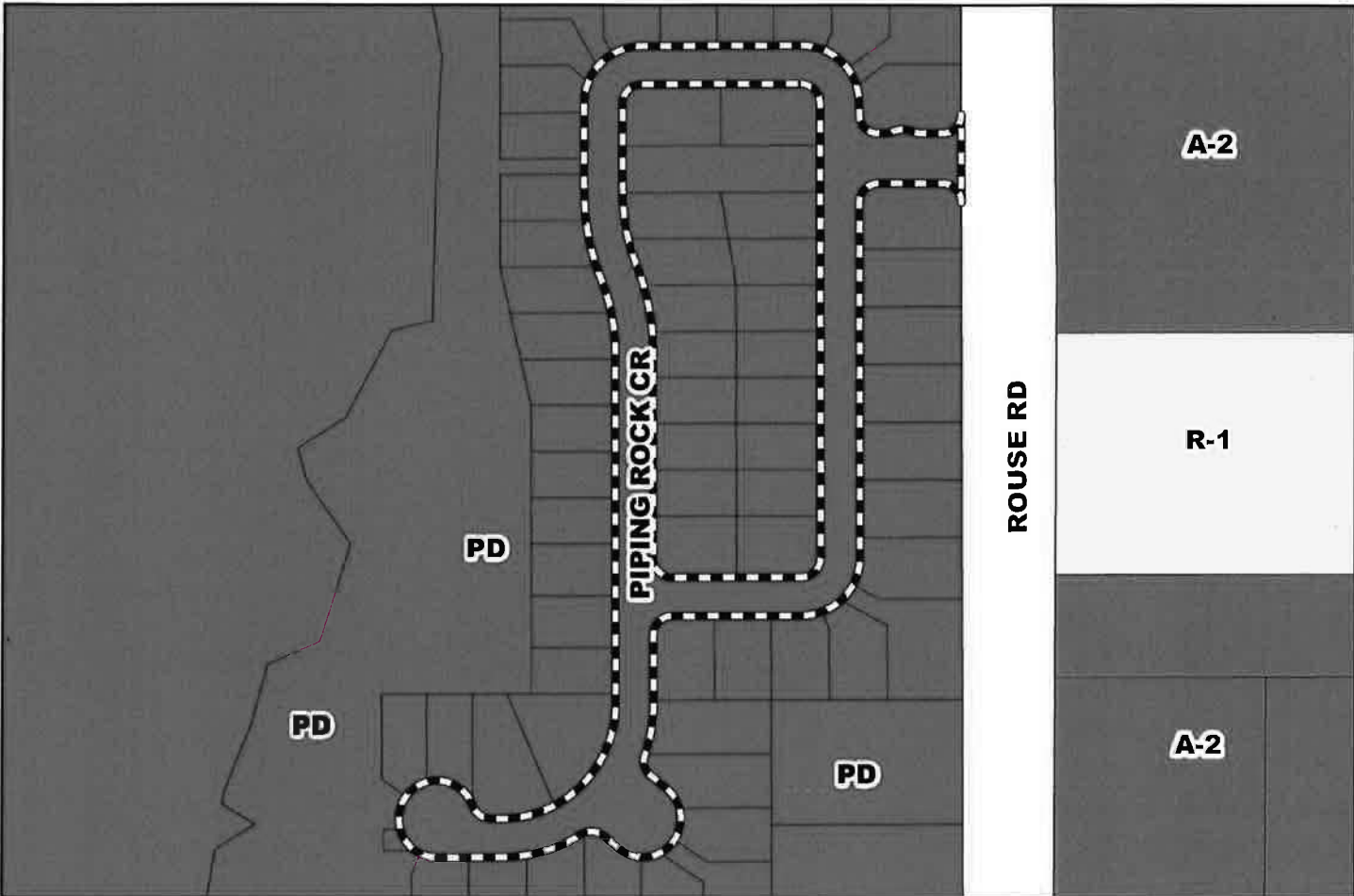
- b. Establish a fund for reserves for periodic major maintenance to the streets and drainage system, including ponds, with minimum level of reserves to be maintained in perpetuity and replenished from time to time, as necessary, by assessment, and such minimum level of reserves shall be in such amount or amounts approved by the County prior to recordation.
- c. Provide that all street and/or drainage system funds shall be held in accounts separate and apart from all other homeowners' association (HOA) funds.
- d. Requires an annual statement or other financial report (in form and detail acceptable to the Orange County Comptroller) to be submitted to County confirming existence of the funds.
- e. Three (3) years after the certificate of completion require ~~an annual~~ triennial inspection of the streets and drainage systems by a registered civil engineer. This inspection shall, using good engineering practice, determine the level of maintenance and identify any needed repairs. The inspection shall be written into a report format.
- f. Require that all remedial work recommended by the engineer in any engineering report specified in subparagraph "e" above be completed by the HOA within 60 days following receipt by the HOA of such engineering report unless the recommended remedial work is of such a nature of character as not be susceptible of completion within said 60-day period, in which event, the HOA shall be required to commence within said 60-day period all actions and measures reasonably necessary to effect completion of the recommended remedial work and to diligently and continuously prosecute such actions and measures to completion such that, in any event, the recommended remedial work is completed not later than 180 days following receipt by the HOA of said annual engineering report.
- g. Provide that ~~the annual~~ each triennial engineering report shall be submitted to ~~County Engineer~~ each owner of property in the gated community within 30 days after written receipt of the report by the HOA.
- h. Require that the streets shall be resurfaced every 15 years unless the ~~annual~~ triennial engineering report referenced in subsection (e) above makes a recommendation to either shorten or lengthen that timeframe based on the documentation of conditions as contained in the report.

- i. Require all sale contracts in which the developer is involved to expressly disclose these requirements (directly, not by reference), including contracts for resales. When the developer is not involved in the transaction, this provision shall be complied with to the greatest extent practicable.

- j. Expressly indemnify, defend, and hold the County harmless from any loss, cost, damage, or expense, including reasonable attorneys' fees at the trial level and in any appellate or bankruptcy proceeding, arising, directly or indirectly, out of (i) maintenance, repair, and/or reconstruction of the streets and/or drainage systems, or (ii) tort liability related to or stemming from the streets and/or drainage system. The duty to so indemnify, defend, and hold the County harmless shall be that of the association and the developer, jointly and severally, but (i) the duty of the developer shall exist only for the period the developer controls the HOA and (ii) the recourse of the County as respects the liability of the developer shall extend only to the right, title, interest and/or estate of the developer in or to any of the platted lots.

- k. Expressly disclose that homeowners get no discount in taxes because of private streets or drainage system.

- l. Declare that upon any default in any of these requirements, the County, at its option and after due notice of its declaration of a default and the stated time to cure, may remove the gates and upon dedication of the rights-of-way assume responsibility for maintenance, using those HOA funds dedicated to streets and/or drainage systems maintenance and repair, or if none or an insufficient amount exists, a temporary Municipal Service Taxing Benefit Unit in an amount necessary to accomplish the task.



 Subject Parcel



 Subject Property

Zoning Map

ZONING: PD (Planned Development District)

APPLICANT: Chris Straub, River Oaks Landing HOA

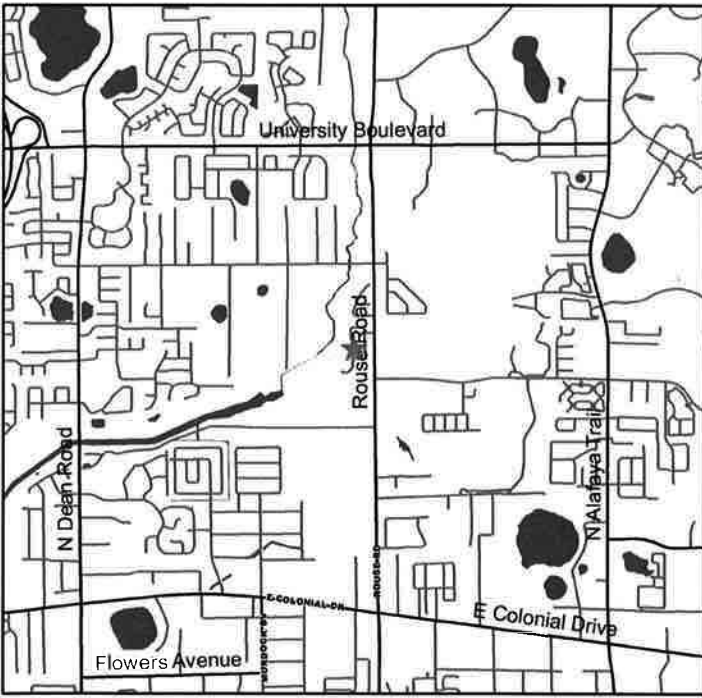
LOCATION: North of Lokanotosa Trail / East of Rouse Road

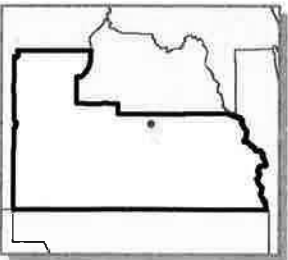
TRACT SIZE: 35.85 gross acres
3.27 (affected parcel)

DISTRICT: 5

S/T/R: 09/22/31

1 inch = 227 feet





Pegasus PD / River Oaks PSP



1 : 1,800
1 in : 150 ft