

CASE # CDR-16-05-192

Commission District # 1

1. REQUEST

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of December 7, 2016, to approve a substantial change to the Ruby Lake PD / Ruby Lake Lot 3 PSP to update the Phase 2 road sections and add one (1) single-family residential lot within Phase 2 due to pond revisions.

The request also includes the following waiver from the Orange County Code:

A waiver is requested from Section 34-171 (7) to allow for a sidewalk on only the east side of Street "E" in lieu of both sides.

2. PROJECT ANALYSIS

- A. Location: West of Palm Parkway / North of Lake Street
- B. Parcel ID: 15-24-28-7774-00-010, 15-24-28-7774-00-020
- C. Total Acres: 157.9 gross acres (entire PSP)
- D. Water Supply: Orange County Utilities
- E. Sewer System: Orange County Utilities
- F. Schools: Sand Lake ES - Capacity: 828 / Enrollment: 591
Southwest MS - Capacity: 1,209/ Enrollment: 1,341
Dr. Phillips HS - Capacity: 2,866/ Enrollment: 3,593
- G. School Population: 102
- H. Parks: Dr. Phillips Park - 3.1 Miles
- I. Proposed Use: 237 Single-Family Residential Dwelling Units (entire PSP) /
106 Single-Family Residential Dwelling Units (Phase 2 only)
- J. Lot Dimension: Maximum Building Height: 35' (3-stories)
Minimum Living Area: 1,200 Square Feet
Building Setbacks:
 - 10' Front
 - 15' Rear
 - 5' Side
 - 10' Porch
 - 10' Corner Side Street
 - 2' Driveways from Side Lot Line
 - 40' Palm Parkway
 - 15' NHWE

K. Fire Station: 36 - 12252 Winter Garden Vineland Road

L. Transportation: Fenton Street: The Palm Parkway to Apopka-Vineland Connector Road Agreement was approved by the BCC on 12/06/2005 and recorded at OR Book 8387 Page 3416. The agreement is between three Developers, BVC Partners I, LLC, Kerina, Inc. and Sand Lake Investments, LTD and Orange County for the realignment of Fenton Street from Apopka-Vineland Road to Palm Parkway. The Developers will provide Right-of-Way for the road project and pay for the Design, Engineering, Permitting and Mitigation costs. Orange County will be responsible for constructing the four-lane roadway within its 10-year Capital Improvement Program. Developers have the option to construct if County does not. If Developers construct they will receive Road Impact Fee Credits. Developers will receive Vested Rights for Fenton Street from Apopka-Vineland Road to Palm Parkway including the intersections. The typical section for the four-lane roadway consists of 100 feet of Right-of-Way with a 15-foot Transit/Pedestrian Utility Easement and a 20-foot Pedestrian/Landscape Easement on either side of the roadway. The design speed is 40 m.p.h. Currently, the Project Manager has been selected and the design is 90% complete and certain Right-of-Way has been placed in escrow per the terms of the agreement.

This parcel is vested from transportation concurrency under vested rights certificate 98-104. The applicant is required to provide a copy of this certificate along with the application for a building permit.

3. COMPREHENSIVE PLAN

The affected property has an underlying Future Land Use Map (FLUM) designation of Planned Development - Low Medium Density Residential (PD – LMDR). The request is consistent with the Comprehensive Plan.

4. ZONING

PD (Planned Development)

5. REQUESTED ACTION:

Approval subject to the following conditions:

1. Development shall conform to the Ruby Lake PD Land Use Plan; Orange County Board of County Commissioners (BCC) approvals; Lot 3 Preliminary Subdivision Plan dated "Received October 21, 2016," 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 October 21, 2016," 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. The project shall comply with the terms and conditions of the Palm Parkway to Apopka-Vineland Connector Road Agreement recorded at OR Book 8387 Page 3416, Public Records of Orange County Florida.
7. A waiver from Section 34-171(7) is granted to provide sidewalk on only the east side of Street "E" in lieu of both sides.
8. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated September 22, 2015, 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. 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.

- c. Prior to the issuance of any vertical building permits, the property shall be replatted.
- d. 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).
- e. 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.
- f. Prior to commencement of any earth work 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 by the developer.
- g. 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.
- h. Construction plans within this PSP shall be consistent with an approved and up-to- date Master Utility Plan (MUP). MUP updates shall be submitted to Orange County Utilities at least thirty (30) days prior to the corresponding construction plan submittal. The updated MUP must be approved prior to construction plan approval.
- i. Signage shall comply with BVN standards and Chapter 31.5, unless otherwise approved by the BCC.
- j. Prior to Lot 3 DP approval, the Utility Easement Agreement between the owners of Lot 3 and the Hilton property shall be updated to grant the Hilton access to the private water and reclaimed water mains extending from Palm Parkway across Lot 3 to the Hilton property. These mains are to be privately owned and maintained. The water and reclaimed water meters currently located at the property boundary between Lot 3 and the Hilton shall be

relocated to be adjacent to Palm Parkway as part of the Lot 3 construction project, or prior to the completion of Lot 3 development.

- k. Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement. Unless the property is otherwise vested or exempt, the applicant shall be subject to school concurrency and required to go through the review process prior to platting.
- l. The conveyance of right-of-way required for Connector Road / Fenton Street / Daryl M. Carter Parkway shall be conveyed by plat or separate instrument as required by the Road Agreement Committee. (OR Book 5138, Page 1988)
- m. 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.
- n. 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.
- o. A current Level One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review and approval as part of any Preliminary Subdivision Plan (PSP) and / or Development Plan (DP) submittal.
- p. A waiver from Orange County Code Sec. 38-1391.3(a) is granted to eliminate the requirement for landscaping and sidewalks within the unopened right-of-way on the west side of the property.
- q. A waiver from Orange County Code Sec. 38-1394 is granted to eliminate the requirement for landscaping within the unopened right-of-way on the west side of the property.
- r. A Use Agreement is required for landscaping and hardscape improvements along Palm Parkway.
- s. An MSTU / MSBU for Ruby Lake for the purpose of funding lake management shall be established prior to the sale of any lots.

- t. All lakefront lots and common tracts shall be platted to the Normal High Water Elevation.
 - u. Docks shall not be permitted for individual residential lots.
9. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated February 7, 2006, shall apply:
- a. Prior to construction plan approval, a master stormwater management plan shall be submitted to the Development Engineering Division for review and approval.
 - b. All development shall comply with Buena Vista North Standards as well as the Tourist Commercial Activity Center with the exception of the waivers approved with this plan.
 - c. A waiver from Section 38-1501 and Section 38-830(7) of the Orange County Code is granted to allow a 15-foot setback from the normal high water elevation in lieu of 50-foot setback for Lot 3as Ruby Lake is wholly contained within the limits of this development. Any such setback reductions shall comply with Conservation Area Impact Permit 01-002 & 15-03-007.
 - d. A waiver from Section 38-1396.1(2) of the Orange County Code is granted to allow light fixtures other than the acorn-style light fixtures.
 - e. A waiver from Section 38-1393.2(4) of the Orange County Code is granted to allow metal roofs for architectural diversity.
 - f. Development shall comply with the Orange County Conservation Area Impact Permit 01-002 & 15-03-007 as approved by the BCC on May 22, 2001, and September 22, 2015, respectively.
 - g. Ruby Lake will be utilized for stormwater attenuation; therefore, fishing and swimming shall be prohibited.