

**COMMUNITY, ENVIRONMENTAL & DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION PUBLIC HEARING REPORT
AUGUST 22, 2017**

This packet contains the following public hearings to be heard by the Board of County Commissioners on Tuesday, August 22, 2017.

<u>Name of Request</u>	<u>Case Number</u>	<u>Type of Hearing</u>
Development Review Committee Appeal Appellant: R. Wayne Harrod, The Harrod Group, Inc., River Isle Preliminary Subdivision Plan (PSP); District 5	DRCD-17-06-186	Appeal
David E. Axel, Axel Real Estate, Lake Pickett Cluster Parcels 1, 2, & 3 Preliminary Subdivision Plan (PSP); District 5	PSP-16-08-289	Preliminary Subdivision Plan
James G. Willard, Shutts & Bowen, LLP, Wincey Groves – Hamlin West Planned Development (PD) / Wincey Groves Subdivision Preliminary Subdivision Plan (PSP); District 1	PSP-16-03-102	Preliminary Subdivision Plan
Marc Stehli, Poulos & Bennett, LLC, Hickory Nut Estates Planned Development / Hickory Nut Estates Preliminary Subdivision Plan (PSP) (Continued from March 21, 2017, June 20, 2017 and August 1, 2017); District 1	PSP-16-06-222	Preliminary Subdivision Plan
Timothy Green, Green Consulting Group, Inc., Dora Woods Estates Preliminary Subdivision Plan (PSP) (aka Tangerine Woods and Brooks Meadows); District 2	CDR-15-12-393	Substantial Change



Interoffice Memorandum

DATE: August 4, 2017

TO: Mayor Teresa Jacobs
-AND-
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director
Community, Environmental and Development
Services Department

CONTACT PERSON: John Smogor, Chairman
Development Review Committee
Planning Division
(407) 836-5616

SUBJECT: August 22, 2017 – Public Hearing
Applicant / Appellant: R. Wayne Harrod, The Harrod Group, Inc.
River Isle Preliminary Subdivision Plan (PSP)
Appeal of a Development Review Committee Determination
Case # DRCD-17-06-186

This public hearing is to consider an appeal of the Development Review Committee's (DRC) June 14, 2017 determination that the River Isle Preliminary Subdivision Plan (PSP) dated "Received July 3, 2014" has expired.

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: Uphold the June 14, 2017 Development Review Committee determination to affirm that the River Isle Preliminary Subdivision Plan dated "Received July 3, 2014" has expired.
District 5

JVW/JS/sfv
Attachments

Case # DRCD-17-06-186
Commission District # 5

1. REQUEST

This public hearing is to consider an appeal of the Development Review Committee's (DRC) June 14, 2017 determination that the River Isle Preliminary Subdivision Plan (PSP) dated "Received July 3, 2014" has expired.

2. PROJECT ANALYSIS

The River Isle PSP was originally approved by the Board of County Commissioners (BCC) on March 19, 1991. On August 20, 1991, the BCC overturned a Development Review Committee (DRC) decision and approved a non-substantial change to the River Isle PSP to add one (1) lot, relocate the pump station and permit tennis courts on site. On January 9, 1992, DRC approved an extension to the River Isle PSP to expire on March 19, 1993.

On August 24, 1995, the DRC considered a one-year extension request for the PSP and a change determination concerning the relocation of the lift station for the project. DRC determined that the PSP had not expired since the construction plans were submitted and then rejected, and approved a non-substantial change to relocate the lift station.

On December 4, 2013, DRC considered a discussion item regarding the validity of the PSP. DRC determined that at the time of original approval (March 19, 1991), Section 34-72 of Orange County Code provided that a PSP would expire if construction plans were not submitted within one year, and provided that the Board or its designee could grant a time extension upon the developer's written request. Based on the August 24, 1995 DRC action, DRC determined that the PSP had never expired, due to the fact that construction plans had been submitted and rejected, consistent with Section 34-72 of Orange County Code.

On May 28, 2014, DRC approved a non-substantial change to the PSP to remove parcel identification number 04-22-31-0000-00-004 (property west of the Little Econ River) from the PSP. This decision was appealed by Mr. Michael A. Dugre to the BCC, which upheld DRC's determination and approved the non-substantial change and imposed standard conditions of approval on August 19, 2014.

Concerned residents in the area have opined that when the BCC added standard conditions of approval to the 2014 non-substantial change, language in new condition #1 required the project to comply with current code, and thereby restarted the clock for the applicant to obtain construction plans to preserve the life of the PSP. This condition reads:

Development shall conform to the River Isle Preliminary Subdivision Plan dated "Received July 3, 2014" 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 July 3, 2014" the condition of approval shall control to the extent of such conflict or inconsistency.

These residents feel that since construction plans were not approved within two years of the non-substantial change, the PSP expired on August 19, 2016. The applicant disagrees with this opinion.

On June 14, 2017, DRC made a finding that the River Isle Preliminary Subdivision Plan (PSP) was no longer valid based upon the standard condition of approval # 1, which requires the project to comply with all applicable County laws and ordinances. The Committee voted three (3) to two (2) with Utilities, Public Works, and Zoning voting in favor; and the Chairman and Planning voting in the negative.

Correspondence from both the residents and the applicant supporting their positions has been attached to this staff report. The appellant's appeal letter dated June 26, 2017, is also attached.

3. PROJECT DATA

- | | |
|-----------------------|---|
| A. Location: | South of McCulloch Road / West of Rouse Road |
| B. Parcel ID: | 04-22-31-0000-00-001; 04-22-31-0000-00-013 |
| C. Total Acres: | 15.15 acres (gross) |
| D. Water Supply: | Orange County Utilities |
| E. Sewer System: | Orange County Utilities |
| F. Schools: | Riverdale ES – Capacity: 554 / Enrollment: 621
Corner Lake MS – Capacity: 1,096 / Enrollment: 987
University HS – Capacity: 2,590 / Enrollment: 2,833 |
| G. School Population: | 12 |
| H. Parks: | Blanchard Park – 2.5 miles |

- I. Proposed Use: 18 Single-Family Dwelling Units
- J. Site Data: Maximum Building Height: 35'
Minimum Living Area: 1,200 Square Feet
Minimum Lot Width: 85'
Building Setbacks:
30' Front
35' Rear
7.5' Side
- K. Fire Station: 65- 4999 North Orion Boulevard
- L. Transportation: N/A

4. COMPREHENSIVE PLAN

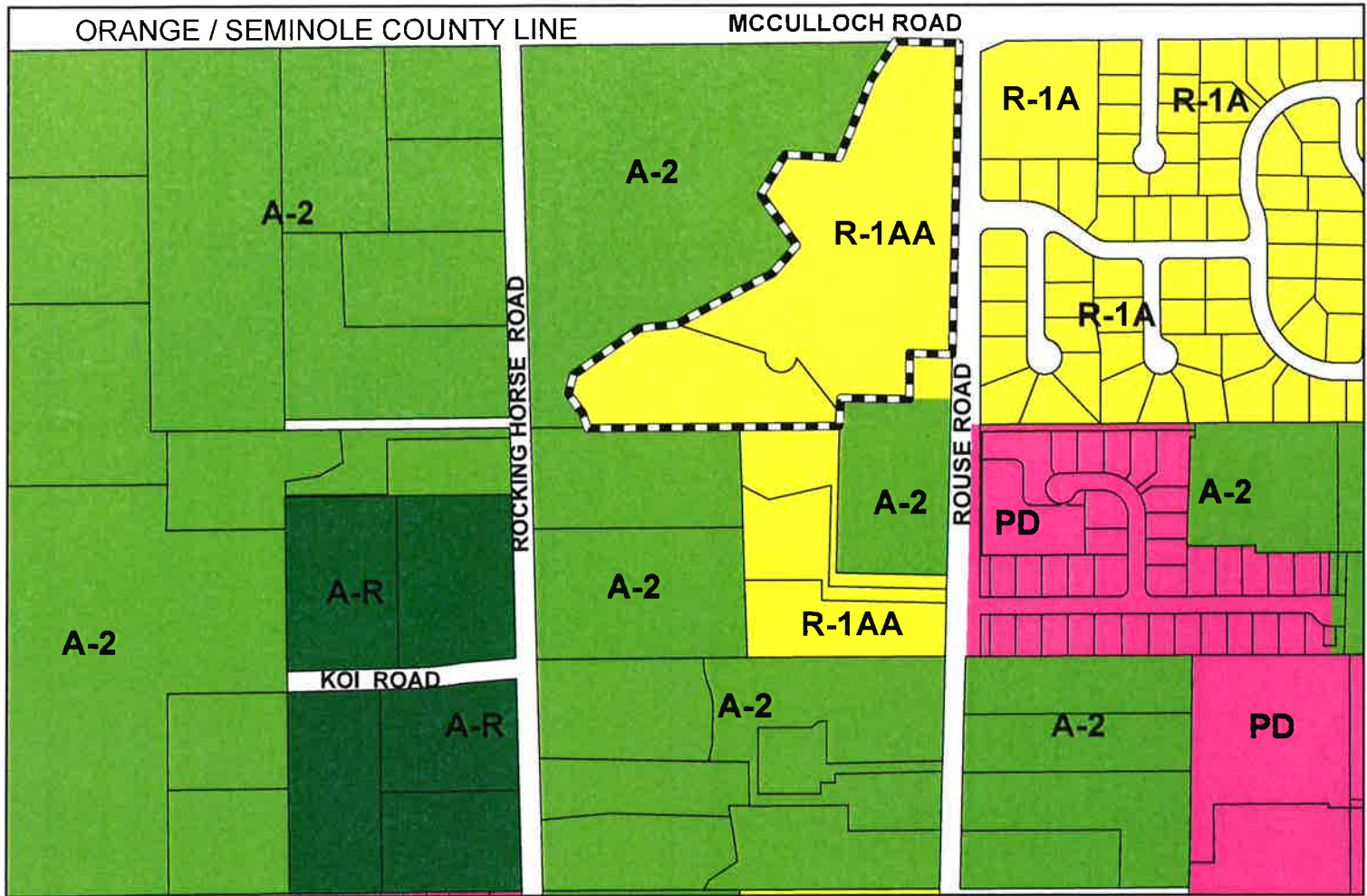
The subject property's Comprehensive Plan Future Land Use Map (FLUM) designation is Low Density Residential (LDR).

5. ZONING

R-1AA (Single-Family Residential District)

6. REQUESTED ACTION:

Uphold the June 14, 2017 Development Review Committee Determination (DRCD) to affirm that the River Isle Preliminary Subdivision Plan dated "Received July 3, 2014" has expired.



 Subject Property



 Subject Property

Zoning

ZONING: R-1AA (Single-Family District)

APPLICANT: Daniel T. O'Keefe, Shutts & Bowen, LLP

APPELLANT: R. Wayne Harrod, The Harrod Group, Inc.

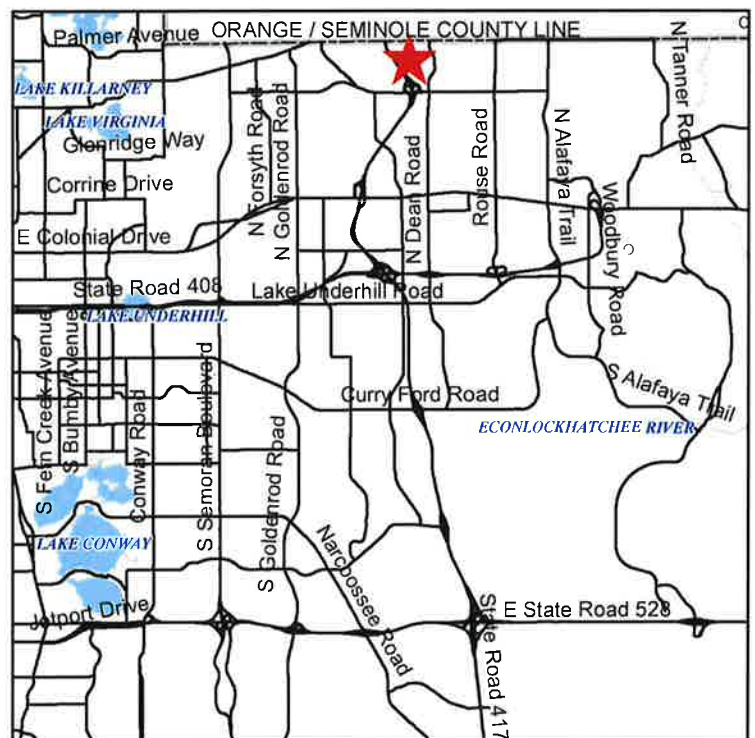
LOCATION: South of Mcculloch Road /
East of Rocking Horse Road

ACRES: 15.15

DISTRICT: # 5

S/T/R: 04/22/31

1 inch = 500 feet



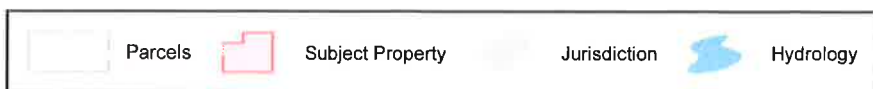


MCCULLOCH RD

ROUSE RD



Appeal of a DRC Determination - River Isle PSP



1 : 1,800
1 in : 150 ft

THE HARROD GROUP, INC.

Licensed Real Estate Broker - Developer

P.O. Box 940925
Maitland, FL 32794-0925
Phone: 407-628-4833
Fax: 407-862-3632
Email: harrodrw@gmail.com

June 26, 2017

HAND DELIVERED

Sapho F. Vatel, MPA
Development Coordinator
Orange County Planning Division
201 S. Rosalind Avenue
Orlando, Florida 32801

RE: Submittals for Appeal Application to BCC for River Isle PSP

Dear Sapho:

It was a pleasure speaking with you this morning.

Please find enclosed the following submittals:

- Check in the amount of \$741.00 made payable to OC BCC
- Location Map
- Site Plan (including site data and note sheet)
- Legal Description

I am respectfully requesting the earliest possible date to appeal the DRC's recommendation of denial to the Orange County Board of County Commissioners. If there is anything further I can provide, please do not hesitate to let me know. Thank you for your assistance this morning. It was very helpful.
Have a great day.

Sincerely,

THE HARROD GROUP, INC.



R. Wayne Harrod
President

RWH/ldh
Enclosures



DANIEL T. O'KEEFE
PARTNER
Shutts & Bowen LLP
300 South Orange Avenue
Suite 1000
Orlando, Florida 32801
Member Florida Bar
DIRECT (407) 835-6956
FAX (407) 849-7256
EMAIL dokeefe@shutts.com

June 22, 2017

VIA EMAIL

Mr. Eric Raasch, AICP
Assistant Planning Administrator
Orange County Planning Division
Orange County Community, Environmental and
Development Services Department
201 S. Rosalind Avenue, 2nd Floor
Orlando, FL 32801
Email: eric.raasch@ocfl.net

Re: River Isle PSP - District 4 DRCD-17-06-186

Dear Eric:

On June 14, 2017, the Orange County Development Review Committee ("DRC") voted 3 to 2 to recommend denial of the request to determine if the PSP for River Isle is still valid or has expired. Please let this letter serve as applicant's request to appeal DRC's recommendation of denial to the Orange County Board of County Commissioners at the next available meeting.

Please let me know if you have any questions about the above request.

Sincerely,

SHUTTS & BOWEN LLP

A handwritten signature in blue ink that reads "Dan O'Keefe". The signature is stylized with a large, looping "D" and a cursive "O'Keefe".

Daniel T. O'Keefe

DTO/teb

cc: Mr. John Smogor (via email: john.smogor@ocfl.net)
Commissioner Betsy Vanderley (via email: district1@ocfl.net)
Mr. R. Wayne Harrod (via email: rwharrod@earthlink.net)
Scott A. Glass, Esq. (via email: sglass@shutts.com)

ORLDOCS 15491096 | 38775.0001

**APPROVED MEETING MINUTES
JUNE 14, 2017**

EXTENSION REQUEST

EXT-17-05-175- DISTRICT 5

QUADRANGLE DRI - EXTENSION REQUEST - EXECUTIVE ORDER #(S) 16-230, 16-274, & 17-16

New Expiration Date: December 22, 2019

ALL PROJECTS

**1. DRCD-17-06-186 – DISTRICT 5
RIVER ISLE PSP**

Present for discussion were Dan O’Keefe, John Miklos, and Wayne Harrod. Also present were residents Michael Dugre, Frank Arnall, and John Frederick, and Joel Prinsell, County Attorney’s Office. Eric Raasch presented this case to DRC.

The applicant has requested that DRC make a determination regarding whether the PSP is still valid or has expired.

The River Isle PSP was originally approved by the Board of County Commissioners (BCC) on March 19, 1991. On August 20, 1991, the BCC overturned a Development Review Committee (DRC) decision and approved a non-substantial change to the River Isle PSP to add one (1) lot, relocate the pump station and permit tennis courts on site. On January 9, 1992, DRC approved an extension to the River Isle PSP to expire on March 19, 1993. On January 14, 1993, DRC recommended denial of a second one-year extension of the River Isle PSP to March 19, 1994. On February 11, 1993, DRC reconsidered and upheld the previous denial of the one-year extension. On March 9, 1993, the BCC accepted a request by the applicant to withdraw the appeal of the DRC decision to deny extending the expiration date of the PSP. The applicant requested a change determination to use a diversion structure, which was denied by DRC on October 14, 1993.

On August 24, 1995, the DRC considered a one-year extension request for the PSP and a change determination concerning the relocation of the lift station for the project. DRC determined that the PSP had not expired since the construction plans were submitted and then rejected, and approved a non-substantial change to relocate the lift station.

On December 4, 2013, DRC considered a discussion item regarding the validity of the PSP. DRC determined that at the time of original approval (March 19, 1991), Section 34-72 of Orange County Code provided that a PSP was automatically voided if construction plans were not submitted within one year, and provided that the Board or its designee could grant a time extension upon the developer's written request. Based on the August 24, 1995 DRC action, DRC determined that the PSP had never expired, due to the fact that construction plans had been submitted and rejected, consistent with Section 34-72 of Orange County Code.

**APPROVED MEETING MINUTES
JUNE 14, 2017**

On May 28, 2014, DRC approved a non-substantial change to the PSP to remove parcel identification number 04-22-31-0000-00-004 (property west of the Little Econ River) from the PSP. This decision was appealed by Mr. Michael A. Dugre to the BCC, which upheld DRC's determination and approved the non-substantial change and imposed standard conditions of approval on August 19, 2014.

Concerned residents in the area have opined that when the BCC added standard conditions of approval to the appeal of the 2014 non-substantial change, new condition #1 required the project to comply with current code, and thereby restarted the clock for the applicant to obtain construction plans to preserve the life of the PSP. Further, these residents feel that since construction plans were not approved within two years of the non-substantial change, the PSP expired on August 19, 2016. The applicant feels otherwise, and correspondence from both the residents and the applicant supporting their positions has been attached to this summary report.

Discussion ensued from both the applicant as to why they believe the PSP to be valid and the residents as to why they believe the PSP has expired.

MOTION by John Smogor (stepped out of Chair), seconded by Susan McCune, TO MAKE A FINDING THAT THE RIVER ISLE PSP IS STILL VALID.

Motion failed 2 to 3 (Utilities, Public Works, and Zoning voting in the negative).

MOTION by Carol Knox, seconded by Joe Kunkel, TO MAKE A FINDING THAT THE RIVER ISLE PSP HAS EXPIRED, based upon the Board placing the standard condition of approval #1 which requires the project to comply with current code.

Motion passed 3 to 2 (Chair and Planning voting in the negative).

MOTION CARRIED.

**2. CDR-17-03-095 – DISTRICT 1
ORANGEWOOD N-1 PD / WESTWOOD N-1 PSP**

Present for discussion were Mark Kidwell, Cecilia Bonifey, Jose Chaves, and A. Kurt Ardaman. Pedro Medina, the Project Manager presented the TRG Summary Report to DRC.

A change determination was requested to the previously approved Westwood N-1 PSP, to reconfigure internal lot lines within Lots 1 -3.

The applicant was requested to revise the plan to correct the title.

MOTION by Joe Kunkel, seconded by Lindy Wolfe, TO APPROVE A NON-SUBSTANTIAL CHANGE TO THE WESTWOOD N-1 PSP, subject to submittal and approval of a revised plan.

MOTION CARRIED.

MEMORANDUM

TO: Daniel T. O'Keefe
FROM: James F. Johnston
DATE: January 26, 2017
RE: River Isle PSP Expiration

BACKGROUND

On March 19, 1991, the Orange County Board of County Commissioners ("BCC") approved the River Isle Preliminary Subdivision Plan ("PSP") (Orange County approval letter attached hereto as Exhibit "A"). At the time of the PSP approval, Orange County Code Section 34-72 (Time Limit On Approval) provided that "Preliminary plan approval by the Board of County Commissioners shall be automatically voided if subdivision plans are not submitted within one (1) year. The Board of County Commissioners or its designee may grant a time extension upon written request by the developer to the chairman of the Development Review Committee." On January 9, 1992, the developer of the River Isle property ("Developer") received a one year extension of the River Isle PSP until March 19, 1993 from the Orange County Development Review Committee ("DRC") (DRC's January 9, 1992 meeting minutes attached hereto as Exhibit "B"). Thereafter, Developer complied with the code requirement by timely submitting final subdivision plans before March 19, 1993. Although the final subdivision plans were timely submitted, they were not approved by Orange County.

On February 8, 1994, the BCC approved Ordinance 94-4, which amended Section 34-72 to read as follows: "Preliminary subdivision plan approval by the Board of County Commissioners shall be automatically voided if subdivision construction plans are not submitted within one (1) year **and approved within two (2) years of preliminary subdivision plan approval.** DRC may grant a one (1) year time extension upon written request by the developer to the DRC chairman prior to the expiration date." (*emphasis added*) (Ordinance 94-4 is attached hereto as Exhibit "C"). In 1995, subsequent to the above change to the "Time Limit On Approval" section of the Orange County Code, Developer requested an additional one year extension of the PSP from DRC and a non-substantial change to the PSP for the relocation of the lift station tract. At its August 24, 1995 meeting, DRC considered the request and (i) determined the PSP had not expired since the construction plans had been timely submitted (although ultimately rejected) and (ii) approved the non-substantial change to move the lift station site (DRC's August 24, 1995 meeting minutes are attached hereto as Exhibit "D"). This opinion is memorialized in an August 28, 1995 letter from the Orange County Public Works Division, Development Engineering Department Manager to Developer (Orange County change determination letter is attached hereto as Exhibit "E").

TAB 1

On December 4, 2013, Developer appeared before DRC requesting discussion on the continuing validity of the approved PSP. Developer provided documentation to DRC from the 1995 DRC determination that the PSP did not need an extension because it had never expired due to construction plans having been timely submitted. At the DRC meeting, the Orange County attorney agreed with the conclusion that the PSP was still valid. (DRC's December 4, 2013 meeting minutes are attached hereto as Exhibit "F"). In 2014, Developer applied to DRC for a non-substantial change to the PSP to remove approximately 15 acres located on the west side of the Little Econlockhatchee River from the PSP. That property was not proposed for development on the original PSP, and the request did not change the total number of residential lots and their location and layout on the existing PSP. On May 28, 2014, the DRC approved the non-substantial change to the PSP to remove the property on the west side of the Little Econlockhatchee River from the existing PSP. The DRC decision was appealed to the BCC by Mr. Michael Dugre ("Dugre"). On August 19, 2014, the BCC heard the appeal and made a finding that the change request was consistent with the comprehensive plan and further upheld the decision of the DRC and approved the non-substantial change to the PSP.

On November 7, 2016, Dugre sent a letter to Mr. John Weiss with the Orange County Community, Environmental and Development Services Department to argue that the PSP had expired because no subdivision construction plans had been approved within two years of the BCC's August 19, 2014 non-substantial change determination. The basis for Dugre's argument was that the 2014 non-substantial change determination subjected the PSP to the current Orange County code provisions that provide a PSP expires if subdivision construction plans are not approved within two years of the PSP approval.

ANALYSIS

The River Isle PSP is still effective because the final subdivision plans were timely submitted as required by the then-existing Orange County Code. As written, the plain language of the Code provided that a PSP would be automatically voided **only** if final subdivision plans were not submitted within one year of the PSP approval, subject to a time extension granted by DRC. At the time the River Isle PSP was approved and final subdivision plans submitted, there was no provision that the final subdivision plans had to be approved within two years of PSP approval or the PSP approval would be voided. Once Developer submitted the final subdivision plans, the River Isle PSP was not subject to expiration. Developer's non-substantial changes to the PSP do not subject the PSP to the current code and divest it of its continuing validity, as has been recognized previously on two occasions by DRC.

The plain language of Ordinance No. 94-4 does not provide that the changes were meant to be applied retroactively. It is well accepted in Florida law that the same rules that apply to the construction of state statutes apply in the construction of local ordinances. *Rinker Materials Corp. v. City of North Miami*, 286 So.2d 552 (Fla. 1973). Additionally, because zoning regulations are in derogation of private rights of ownership, such ordinances should be interpreted in favor of the property owner. *Id.* at 553-554. Counties are permitted to enact and retroactively apply ordinances, but only if certain conditions are met. "The first inquiry is one of statutory construction: whether there is clear evidence of legislative intent to apply the statute retrospectively. . . . If the legislation clearly expresses an intent that it apply retroactively, then the second inquiry is whether retroactive application is constitutionally permissible."

Metropolitan Dade County v. Chase Federal Housing Corp., 737 So.2d 494, 499 (Fla. 1999). See also *Campus Communications, Inc. v. Earnhardt*, 821 So.2d 388, 395 (Fla. 5th DCA 2002). The *Chase* court further noted that the “general rule is that in the absence of clear legislative intent to the contrary, a law affecting substantive rights, liabilities and duties is presumed to apply prospectively. . . . The policy rationale behind this rule of construction is that the retroactive operation of statutes can be harsh and implicate due process concerns.” *Metropolitan Dade County v. Chase Federal Housing Corp.*, 737 So.2d at 499.

Ordinance No. 94-4, which was enacted in 1994, does not contain any specific language indicating it was meant to apply retroactively. There is also no other documentation showing a clear legislative intent to apply Ordinance No. 94-4 retroactively. Therefore, the provision in Ordinance No. 94-4 that a PSP is voided if subdivision construction plans are not approved by Orange County within two years of the PSP approval does not apply to the River Isle PSP. The River Isle PSP remains valid because Developer complied with the requirements to timely file its final subdivision plan. Once this was done the River Isle PSP was not subject to being voided under the then existing ordinances, and the subsequently enacted changes to the ordinance did not retroactively apply to the PSP.

Additionally, Mr. Dugre’s argument that the 2014 non-substantial change to the River Isle PSP subjected the PSP to the current Orange County code requirements, including the provision that a PSP expires if subdivision construction plans are not approved within two years of the PSP approval, is without merit and is not supported by the prior actions of DRC. As referenced above, in 1995 the DRC determined that the PSP remained valid since subdivision construction plans had been timely submitted pursuant to the then existing Orange County code provisions. At the same time, DRC also approved the non-substantial change to the PSP to allow the location of the lift station to be moved. The determination in 1995 was made after the Orange County PSP code provisions had been changed to include the requirement for approval of subdivision construction plans within two years of PSP approval. However, DRC in 1995 did not state that the non-substantial change to the PSP subjected it to the new PSP expiration provisions. Instead it recognized the continuing validity of the PSP. This position is further supported by the 2013 DRC discussion about the River Isle PSP. At that meeting, the Orange County attorney concluded that the River Isle PSP was still valid. This determination was made approximately 18 years after the 1995 non-substantial change determination by DRC. Under Mr. Dugre’s theory, the 1995 DRC non-substantial change determination would have subjected the River Isle PSP to the revised PSP expiration provisions. Clearly, DRC has rejected that argument by previously concluding that the River Isle PSP remained valid.

Similarly, the 2014 non-substantial change determination by DRC and the BCC did not subject the River Isle PSP to the revised PSP expiration provisions. The BCC conditions of approval for the non-substantial change determination included the County’s standard condition referencing the revised River Isle PSP receipt date and the standard language that the development “based on this approval shall comply with all **applicable** federal, state, and county laws, ordinances, and regulations, which are incorporated here and by reference....” (*emphasis added*). As previously recognized by DRC, the applicable County ordinances are the original PSP expiration provisions that only required subdivision construction plans to be submitted within one year of the PSP approval. It was clearly never the intent of the non-substantial

TAB 1

change application and determination to subject the River Isle PSP to the potential for expiration under the revised code provisions.

In the instant case, Developer has a fixed right in the ongoing validity of the River Isle PSP that cannot be taken away without violating Developer's due process rights. Developer had more than a mere expectation that the Orange County PSP expiration provisions would continue because Developer took proactive steps to ensure that the PSP would remain valid. Once Developer timely submitted its final subdivision plans, as required by the then-existing code, the River Isle PSP was not subject to being voided. This conclusion did not change with the 1995 and 2014 non-substantial changes to the River Isle PSP, as is supported by DRC's 2013 determination that the PSP had not expired, even after the 1995 non-substantial change. DRC has clearly recognized that the River Isle PSP was not subject to the subsequent changes in Orange County's PSP expiration code provisions, which had been in effect well before the DRC's decisions in 1995 and 2013. If determined otherwise, Developer's rights to develop the property pursuant to the approved River Isle PSP would be voided without Developer's consent. This outcome is not supported by the law and Orange County's own actions. For the County to now claim that the River Isle PSP previously expired would be inequitable and a violation of Developer's due process rights.



OFFICE OF COMPTROLLER

ORANGE
COUNTY
FLORIDA

Martha O. Haynie
Clerk to the Board of County Commissioners
201 S. Rosalind Avenue
Post Office Box 30
Orlando, Florida 32802-0030
Telephone (407) 836-7300

March 25, 1991

The Harrod Group, Inc.
529 Versailles Drive
Maitland, FL 32751

Gentlemen:

Enclosed herewith is an excerpt from the minutes of the March 19, 1991, meeting of the Board of County Commissioners at which time the Board approved the River Isle Preliminary Subdivision Plan, subject to conditions as amended.

The action of the Board of County Commissioners has been filed this date in the office of Clerk of the Board of County Commissioners.

Sincerely,

Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners
Orange County, Florida

By:


Assistant Deputy Clerk

MOH:RMS:rhe

Enclosure

C: Mr. Russell C. Maynard
The Civil Design Group, Inc.
401 S. Rosalind Avenue, Suite 200
Orlando, FL 32801



March 19, 1991

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D R A F T C O P Y - Direct all inquiries to Roy at Ext. 7306

0458
PUBLIC HEARING - RIVER ISLE PRELIMINARY SUBDIVISION PLAN (CONT.
FROM 11/26/90 & 12/17/90), DISTRICT #3

It was the consensus of the Board to continue with the public hearing concerning the River Isle Preliminary Subdivision Plan, continued from the November 26, 1990, and December 17, 1990, Board meetings.

Staff Report

Public Works Director George Cole presented an update of the plan and recommendations for approval by the Development Review Committee, subject to conditions.

Public Utilities Director Alan Ispass pointed out that the developer is requesting Orange County's utilization of their wholesale agreement with Seminole County to allow connection of sewer and water service to the Seminole County system in that the proposed development is closer to Seminole County.

620

Appearances

The following persons addressed the Board in favor of the plan:

- Hugh Lokey; Civil Design Group, 401 S. Rosalind Avenue, Orlando, Florida; for the developer.
- Wayne Harrod, developer; The Harrod Group, Inc., 529 Versailles Drive, Maitland, FL.

No one appeared in opposition to the plan.

1430

Motion

Upon a motion by Commissioner Pignone, seconded by Commissioner Carter, and carried with County Chairman Chapin, Commissioners Pignone, Carter, voting AYE by voice vote; Commissioners Staley and Marston voting NO; Commissioners Butler and Donegan were absent; the Board approved the River Isle Preliminary Subdivision Plan, subject to the following conditions as amended:

1. Development shall conform to the River Isle Preliminary Subdivision Plan, dated "Received September 17, 1990," and to the following conditions of approval. Development based upon this approval shall comply with all other applicable federal, state and county laws, ordinances and regulations, which are incorporated herein by reference, except to the extent they are expressly waived or modified by these conditions or by action of Orange County.

This Preliminary Subdivision Plan approval automatically expires on March 19, 1992, in accordance with Orange County Subdivision Regulations as amended.

2. Deed restrictions shall be filed that prevent clearing of vegetation in the Conservation Easement unless appropriate permits are obtained.
3. The following request for waivers are granted:
 - a. Waiver of Section 8.3.1.H pertaining to internal sidewalks. Sidewalk along Rouse Road shall either be constructed or cash escrow deposited.

March 19, 1991

Page 22

March 19, 1991

Page 23

D R A F T C O P Y - Direct all inquiries to Roy at Ext. 7306

- b. Waiver of Section 8.3.1.B to permit right of way 40 ft. wide subject to dedication of front yard utility easement.
- c. Waiver of Section 10.4.5.D to permit retention pond side slope in excess of 5:1.
4. The mandatory homeowners' association shall own and maintain the proposed timber bridge.
5. Rear setbacks for Lots #6 thru #17 shall be a minimum of fifty (50) feet or the width of the conservation easement, whichever is greater.
6. Environmental berm shall be constructed as part of the infrastructure to be owned and maintained by home owners.
7. Retention ponds dedicated to Orange County. Maintenance may be by mandatory Home Owners Association with MSTU established and with an Agreement for delayed collection.
8. The sewer system shall be provided by Seminole County with an agreement to be drawn up by Orange County staff which would require the developer to fund sewer system changes that would be appropriate at such time as he would be required to connect into the Orange County system to be negotiated between Orange County and the developer.

1544

PUBLIC HEARING - ASHLEY PARK PRELIMINARY SUBDIVISION PLAN, DISTRICT #1

Notice was given that the Board of County Commissioners would hold a public hearing to consider the Ashley Park Preliminary Subdivision Plan on the following described property:

A parcel of land in the northeast 1/4 of the northwest 1/4 of Section 11, Township 23 South, Range 28 East, Orange County, Florida, more particularly described as follows:

Commence at the northwest corner of the northeast 1/4 of the northwest 1/4 of said Section 11, thence run N 89°21'47" E along the north line of said northeast 1/4 of the northwest 1/4 for a distance of 189.63 feet to a point on the easterly line of a Florida Gas Transmission Company Easement as recorded in Official Records Book 4256, Page 3874 of the Public Records of Orange County, Florida, said point also being the point of beginning; thence continue N 89°21'47" E along said north line (a non-radial line) for a distance of 458.55 feet to the westerly right-of-way line of Hiwassee Road (60' R/W) and a point on a curve concave easterly having a radius of 984.93 feet and a chord bearing of S 20°58'37" E; thence run southeasterly along the arc of said curve and said westerly right-of-way line through a central angle of 13°51'42" for a distance of 238.29 feet; thence run S 27°54'28" E along said westerly right-of-way line for a distance of 396.15 feet; thence leaving said westerly right-of-way line run S 89°21'47" W along a line 575.00 feet south of and parallel with said north line of the northeast 1/4 of the northwest 1/4 of said Section 11, for a distance of 605.84 feet

March 19, 1991

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TAB 1

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1/9/92 - Page 2

2. RIVER ISLE PSP - REQUEST FOR EXTENSION OF 3/19/92 EXPIRATION DATE

A letter from R. Wayne Harrod was received requesting an extension of the 3/19/92 expiration date for River Isle PSP.

ACTION: MOTION by David Heath, second Bill Baxter, to APPROVE the request for an extension of the 3/19/92 expiration date to 3/19/93, subject to compliance with the Vested Rights Ordinance of platting by 1993 and BCC confirmation. MOTION CARRIED.

3. MEADOW WOODS PARCEL 51 - REQUEST FOR EXTENSION OF 1/22/92 EXPIRATION DATE

A letter from Jose M. Calderon, President of First Florida Bank, was received requesting an extension of the January 22, 1992 expiration date for Meadow Woods Parcel 51. The bank hold the mortgage and since the untimely death of Mr. Raul Stern, they have a vested interest in the property and are making the request as the mortgage holder.

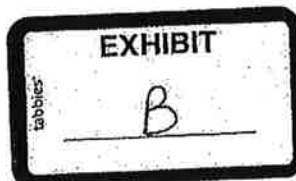
ACTION: MOTION by Tim Boldig, second Bill Baxter, to APPROVE the request for an extension of the 1/22/92 expiration date to 1/22/93, subject to BCC confirmation. MOTION CARRIED.

4. CRESCENT PARK/ABACA LAKE APARTMENTS PSP - REQUEST FOR SECOND EXTENSION OF 2/12/92 EXPIRATION DATE TO 12/3/93

A letter was received from Martin Kreidt, AICP, consultant, requesting an extension of the 2/12/92 expiration date to 12/1/93 to allow sufficient time for platting and development.

ACTION: MOTION by Bill Baxter, second Bob Hadley, to APPROVE the request for an extension of the 2/12/92 expiration date for one year to 2/12/93, subject to compliance with the Vested Rights Ordinance of platting by 1993 and BCC confirmation. MOTION CARRIED.

- ii -



TAB 1

APPROVED BY THE BOARD OF COUNTY
COMMISSIONERS AT ITS MEETING

FEB 08 1994 *zyw/ala*

Effective:
2/22/94

ORDINANCE NO. 94-4

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29
AN ORDINANCE PERTAINING TO THE REGULATION OF
LAND USE IN ORANGE COUNTY; AMENDING ORANGE
COUNTY CODE, CHAPTER 34, SUBDIVISION
REGULATIONS, TO PROVIDE FOR UPDATED,
CLARIFIED, REVISED AND STREAMLINED
SUBDIVISION STANDARDS AND PROCEDURES;
AMENDING ORANGE COUNTY CODE, SECTION 30-43,
PERTAINING TO POWERS AND DUTIES OF THE BOARD
OF ZONING ADJUSTMENT TO PROVIDE THAT A
VARIANCE TO A ZONING STANDARD WHICH EFFECTS
MORE THAN ONE LOT AND REQUIRES A CHANGE TO
THE PRELIMINARY SUBDIVISION PLAN SHALL BE
PROCESSED THROUGH THE SUBDIVISION REVIEW
PROCESS PURSUANT TO SECTION 34-27; AMENDING
ORANGE COUNTY CODE, SECTION 30-85, TO
ESTABLISH NON-SUBSTANTIAL AND SUBSTANTIAL
VARIANCE PROCEDURES FOR THE SUBDIVISION
REGULATIONS; AMENDING ORANGE COUNTY CODE,
SECTION 38-1207, TO PROVIDE THAT ALTERATIONS
TO A PLANNED DEVELOPMENT USE PLAN OR
DEVELOPMENT PLAN SHALL BE SUBJECT TO REVIEW
BY THE DEVELOPMENT REVIEW COMMITTEE AND A
PUBLIC HEARING BY THE BOARD OF COUNTY
COMMISSIONERS; PROVIDING FOR SEVERABILITY;
AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
31 ORANGE COUNTY, FLORIDA:

SECTION 1. The Orange County Code, Chapter 34,
33 Subdivision Regulations, is hereby amended as shown in
Exhibit "A", a copy of which is attached hereto and
35 incorporated by this reference, with the new language to the
text of that chapter being underlined and the deleted
37 language being struck through. All cross references, state
law references and other editorial notes, including, but not
39 limited to, references to ordinances or resolutions appearing
in parenthetical form at the end of the sections shown in



41 Exhibit "A" are not substantive parts of this ordinance and
are not being amended or adopted by this ordinance.

43 SECTION 2. The Orange County Code, Chapter 30, Planning
and Development, Article II, Planning and Zoning Enabling
45 Legislation, Section 30-43, Same [Board of Zoning Adjustment]
- Powers and Duties, subsection (3), Variances, is hereby
47 amended as follows with the new language being underlined:

Sec. 30-43. Same; Power and duties.

49 The board of zoning adjustment shall
51 have the following powers and duties:

* * *

53
55 (3) Variances.

* * *

57
59 [Add at end of subsection as forth
unnumbered paragraph.]

61 A requested variance from the
63 requirements of Section 38-1501 which
65 complies with each of the following three
67 criteria shall be processed in accordance
with Section 34-27 and shall not be heard by
the Board of Zoning Adjustment:

69 a. the requested variance is from a
71 provision of Chapter 38, Zoning,
73 which is either specifically
listed in Section 38-1501, Site
and building requirements, or from
75 the type of standards listed in
Section 38-1501 as applicable to
77 those properties located in the
UR, RCE-2 and RCE-5 districts, and

79 b. the variance request is made in
81 either combination with the
initial preliminary subdivision
plan review, or as a change to the
83 preliminary subdivision plan

85 conducted in compliance with
86 Chapter 34, Subdivision
87 Regulations, Orange County Code,
 and

89 c. the requested variance affects
 more than one lot and may have an
91 affect on the overall site
 development of the subdivision.

93 SECTION 3. The Orange County Code, Chapter 30, Planning
95 and Development, Article III, Land Development and Use
 Ordinance, Section 30-85, Variances and Waivers, is hereby
97 amended by adding a new subsection (e), with the new language
 being underlined, as follows:

99 Sec. 30-85. Variances and waivers.

* * *

103 e. Non-substantial and Substantial
Variances.

105 All variance requests are to be
107 classified and treated as either
109 non-substantial or substantial by
111 the Development Review Committee
113 (DRC) based upon the criteria
115 contained in Chapter 34. The
117 Board of County Commissioners
119 hereby deems non-substantial
121 variances to be ministerial
123 applications of the Subdivision
125 Regulations, Chapter 34, which may
127 be granted by the DRC. A DRC
decision on a non-substantial
variance may be appealed to the
Board and the Board shall hold a
noticed public hearing on the
appealed DRC decision.
Substantial variances shall be
reviewed by the DRC and a
recommendation forwarded to the
Board of County Commissioners for
final action at a noticed public

129 hearing. All Board public
hearings on either substantial or
non-substantial variances to
131 Chapter 34 shall follow the public
hearing notice procedures set
133 forth in Chapter 34.

135 SECTION 4. The Orange County Code, Chapter 38, Zoning,
Article VIII, P-D Planned Development District, Section
137 38-1207, Alterations to land use plan and development plan,
subsection (d) is hereby amended as follows with the
139 additional language being underlined and the deleted language
being struck through:

141 Sec. 38-1207 Alterations to land use plan
and development plans.

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* * *

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155 SECTION 5. SEVERABILITY. If any section, phrase,
sentence or portion of this Ordinance is for any reason held
157 invalid or unconstitutional by any court of competent
jurisdiction, such portion shall be deemed a separate,
159 distinct, and independent provision, and such holding shall

TAB 1

1 not affect the validity of the remaining portions thereof,
assuming the remaining portions can be given effect.

3 Section 3. Effective Date. This Ordinance shall become
effect pursuant to general law.

TAB 1

ORANGE COUNTY BOARD OF
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S U B D I V I S I O N R E G U L A T I O N S

EXHIBIT A

ORANGE COUNTY BOARD OF
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Chapter 34

SUBDIVISION REGULATIONS*

Article 1. In General

- Sec. 34-1. Short title.
- Sec. 34-2. Authority to enact.
- Sec. 34-3. Jurisdiction.
- Sec. 34-4. Purpose.
- Sec. 34-5. Definition.
- Sec. 34-6. Incorporation of appendices. Technical Information Manual.
- Sec. 34-7. Compliance.
- Secs. 34-8. - 34-256. Reserved.

Article II. Administration and Enforcement

- ~~Sec. 34-26.~~ Application to subdivisions approved prior to April 1, 1984.
- Sec. 34-27. Variances to Subdivision Regulations.
- Sec. 34-28. Exceptions. Variances to Zoning Code (Chapter 38).
- Sec. 34-29. Appeals.
- Secs. 34-30. - 34-45. Reserved.

Article III. Subdivision Review Process

Division 1. ~~Generally~~General

- Sec. 34-46. Determination of Chapter application; appeals; exceptions.
- Sec. 34-47. Fees.
- Sec. 34-48. Plat approval and recording.
- Secs. 34-49. - ~~34-65. 34-66~~ Reserved.

Division 2. Application for Approval of Preliminary Subdivision Plans

- ~~Sec. 34-66.~~ ~~Copies required.~~
- Sec. 34-67. Sufficiency review of plan.
- Sec. 34-68. Reviewing agencies.
- Sec. 34-69. Public hearing scheduling.
- Sec. 34-70. Action by Board of County Commissioners.
- Sec. 34-71. Authority granted by approval.
- ~~Sec. 34-72.~~ ~~Time limit on approval.~~
- Sec. 34-72. Approved activities.
- Sec. 34-73. Time limit on approval.

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~~Secs. 34-73. - 34-90. Reserved.~~
~~Sec. 34-74. Amendment to preliminary subdivision plan~~
~~Secs. 34-75 - 34-90. Reserved.~~

Division 3. Application for approval of
Final Subdivision Construction Plans ~~(Long Form)~~

Sec. 34-91. General standards.
Sec. 34-92. Submission and review.
Sec. 34-93. Time limit on approval.
Secs. 34-94. - 34-~~110~~130. Reserved.

~~Division 4. Application for Approval of~~
~~Short Form Subdivision~~

~~Sec. 34-111. Submission requirements.~~
~~Sec. 34-112. Review procedure.~~
~~Sec. 34-113. Unsatisfactory plans.~~
~~Sec. 34-114. Approval and plat recording; time limit.~~
~~Sec. 34-115. Appeals.~~
~~Secs. 34-116. - 34-130. Reserved.~~

Article IV. Specifications for Plans and Plats

Sec. 34-131. Preliminary subdivision plan and supporting data.
Sec. 34-132. Final subdivision plans.
Sec. 34-133. Platting requirements.
~~Sec. 34-134. Short form subdivision plans.~~
Secs. 34-135. - 34-150. Reserved.

Article V. Design Standards

Division 1. ~~Generally~~General

Sec. 34-151. General considerations.
Sec. 34-152. Lots and blocks.
Sec. 34-153. ~~Easements.~~ Drainage easements.
Sec. 34-154. Assembly of subdivision construction plans.
Sec. 34-155. Public sites and open spaces.
Secs. 34-156. - 34-170. Reserved.

Division 2. Streets or Highways

Sec. 34-171. Roadway design standards.
Sec. 34-172. Cul-de-sacs.
Sec. 34-173. Continuation of existing street pattern.
Sec. 34-174. Street access to adjoining property.
Sec. 34-175. Intersection design.

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Sec. 34-176. Subdivision entrance roads.
Sec. 34-177. Intersection separation.
Sec. 34-178. Street names.
~~Sec. 34-179. Subdivision on arterial or collector streets.~~
Sec. ~~34-180-34-179.~~ Half streets.
Sec. ~~34-181-34-180.~~ Additional right-of-way.
Secs. ~~34-182. - 34-200-34-181. - 34-200.~~ Reserved.

Article VI. Required Improvements

Sec. 34-201. Certification, approval of plans.
Sec. 34-202. Inspection of improvements.
Sec. 34-203. Irrevocable letter of credit.
Sec. 34-204. Certificate of completion/approval for maintenance.
Sec. 34-205. Monuments.
Sec. 34-206. Potable water supply and fire protection.
Sec. 34-207. Sanitary wastewater. Wastewater.
Sec. 34-208. Other utilities.
Sec. 34-209. Landscape and screening buffers. Roadway screen walls.
~~Secs. 34-210. - 34-225. Reserved.~~
Sec. 34-210. Engineer's certificate of completion.
Sec. 34-211. Certified record drawings.
Secs. 34-212. - 34-225. Reserved.

Article VII. Stormwater Management

Division 1. ~~Generally~~General

Sec. 34-226. Required features.
Sec. 34-227. Disposition of runoff.
Sec. 34-228. Development within areas of special flood hazard.
Sec. 34-229. Drainage plan and design requirements.
~~Secs. 34-230. - 34-245. Reserved.~~
Sec. 34-230. Lot grading and building pad elevation.
Secs. 34-231. - 34-245. Reserved.

Division 2. General Design Criteria

Sec. 34-246. Methods of computing runoff volume and peak rate of discharge.
Sec. 34-247. ~~(Minimum) design~~ Design storm.
Sec. 34-248. Storm duration and rainfall intensity.
Sec. 34-249. Retention, detention facilities.
Sec. 34-250. Open drainage facilities for retention/detention ponds.
Secs. 34-251. - 34-265. Reserved.

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Division 3. Hydraulic Design Criteria

- Sec. 34-266. Roadway drainage design.
- Sec. 34-267. Storm sewer design.
- Sec. 34-268. Culvert design.

*Charter reference-General powers of County, Sec. 103.

Cross references-Airport zoning, Sec. 7-26 et seq.; building and construction regulations, Ch. 9; environmental control, Ch. 15; floodplain management, Ch. 19; vacating roads, rights-of-way and easements, Sec. 21-61 et seq.; impact fees, Ch. 23; landscaping, Ch. 24; planning and development, Ch. 30; land development and use ordinances, Sec. 30-76 et seq.; subdivisions and plats, Sec. 30-111 et seq.; zoning, Ch. 38.

State law reference-Powers of chartered counties, Fla. Const. Art. VIII, Sec. 1(g); Local Government Comprehensive Planning and Land development Regulation Act, F.S. Sec. 163.3161 et seq.; subdivision regulations generally, F.S. Sec. 163.3202(2)(a); adoption of land development regulations, F.S. Sec. 163.3194; plats, F.S. Ch. 177.

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- (1) Pursuant to court order; or
- (2) A cemetery lot or interest therein.

(h) All subdivisions shall be consistent with the policies of the County Growth Management Comprehensive Policy Plan and shall comply with the Orange County Zoning Resolution and all applicable County ordinances and regulations provisions of the County Code.
~~(Res. of 4-1-84, as amended, Sec. 6.1)~~

Sec. 34-47. Fees.

(a) Fees for applications of subdivision approvals shall be established by the Board of County Commissioners for applications of subdivision approval, which may be amended from time to time. ~~Fees are due at the time of application and are payable to the Board of County Commissioners.~~

(b) The fee for an application for subdivision approval shall entitle each project to a maximum of two (2) review meetings before the DRC. ~~An additional fee equal to twenty-five (25) percent of the original fee shall be paid for each additional DRC review.~~
~~(Res. of 4-1-84, as amended, Sec. 6.5)~~

Sec. 34-48. Plat approval and recording.

The County Engineer shall submit process the plat to the Board of County Commissioners for approval for recording. Such plats shall comply with Section 34-~~133~~133. No plat of lands located within unincorporated Orange County shall be recorded, whether as an independent instrument or by attachment to another instrument entitled to record, unless and until such plat has been approved by the Board of County Commissioners. No plat within the corporate limits of any municipality shall be recorded unless such plat has been approved by the governing board of such municipality.
~~(Res. of 4-1-84, as amended, Sec. 6.6)~~

Secs. 34-49 -- 34-65~~6~~. Reserved.

**DIVISION 2. APPLICATION FOR APPROVAL OF
PRELIMINARY SUBDIVISION PLANS**

Sec. 34-66~~7~~. Copies required. Sufficiency review.

(a) The subdivider developer shall submit to the Director of the Division of Public Works and Development, twelve ~~(12)~~ Engineering Department, two (2) copies of the preliminary subdivision plan and the receipt for the required fee. This plan shall be prepared as

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specified in Section 7-1 34-131 of these regulations.
(Res. of 4-1-84, as amended, Sec. 6.2.1)

~~Sec. 34-67. Sufficiency review of plan.~~

(a) The Planning Director County Engineer, or his/her authorized representative, shall review the plan for compliance with Section 34-131. If he/she finds pertinent information is missing on the development preliminary subdivision plan, he/she will the Engineering Department shall contact the developer or project engineer of the project. The subdivider developer may be required to submit a revised preliminary subdivision plan. If the review by the DRE Engineering Department determines that a revised the plan is necessary sufficient, then twelve (12) additional copies shall be submitted to the the Chairman of the Development Review Committee Engineering Department.

(b) If the review by the Development Review Committee determines that a revised plan is necessary, twelve (12) shall be submitted to the Chairman of the Development Review Committee.
(Res. of 4-1-84, as amended, Sec. 6.2.2)

Sec. 34-68. Reviewing agencies.

(a) The Planning and Development Office Engineering Department shall distribute copies of the preliminary subdivision plan to the Development Review Committee DRC and other advisory staff. On or before the next available Development Review Committee meeting, these agencies shall review the preliminary plan and submit written comments at or before the meeting, or submit oral comments at the meeting. All comments will be addressed to the Chairman of the Development Review Committee. Members of the DRC and other interested agencies and departments shall submit written reports to the DRC Chairman, who shall prepare a consolidated report. This report will be available in the Engineering Department prior to the DRC meeting. Submittal of a written report shall not preclude additional comments at the DRC meeting.
(Res. of 4-1-84 as amended, Sec. 86.23)

(b) A meeting shall be scheduled between DRC and the developer and his representatives to review the preliminary subdivision plan for consistency with the provisions of the County Code.

(bc) If the review by the DRC determines that a revised plan is necessary, seven (7) copies of the revised plan shall be submitted to the Engineering Department.

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Sec. 34-69. Public hearing scheduling.

(a) After the Development Review Committee DRC ~~approves~~ reviews the preliminary subdivision plan and makes a recommendation, the Chairman of the Development Review Committee DRC shall promptly request a public hearing before the Board of County Commissioners. The public hearing shall be advertised by the Clerk's Office and shall be conducted as provided in Chapter 30, Article III of the County Code. In addition, at least ten (10) days prior to the date of public hearing before the Board of County Commissioners, the developer shall cause a poster or posters, furnished by the Office of Planning and Development, to be placed in a conspicuous and easily visible location on the property which is subject to the public hearing. The preliminary subdivision plan, supporting data, and a report from the Development Review Committee DRC shall be submitted by the Chairman of the Development Review Committee DRC to the Board of County Commissioners at the hearing.

(b) If the plan is denied recommended for denial by the Development Review Committee DRC, the applicant may appeal request in writing within fifteen (15) days, to the Chairman of the Development Review Committee DRC that the DRC recommendation not be forwarded. The Chairman will promptly submit the appeal request to the Board of County Commissioners for review. The applicant, at his option, may withdraw the application or redesign and resubmit the application to the DRC for further review.
(Res. of 4-1-84, as amended, Sec. 6.2.4)

Sec. 34-70. Action by the Board of County Commissioners.

The Board of County Commissioners shall approve, approve subject to conditions, or disapprove the preliminary subdivision plan. In disapproving any preliminary subdivision plan, the Board of County Commissioners shall provide reasons for such action.
(Res. of 4-1-84, as amended, Sec. 6.2.5)

Sec. 34-71. Authority granted by approval.

Approval of the preliminary subdivision plan shall be construed as authority for submitting final subdivision construction plans. Approval of the preliminary subdivision plan shall not be construed as authority for commencement of construction, nor for the transfer of title of lots in reference to said preliminary subdivision plan, nor as authority for obtaining building permits, nor for the recording of a plat with the County Comptroller.
(Res. of 4-1-84, as amended, Sec. 6.2.6)

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Sec. 34-72. Approved Activities

Work within the subdivision prior to the release of approved subdivision construction plans by the County Engineer shall be limited to clearing and grubbing for construction of access areas to and within the site and to pollution control facilities required during the construction phase. There shall be no activity in conservation areas until a mitigation plan is approved.

Sec. 34-7273. Time limit on approval.

Preliminary subdivision plan approval by the Board of County Commissioners shall be automatically voided if final subdivision construction plans are not submitted within one (1) year and approved within two (2) years of preliminary subdivision plan approval. The Board of County Commissioners or its designee DRC may grant a one (1) year time extension upon written request by the developer to the DRC Chairman of the Development Review Committee prior to the expiration date.

(Res. of 4-1-84, as amended, Sec. 6.2.7)

Sec. 34-74. Amendment to PSP.

(a) Submittal and review of request. A request for an amendment to an approved PSP shall be submitted and reviewed in accordance with the provisions of Sections 34-67, 34-68, and 34-69.

(b) The DRC shall determine whether the amendment is a substantial or non-substantial amendment to the PSP based upon the scope, nature, density/intensity and location of the amendment within the PSP.

(1) A non-substantial amendment shall be reviewed and approved by the DRC.

(2) A substantial amendment shall be processed, noticed and scheduled for hearing in accordance with the provisions of Sections 34-68 and 34-69.

(c) If an applicant contests the DRC determination that a proposed amendment is a substantial change, the amendment shall be processed as a substantial amendment as set forth in subsection (d) above; however, the applicant may present evidence at the public hearing as to why the amendment should be considered non-substantial.

(d) At the conclusion of the hearing on a substantial amendment the Board of County Commissioners shall approve, approve with

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conditions or disapprove the amendment to the PSP. In disapproving the amendment to the PSP the Board of County Commissioners shall provide reasons for such action. In those situations when the applicant has contested the DRC finding that an amendment is substantial the Board of County Commissioners shall also make a finding based on the evidence presented at the hearing whether the proposed amendment is substantial or non-substantial.

Secs. 34-7975 -- 34-90. Reserved.

**DIVISION 3. APPLICATION FOR APPROVAL OF FINAL SUBDIVISION
CONSTRUCTION PLANS ~~(LONG-FORM)~~**

Sec. 34-91. General standards.

The final subdivision construction plans shall conform substantially to the preliminary subdivision plan as approved, and may constitute only that phase of the approved preliminary subdivision plan and other necessary improvements which the subdivider developer proposes to record and develop. ~~The~~ These plans shall also conform to all requirements of these or other adopted county regulations applicable provisions of the County Code.
~~(Res. of 4-1-84, as amended, Sec. 6.3.1)~~

Sec. 34-92. Submission and review.

The final subdivision construction plans and supporting data required for approval shall be prepared as specified in Section 34-132 and shall be submitted to the County Engineer for distribution to appropriate county departments.
~~(Res. of 4-1-84, as amended, Sec. 6.3.2)~~

Sec. 34-93. Time limit on approval.

Approval of the preliminary subdivision plan and the final subdivision construction plans shall be automatically voided:

- (a) If a pre-construction conference, per Section 34-154(c), has not commenced within one (1) year from the date of final subdivision construction plan approval or
- (b) If no construction activity has taken place for a period of one year. The Board of County Commissioners or its designate
- (c) Unless prior to the expiration date of (a) or (b) above, DRC may grant a timeone (1) year extension upon written request to the DRC Chairman of the Development Review Committee,

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provided that the plans still comply with current regulations.

Secs. 34-94 - 34-110130. Reserved.

~~DIVISION 4. APPLICATION FOR APPROVAL OF SHORT FORM SUBDIVISION PLANS~~

~~Sec. 34-111. Submission requirements.~~

The subdivider shall submit a completed application form, a receipt for fee payment and seven (7) copies of the Short Form Plan to the County Planning Department. If the application or plan is incomplete, the Planning Director shall not process the application until all requirements are met.
(Res. of 4-1-84, as amended, Sec. 6.4.1)

~~Sec. 34-112. Review procedure.~~

The Planning Director shall distribute copies of the plan to the members of the Development Review Committee (DRC) for review and comment. The subdivider shall be notified in writing within twenty-one (21) days whether the plan is satisfactory or needs revision.
(Res. of 4-1-84, as amended, Sec. 6.4.2)

~~Sec. 34-113. Unsatisfactory plans.~~

When DRC members find that the plan does not conform to all applicable regulations, the Planning Director shall promptly forward a composite report of the findings to the subdivider. The subdivider may be required to submit a revised plan. The composite report shall reference the specific sections of applicable regulations to which the plan does not conform.
(Res. of 4-1-84, as amended, Sec. 6.4.3)

~~Sec. 34-114. Approval and plat recording; time limit.~~

If the DRC members recommend approval of the plan as submitted, or as revised, the Planning Director shall promptly request a public hearing before the Board of County Commissioners. The public hearing shall be advertised and the property posted in compliance with Section 34-69(a). Upon approval by the Board of County Commissioners, the subdivider shall prepare a plat consistent with the approved short form plan. The plat shall be submitted to the County Engineer. If a plat is not submitted within one (1) year, the approval shall become null and void.
(Res. of 4-1-84, as amended, Sec. 6.4.4)

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~~Sec. 34-115. Appeals.~~

(a) To the Development Review Committee. If a plan is disapproved by the Planning Director after receipt of comments, the subdivider may appeal the disapproval to the DRC within fifteen (15) days of the decision. An appeal shall then be scheduled for the next available DRC meeting, at which time the subdivider may appear and present any arguments that may affect the disapproval. The DRC shall, as a body, make a recommendation regarding the disposition of the appeal.

(b) To the Board of County Commissioners. The subdivider may appeal a decision of the DRC within fifteen (15) days of that decision to the Board of County Commissioners. The public hearing shall be advertised and the property posted in compliance with Section 34-69(a). The Board of County Commissioners shall schedule a public hearing on the appeal. If approved, the plat shall be recorded in accordance with Section 34-48.
(Res. of 4-1-84, as amended, Secs. 6.4.5, 6.4.6)

~~Secs. 34-116 - 34-130. Reserved.~~

ARTICLE IV. SPECIFICATIONS FOR PLANS AND PLATS

Sec. 34-131. Preliminary subdivision plan and supporting data.

(a) Generally General. The preliminary subdivision plan shall include the information listed in this Section. Notes should be used whenever possible on the preliminary subdivision plan to explain, verify or identify additional information that is important to the understanding of the site and the plan of development. All property being subdivided shall have the appropriate zoning for the land uses being proposed. The preliminary subdivision plan shall be submitted on 24-inch vertical by 36-inch wide sheets.

(b) Legend and supporting data. The legend and supporting data of the preliminary subdivision plan shall include:

(1) Title and date of plan.

(2) Name, address and telephone number of the owner/developer, surveyor, engineer and other consultants.

(113) Letter with notarized signature from property owner authorizing the application if owner is not applicant.

(34) Scale of the plan (preferably one (1) inch equals one hundred (100) feet) and north arrow.

DEVELOPMENT REVIEW COMMITTEE MEETING
MINUTES
August 24, 1995

The Development Review Committee met on Thursday, August 24, 1995 in the first floor conference room, Public Works Building, 4200 S. John Young Parkway. The Chairman, David Heath, called the meeting to order at 8:00 a.m. with appropriate staff present. The DRC Minutes of August 10, 1995 were reviewed with a MOTION by Bob Hadley, second Bill Baxter to APPROVE THE DRC MINUTES OF 08/10/95.

1. RIVER'S ISLE PSP - CHANGE DETERMINATION

Representing the Developer were Wayne Harrod and Jay Jackson. After much discussion it was determined that the River's Isle Preliminary Subdivision Plan did not need an extension because it had never expired because the construction plans were submitted and rejected. MOTION by Bill Baxter, second John Smogor, to approve this NON-SUBSTANTIAL CHANGE for the River's Isle PSP which would allow the relocation of the lift station into Tract 2, subject to a revised plan being submitted showing the relocation and showing that the development will be served by Orange County sewer and water. MOTION CARRIED.

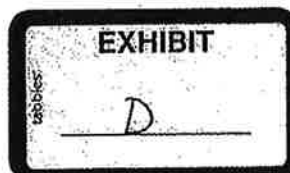
NON-AGENDA ITEMS

1. PINE RIDGE HOLLOW PHASE III

Representing the Developer was Kevin Hawkins and Sam Hamilton. The Developer requested a change determination to Pine Ridge Hollow Phase III Preliminary Subdivision Plan to add three lots. MOTION by John Smogor, second Bob Hadley, to approve this NON-SUBSTANTIAL CHANGE to the approved PSP. MOTION CARRIED.

2. LAKE SPEAR PSP - ONE YEAR EXTENSION

Representing the Developer was Kevin Walsh. The Developer requested a one year extension for the Lake Spear Preliminary Subdivision Plan from August 25, 1995 to August 25, 1996. MOTION by John Smogor, second Bill Baxter, granting the one-year extension. MOTION CARRIED.



Orange



County

Public Works Division
Development Engineering Department

James T. Show, P.E., Manager
4200 South John Young Parkway
Orlando, Florida 32839-9205
Telephone (407) 836-7974
FAX (407) 836-7999

August 28, 1995

Wayne Harrod
The Harrod Group, Inc.
529 Versailles Drive
Maitland, Florida 32751

Subject: River Isle PSP - Change Determination

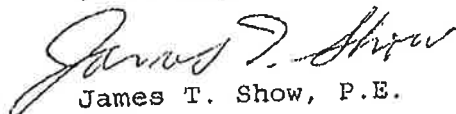
Dear Mr. Harrod:

Recently you requested a one year extension for the River Isle Preliminary Subdivision Plan and a change determination concerning the relocation of the lift station on this project.

On Thursday, August 24, 1995 the Development Review Committee (DRC) considered these requests and determined that the PSP had not expired since the construction plans were submitted and then rejected. Also, the DRC approved the relocation of the lift station into Tract 2 as a non-substantial change, subject to a revised plan being submitted which would show this revision and a note indicating the site would be served by Orange County for both water and sewer.

If you have any questions, please contact me at 836-7974.

Sincerely,


James T. Show, P.E.

JTS/zlf

cc: William P. Baxter, P. E., Deputy Director, Public Works
David C. Heath, Manager, Planning Department
John Smogor, Chief Planner, Planning Department
Tim Boldig, Development Coordinator, Zoning Department
Robert W. Hadley, P. E., Chief Engineer, Public Utilities

EXHIBIT

E

APPROVED MEETING MINUTES
DECEMBER 4, 2013

5. **CDR-13-11-295 - DISTRICT 1**
Village F Master PD/ (Parcels N8 - N11; N14 - N-16)

Present for discussion was Lance Bennett. A change determination was requested to adjust the PD District units consistent with the proposed PSP under review. The overall units remain consistent with the approved PD. The update is for tracking purposes:

- N-9 reduced units from 74 units to 64 units
- N-11 increased units from 59 units to 70 units
- N-14 reduced units from 17 units to 16 units

MOTION by Alberto Vargas, seconded by Andres Salcedo TO APPROVE A NON-SUBSTANTIAL CHANGE TO THE PREVIOUSLY APPROVED VILLAGE F MASTER PD TO UPDATE THE PD DISTRICT UNITS FOR TRACKING PURPOSES.

MOTION CARRIED.

6. **DP-13-12-302 - DISTRICT 1**
Windermere Landing PD / Windermere Landing Phase 3 Mass Grading Development Plan

Present for discussion were Dante Fraiegari, Dan O'Keefe and Adam Smith. The applicant submitted a mass grading plan to the Development Engineering Permitting Section during the review staff realized that there was not an approved PSP and that the plan submitted and reviewed should be reviewed as a development plan for mass grading. The plan submitted to permitting shall be reviewed as a development plan for mass grading through the DRC process.

MOTION by Joe Kunkel, seconded by Andres Salcedo TO RECOMMEND APPROVAL OF THE WINDERMERE LANDING PD/WINDERMERE LANDING/ MASS GRADING DEVELOPMENT PLAN subject to approval of a revised plan.

MOTION CARRIED.

DISCUSSION ITEM

1. **DISC-13-10-017- DISTRICT 5**
River Isle PSP

Present for discussion were Dan O'Keefe and Wayne Harrod. The applicant is requesting discussion regarding the validity of the approved River Isle PSP which was originally approved by BCC on March 19, 1991. At that time, section 34-72, Orange County Code, provided that a PSP was automatically voided if construction plans were not submitted within one year, and also provided that the Board or its designee could grant a time extension upon the developer's written request. The




**APPROVED MEETING MINUTES
DECEMBER 4, 2013**

applicant provided documentation that the developer, R. Wayne Harrod, submitted a written request to DRC for an extension of the March 19, 1992, PSP expiration date, and that DRC granted the request, extending the expiration date to March 19, 1993. The applicant also provided documentation that on August 24, 1995, the DRC determined that the PSP did not need an extension at that time because it had never expired because construction plans had been submitted and rejected. Vivien Monaco, Orange County's Attorney agrees with the conclusion that the River Isle PSP is still valid.

No action was taken.

Respectfully submitted,


Lourdes O'Farrill
Development Coordinator
Planning Division

TAB 1

November 7, 2016

John Weiss
Director
Community, Environmental and Development Services
Orange County Administration Building
201 S. Rosalind Avenue
Orlando, FL 32801

Dear Mr. Wiess,

This correspondence references our meeting on October 31, 2016. During our meeting with Commissioner Edwards, John Smoger, Chairmen of the Development Review Committee, and Frank Arnall, we discussed the validity of the River Isle PSP approved on August 19, 2014.

Tim Boldig, the Deputy Director of CEDS, made clear the legal standing of this project in his email to me on August 22, 2016 that states:

"Although there is a long history regarding this project...When the BCC considered the May 28, 2014 DRC appeal on this project at their meeting of August 19, 2014...the BCC essentially voided/superseded all previous conditions associated with the project except for those listed in the August 19, 2014 minutes. I've attached those August 19th minutes for your reference"

At our meeting, when queried Mr. Smoger confirmed that no construction plans had been approved for this project. It was with that confirmation, we stated that the River Isle PSP dated August 19 2014 had expired on August 19, 2016, because the first condition of approval by the BCC as referenced, county ordinance requires construction plans must be approved within two years of PSP approval.

We agree with Mr. Boldig that the BCC action on August 19, 2014 voids and supersedes the conditions of the of the March 19,1991 approval of the River Isle PSP as indicated by the deleted condition in the BCC notes. The BCC notes clearly state:

"Development shall conform to the River Isle Preliminary Subdivision Plan dated "Received July 3. 2014" 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 July 3. 2014" the condition of approval shall control to the extent of such conflict or inconsistency."

TAB 1

If it were the intent of the BCC to instate a waiver or modification to any county ordinances that the approval would be subject to, the notes would reflect that, and they do not. Proper administration of this case would be to deem this PSP expired and require the developer to reapply for a subdivision permit.

Thank you in advance for your prompt response.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael Dugre', with a long horizontal flourish extending to the right.

Michael Dugre
Rocking Horse Ranches Community

CC: Commissioner Ted Edwards

: Mayor Thresa Jacobs

: Ajit Lalchandani, County Administrator

: Jeffrey Newton, County Attorney

TAB 1

Weiss, Jon

From: Boldig, Tim
Sent: Monday, November 14, 2016 8:50 AM
To: Weiss, Jon
Subject: FW: River Isle PSP
Attachments: River Isle PSP.pdf

FYI

From: Boldig, Tim
Sent: Thursday, September 22, 2016 9:39 AM
To: 'Judi Schack'
Cc: frank.arnall@gmail.com
Subject: RE: River Isle PSP

Judi:

After some additional research I can offer the following:

Although there is a long history regarding this project...When the BCC considered the May 28, 2014 DRC appeal on this project at their meeting of August 19, 2014...the BCC essentially voided/superseded all previous conditions associated with the project except for those listed in the August 19, 2014 minutes. I've attached those August 19th minutes for your reference.

Therefore the response previously provided to you by our Director Jon Weiss is an accurate portrayal of the project history and validity whereas the PSP has not expired. I trust this information is helpful to you.

Tim

From: Judi Schack [<mailto:judipt@cfl.rr.com>]
Sent: Tuesday, September 20, 2016 8:31 AM
To: Boldig, Tim
Cc: frank.arnall@gmail.com
Subject: River Isle PSP

Tim,

Touching base on your research into the validity of the River Isles PSP. We would like to have a clear statement as to the staff position so we can move forward.

Thanks,

Mike Dugre'

- b. A waiver from Section 38-1385(b)(2) to allow for a minimum average lot size of 8,400 square feet, in lieu of the required minimum average lot size of 10,000 square feet.
15. The portion of Seidel Road right-of-way indicated as the portion to be vacated on the PD/LUP shall be considered to have a Village F SAP map designation of Estate District if the Petition to Vacate (PTV) is granted. An owner/developer's PTV such right-of-way shall be subject to BCC approval, and shall be processed at a future time, after issuance of a certification of completion for the realigned Seidel Road and only after traffic has been re-routed. Only if the Board approves such PTV shall the underlying SAP land use designation formally become Estate District.

and further, approved the Adequate Public Facilities Agreement by and between Seidel Road Investments, LLC and Orange County. District 1.

Development Review Committee Appeal

9. **Michael A. Dugre, River Isle Preliminary Subdivision Plan, Case # CDR-14-05-139, District 5**

Applicant: Michael A. Dugre, Rocking Horse Ranches
Consideration: Appeal of the decision by the Orange County Development Review Committee, dated May 28, 2014, to approve a non-substantial change to the River Isle Preliminary Subdivision Plan (PSP) Case # CDR-14-05-139 to remove Parcel ID# 04-22-31-0000-00-004 from the existing PSP
Location: District 5; property located at 5879 Rocking Horse Road; generally located at the southeast corner of McCulloch Road and Rocking Horse Road; Orange County, Florida (legal property description on file)
Court Reporter: Jean Rohrer, Orange Legal

The applicant was advertised in the Orlando Sentinel as Michael A. Dugre, however he is the appellant.

The following persons addressed the Board:

- Scott Glass
- Mike Dugre
- Alison Yurko

The following exhibits were received by the Clerk prior to the close of the public hearing:

- Exhibit 1, from Alison Yurko
- Exhibit 2, from Scott Glass

Motion/Second: Commissioners Edwards/Brummer

AYE (voice vote): All members

Action: The Board made a finding of consistency with the Comprehensive Plan; and further, upheld the decision of the Development Review Committee; and further, approved the non-substantial change to the River Isle Preliminary Subdivision Plan (PSP) Case # CDR-14-05-139 to remove Parcel ID# 04-22-31-0000-00-004 from the existing PSP, on the described property; subject to the following conditions:

1. Development shall conform to the River Isle Preliminary Subdivision Plan dated "Received July 3, 2014" 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 July 3, 2014" 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 at the public hearing where this development was approved, 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. 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 or 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. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, March 19, 1991, shall apply:
 - a. 1. ~~Development shall conform to the River Isle Preliminary Subdivision Plan, dated "Received September 17, 1990," and to the following conditions of approval. Development based upon this approval shall comply with all other applicable federal, state and county laws, ordinances and regulations, which~~

~~are incorporated herein by reference, except to the extent they are expressly waived or modified by these conditions or by action of Orange County.~~

~~This Preliminary Subdivision Plan approval automatically expires on March 19, 1992, in accordance with Orange County Subdivision Regulations as amended.~~

05/28/2014: THE PRECEDING CONDITION HAS BEEN REPLACED BY NEW CONDITION OF APPROVAL #1

- b. 2.** Deed restrictions shall be filed that prevent clearing of vegetation in the Conservation Easement unless appropriate permits are obtained.
- c. 3.** The following request for waivers are granted:
 - a. 1)** Waiver of Section 8.3.1.H pertaining to internal sidewalks. Sidewalk along Rouse Road shall either be constructed or cash escrow deposited.
 - b. 2)** Waiver of Section 8.3.1.B to permit right of way 40 ft. wide subject to dedication of front yard utility easement.
 - c. 3)** Waiver of Section 10.4.5.D to permit retention pond side slope in excess of 5:1.
- d. 4.** The mandatory homeowners' association shall own and maintain the proposed timber bridge.
- e. 5.** Rear setbacks for Lots #6 thru #17 shall be a minimum of fifty (50) feet or the width of the conservation easement, whichever is greater.
- f. 6.** Environmental berm shall be constructed as part of the infrastructure to be owned and maintained by home owners.
- g. 7.** Retention ponds dedicated to Orange County. Maintenance may be by mandatory Home Owners Association with MSTU established and with an Agreement for delayed collection.
- h. 8.** The sewer system shall be provided by Seminole County with an agreement to be drawn up by Orange County staff which would require the developer to fund sewer system changes that would be appropriate at such time as he would be required to connect into the Orange County system to be negotiated between Orange County and the developer.

Note: *This request was approved as a non-substantial change, and therefore the conditions of approval were not considered by the Development Review*

Committee. The conditions of approval were subsequently updated by the DRC Office after the DRC action.

Planning and Zoning Commission Board-Called

10. John Herbert and Daniel O'Keefe; Case # RZ-14-04-011, April 17, 2014; District 5

Applicant: John Herbert and Daniel O'Keefe
Case No.: Planning and Zoning Commission Case # RZ-14-04-011; April 17, 2014
Consideration: Request to rezone the subject 16.08-acre parcel, located at 5879 Rocking Horse Road, from A-2 (Farmland Rural District) to R-1AAA (Residential Urban District), subject to the following restriction:
1) Development shall be limited to a maximum of ten (10) lots, with a minimum lot size of one-half (1/2) acre.
Location: District 5; property located at 5879 Rocking Horse Road; generally located at the southeast corner of McCulloch Road and Rocking Horse Road; Orange County, Florida (legal property description on file in Planning Division)
Court Reporter: Jean Rohrer, Orange Legal

The following persons addressed the Board:

- Scott Glass
- Sam Bellaire
- Peter Patenaude
- Dale Spears
- Jessica Malchow
- Dave Pacacha
- Phil Fretwell
- Jacqueline Skelton
- Brett Vonsik
- John Frederick
- Michael Dugre
- Charles Skelton
- Beth Brunner
- Frank Arnall
- Susan Arnall
- Alison Yurko
- Dan Peterson

The following exhibits were received by the Clerk prior to the close of the public hearing:

- Exhibit 1, from Scott Glass
- Exhibit 2, from Scott Glass
- Exhibit 3, from Scott Glass
- Exhibit 4, from Sam Bellaire



May 21, 2016

Mr. Jon V. Weiss, PE
Orange County Environmental and
Development Services Department
PO Box 1393
Orlando, FL 32802-1393

Dear Mr. Weiss:

Thank you for responding to my letter of March 24, 2016 in reference to the River Isle PSP. I have no disagreement with the historical review, only with the absence of authority for Staff to override a BCC action. The records furnished are a matter of fact and are not in dispute. You did not offer a valid explanation for additional extension beyond one year. Therefore, I do believe that the River Isle PSP did Expire on 3/19/1993 as your records demonstrate Mr. Harrod did not fulfill the requirements of his first extension to have property plated by 1993. He gave up his opportunity for review when he withdrew his appeal to the county commissioners and his withdrawal was excepted by the BCC thereby allowing it to expire on that date.

Even if the River Isle PSP had not expired in 1993, I am sure will agree that it would not be valid today after consideration of the following information:

Sec. 34-93. - Expiration of approved subdivision construction plans.

- (a) Subdivision construction plan approval shall automatically expire:
- (1) If a preconstruction conference, per Section 34-154~~4~~, has not commenced on at least one phase within one (1) year from the date of subdivision construction plan approval;
 - (2) If no construction activity has taken place for a period of one (1) year after the pre-construction conference; or
 - (3) If the subdivision was approved prior to 1995 and construction has not occurred before June 13, 2000.
- (b) Notwithstanding subsection (a) above, the DRC may grant successive one (1) year extensions if the developer makes written request to the DRC chairman prior to the applicable expiration date above, provided that the plans still comply with this chapter.
- (Ord. No. 94-4, § 1(Exh. A), 2-8-94; Ord. No. 2000-14, § 1, 6-27-00)

This ordinance is quite clear and the River Isle PSP is subject to it, notwithstanding the above argument for the expiration of the River Isle PSP. It is quite clear that the PSP was older than 1995 and that construction had not occurred before 6/13/2000 at which time the PSP would have expired if it had not already expired in 1993. There is no evidence of exemption from Section 34-154 expiration of the former PSP.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank Arnall".

Frank Arnall

CC: Commissioner Ted B. Edwards



April 8, 2016

Frank Arnall
5743 Rocking Horse Road
Orlando, Florida 32817

Mr. Arnall:

Thank you for your correspondence to the Orange County Community, Environmental and Development Services (CEDS) Office. Staff has researched your inquiry regarding the validity of the River Isle Preliminary Subdivision Plan (PSP) and I offer the following response.

The Board of County Commissioners (BCC) originally approved the River Isle PSP on March 19, 1991. On August 20, 1991, the BCC overturned a Development Review Committee (DRC) decision and approved a non-substantial change to the River Isle PSP to add one (1) lot, relocate the pump station and permit tennis courts on site. On January 9, 1992, DRC approved an extension to the River Isle PSP to expire on March 19, 1993. On January 14, 1993, DRC recommended denial of a second one-year extension of the River Isle PSP to March 19, 1994. On February 11, 1993, DRC reconsidered and upheld the previous denial of the one-year extension. On March 9, 1993, the BCC accepted a request by the applicant to withdraw the appeal of the DRC decision to deny extending the expiration date of the PSP. The applicant requested a change determination to use a diversion structure, which was denied by DRC on October 14, 1993.

On August 24, 1995, the DRC considered a one-year extension request for the PSP and a change determination concerning the relocation of the lift station for the project. DRC determined that the PSP had not expired since the construction plans were submitted and then rejected, and approved a non-substantial change to relocate the lift station.

On December 4, 2013, DRC considered a discussion item regarding the validity of the PSP. DRC determined that at the time of original approval (March 19, 1991), Section 34-72 of Orange County Code provided that a PSP was automatically voided if construction plans were not submitted within one year, and provided that the Board or its designee could grant a time extension upon the developer's written request. Based on the August 24, 1995 DRC action, DRC determined that the PSP had never expired, due to fact that construction plans had been submitted and rejected, consistent with Section 34-72 of Orange County Code.

On May 28, 2014, DRC approved a non-substantial change to the PSP to remove parcel identification number 04-22-31-0000-00-004 (property west of the Little Econ River) from the PSP. This decision was appealed by Mr. Michael A. Dugre to the BCC, which upheld DRC's determination and approved the non-substantial change on August 19, 2014.

**COMMUNITY, ENVIRONMENTAL AND DEVELOPMENT
SERVICES DEPARTMENT
JON V. WEISS, P.E., Director**

201 South Rosalind Avenue, 2nd Floor • Reply To: Post Office Box 1393 • Orlando, Florida 32802-1393
Telephone 407-836-5312 • Fax 407-836-0995 • Jon.Weiss@ocfl.net

TAB 1

Page Two
River Isle PSP

Based on these actions by the DRC and BCC, the River Isle PSP did not expire and considered valid. I have included back-up summary and minutes of these actions. More detailed files are available for inspection with the Planning division.

Please let me know if you have any questions regarding our analysis.

Sincerely,

Jon V. Weiss

JVW:rep

Attachments