



## Interoffice Memorandum

DATE: November 1, 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: November 28, 2017 – Public Hearing  
Applicant: James H. McNeil, Jr., Akerman, LLP  
Heartwood Planned Development / Heartwood Preliminary  
Subdivision Plan  
Case # PSP-17-01-012 / District 5

This public hearing to consider a recommendation from the Development Review Committee's (DRC) meeting of August 23, 2017 to recommend approval of the Heartwood Planned Development / Heartwood Preliminary Subdivision Plan to subdivide 40.62 acres in order to construct thirty-eight (38) single-family residential dwelling units.

A community meeting was held for this request on November 6, 2017.

This project is proposed to be a gated community under Orange County Code Sections 34-280, 34-290, and 34-291.

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

1. A waiver from Orange County Code Section 34-209 is requested to allow a six (6) foot high simulated aluminum / wrought iron fence with columns in lieu of a six (6) foot high masonry wall on Tracts A and B along Lake Pickett Road.

Additionally, a Right-of-Way and Proportionate Share Agreement (RAG-17-05-017) associated with this request will be scheduled for the November 28, 2017 BCC consent agenda. That agreement will be pulled from the consent agenda to be considered concurrent with this request.

The required Specific Project Expenditure Report and Relationship Disclosure Forms have been completed in accordance with the requirements of Article X, Chapter 2, Orange County

Code, as may be amended from time to time, and copies of these and the PSP may be found in the Planning Division for further reference.

**ACTION REQUESTED:    Make a finding of consistency with the Comprehensive Plan (CP) and approve the Heartwood Planned Development / Heartwood Preliminary Subdivision Plan dated “Received September 7, 2017”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 5**

JVW/JS/sfv  
Attachments

**CASE # PSP-17-01-012**

Commission District # 5

**1. REQUEST**

This public hearing to consider a recommendation from the Development Review Committee's (DRC) meeting of August 23, 2017 to recommend approval of the Heartwood Planned Development / Heartwood Preliminary Subdivision Plan to subdivide 40.62 acres in order to construct thirty-eight (38) single-family residential dwelling units.

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**2. PROJECT ANALYSIS**

- |                       |   |
|-----------------------|---|
| A. Location:          | South of Lake Pickett Road / West of Lake Louise  |
| B. Parcel ID:         | 10-22-32-0000-00-008 (portion of)<br>10-22-32-0000-00-044 (portion of)  |
| C. Total Acres:       | 40.62 acres (gross)   |
| D. Water Supply:      | Orange County Utilities   |
| E. Sewer System:      | Individual Septic System  |
| F. Schools:           | East Lake ES: Capacity 756, Enrollment 753<br>Corner Lake MS: Capacity 1,215, Enrollment 999<br>East River HS: Capacity 3,002, Enrollment 2,031 |
| G. School Population: | 16  |
| H. Parks:             | Bithlo Park - 5.2 Miles   |
| I. Proposed Use:      | 38 Single-Family Residential Dwelling Units   |

- J. Site Data:                      Maximum Building Height: 35' (2-stories)  
   Minimum Floor Area: 1,500 Square Feet  
   Minimum Lot Width: 100 Feet  
   Building Setbacks:  
   30' Front  
   25' Rear  
   10' Side  
   15' Street Side Yard  
   150' Lake Pickett Rd.  
   25' PD Boundary  
   50' NHWE
- K. Fire Station:                      82 - 500 North Story Partin Road
- L. Transportation:                      The Roadway Agreement Committee has reviewed a Right-of-Way and Proportionate Share Agreement for Heartwood PD ("Agreement") by and between Home Dynamics Corporation and Orange County for the dedication of right-of-way on Lake Pickett Road and a proportionate share payment for 6 deficient trips on Chuluota Road: From Colonial Drive to Lake Pickett Road in the amount of \$156,558. Right of Way is being conveyed as two separate parcels. 9,945 square feet of right-of-way is being donated at no cost to the County as a donation and an additional 10,089 square feet is being conveyed for Transportation Impact Fee Credits in the amount of \$17,350. Pursuant to Section 163.3180(5)(h), Florida Statutes, an applicant may mitigate capacity deficiencies by entering into a Proportionate Share Agreement and contributing a proportionate share payment. The Proportionate Share Payment of \$156,558.00 is due within thirty (30) days of the effective date of this Agreement. The Agreement follows the recommendations of the Roadway Agreement Committee providing for the mitigation of road impacts on Chuluota Road for six deficient trips on the road segment from Colonial Drive to Lake Pickett Road in an amount of \$26,093 per trip.

### **3. COMPREHENSIVE PLAN**

The subject property is designated on the Future Land Use Map (FLUM) as Rural Settlement 1/1 (RS 1/1). The property is within the Lake Pickett Rural Settlement. The request is consistent with the Comprehensive Plan.

### **4. ZONING**

PD (Planned Development) (Heartwood PD)

**5. REQUESTED ACTION:**

Approval subject to the following conditions:

1. Development shall conform to the Heartwood PD Land Use Plan; Orange County Board of County Commissioners (BCC) approvals; Heartwood Preliminary Subdivision Plan dated "Received September 7, 2017" 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 September 7, 2017," 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. 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.
7. 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.
8. 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.
9. 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

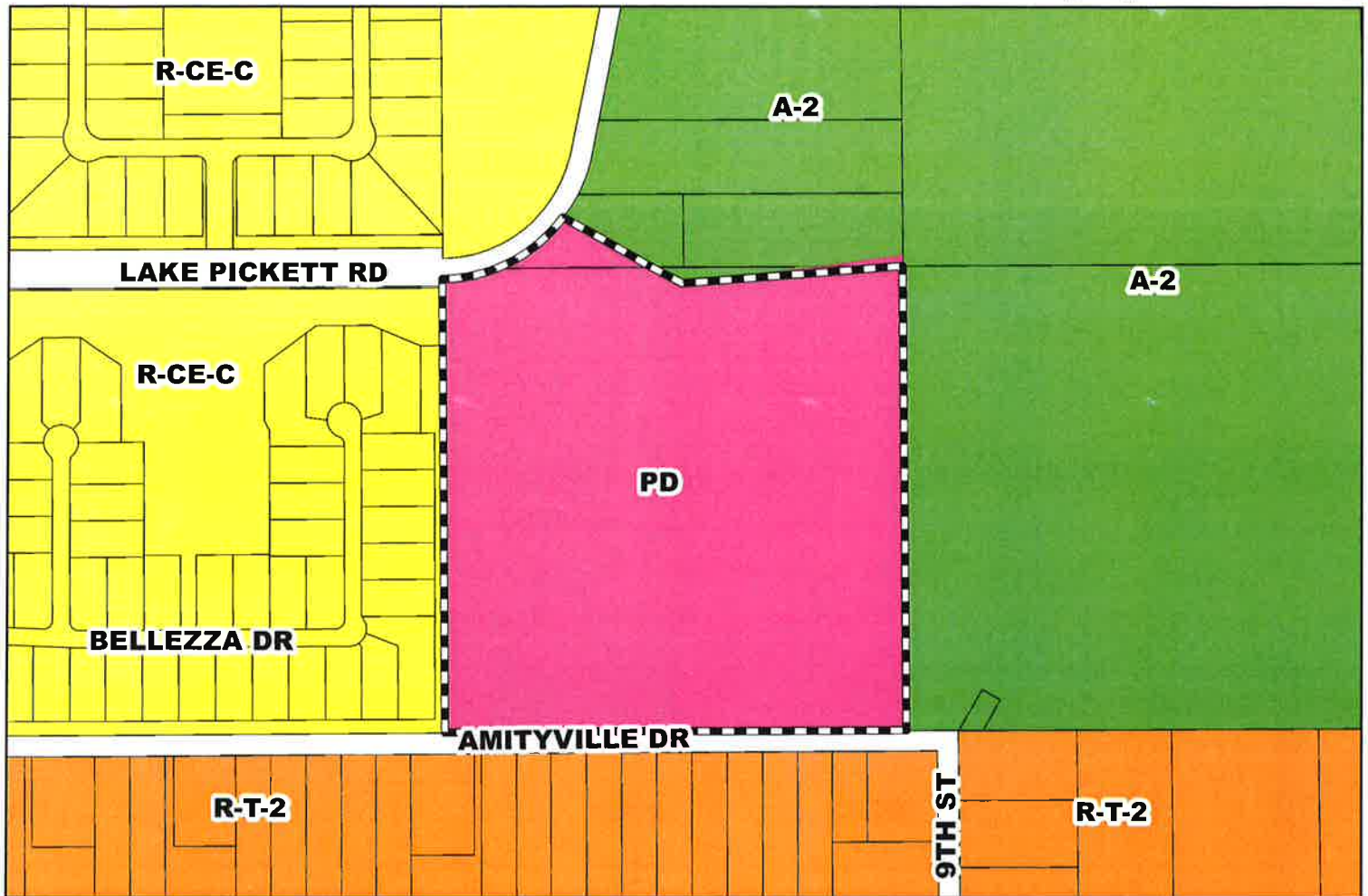
land use plan / preliminary subdivision plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a capacity encumbrance letter or a capacity reservation certificate.

10. The project shall comply with the terms and conditions of that certain Right-of-Way and Proportionate Share Agreement for Heartwood as approved by the Board of County Commissioners and recorded in the Public Records of Orange County, Florida, as may be amended.
11. Prior to issuance of any certificate of completion, all storm drain inlets shall have metal medallion inlet markers installed. Text on the marker shall read "No Dumping, Only Rain in the Drain." Specification detail will be provided within all plan sets. Contact the National Pollutant Discharge Elimination System (NPDES) Supervisor at the Orange County Environmental Protection Division for details.
12. 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.
13. Prior to commencement of any earth work or construction, if one acre or more of land will be disturbed, 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.
14. 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).
15. 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.
16. Approval of this plan does not constitute approval of a permit for the construction of a boat ramp. Any person desiring to construct a boat ramp shall apply for an

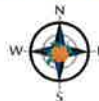
Orange County Boat Ramp Facility Permit. Application shall be made to the Orange County Environmental Protection Division as specified in Orange County Code Chapter 15 Environmental Control, Article XV Boat Ramps prior to installation and in conjunction with the required building permit(s).

17. Pole signs and billboards shall be prohibited. Signs shall comply with Chapter 31.5 of the Orange County Code.
18. Short term/transient rental is prohibited. Length of stay shall be for 180 days or greater.
19. A Master Utility Plan (MUP) for the PSP shall be submitted to Orange County Utilities at least thirty (30) days prior to submittal of the first set of construction plans. The MUP must be approved prior to Construction Plan approval.
20. The Covenants, Conditions, & Restrictions (CC&Rs) shall contain the following provision:  
  
High radio frequencies emitted from the CMS TV / Radio / and Dopplar radar towers located on TV Tower Road may have adverse effects on electronic devices as well as cellular phone and cellular internet services. Home owners may not interfere with CMS' towers or its associated operations.
21. A waiver from Orange County Code Section 34-209 is granted to allow a six (6) foot high simulated aluminum / wrought iron fence with columns in lieu of a six (6) foot high masonry wall on Tracts A and B along Lake Pickett Road.





Subject Property



Subject Property

## Zoning Map

**ZONING:** PD (Planned Development District)  
(Heartwood PD)

**APPLICANT:** James McNeil, Akerman, LLP

**LOCATION:** Generally located south of Lake Pickett Road, approximately 1 mile east of Chuluota Road.

**TRACT SIZE:** 40.62 gross acres

**DISTRICT:** # 5

**S/T/R:** 10/22/32

1 inch = 500 feet









## Heartwood PD / Heartwood PSP



1 : 2,400  
1 in : 200 ft