

**CASE # PSP-17-09-285**

Commission District # 4

## 1. REQUEST

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of March 28, 2018 to approve the Ginn Property Planned Development / Greenway Park Parcel 5 – Lots 1 - 4 Preliminary Subdivision Plan / Development Plan (PSP/DP) to subdivide 8.63 acres into four commercial lots and construct onsite stormwater and associated infrastructure to provide utilities and access to PD Parcel 5.

## 2. PROJECT ANALYSIS

- A. Location: South of Lake Nona Boulevard / West of Boggy Creek Road
- B. Parcel ID: 28-24-30-0322-02-000
- C. Total Acres: 8.63
- D. Water Supply: Orlando Utilities Commission
- E. Sewer System: Orange County Utilities
- F. Schools: N/A
- G. School Population: N/A
- H. Parks: N/A
- I. Proposed Use: 4 commercial lots / onsite stormwater and associated infrastructure on Parcel 5
- J. Site Data: Maximum Building Height: 50'  
Building Setbacks:  
30' Front  
10' Side  
30' Major Road  
10' Rear  
10' Side Street
- K. Fire Station: 55- 801 Greenway Professional Court
- L. Transportation: Boggy Creek Road (Ginn DRI and Roads A, B and D): The Ginn Development of Regional Impact Developer's Agreement was approved by the Board of County Commissioners on July 9, 2002 and recorded at OR Book/Page 6566/8146. Under the terms of this agreement

the Developer will convey right-of-way along Boggy Creek Road and for roads A, B, and D in the New Road Network along with drainage easements. Developer will receive Road Impact Fee Credits for Right-of-Way dedicated and for design and construction of roads A, B and D for excess capacity created. The Right-of-Way for Boggy Creek Road and Road A was dedicated by plat and the Developer has received \$1,933,613.00 in Road Impact Fee Credits. The Right-of-Way for Roads B and D was dedicated by plat and the Developer received an additional \$4,130,635.00 in Road Impact Fee Credits.

### **3. COMPREHENSIVE PLAN**

The Future Land Use designation of the subject parcel is Planned Development - Low Density Residential / Low-Medium Density Residential / Medium Density Residential / Commercial / Office / Industrial / Parks and Recreation - Open Space / Conservation (PD-LDR/LMDR/MDR/C/O/IND/PR-OS/CON)

### **4. ZONING**

PD (Planned Development) (Ginn Property PD)

### **5. REQUESTED ACTION:**

Approval subject to the following conditions:

1. Development shall conform to the Ginn Property( aka) Greenway Park PD Land Use Plan; Orange County Board of County Commissioners (BCC) approvals; Greenway Park Parcel 5 - Lots 1 - 4 Preliminary Subdivision Plan / Development Plan dated "Received March 6, 2018" 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 March 6, 2018" 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 / development 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. Development plan (DP) approval by the DRC (or BCC, as applicable), shall automatically expire if construction plans are required and have not been submitted and approved within two (2) years from DP approval; if construction plans are not required, such DP shall expire two (2) years from approval unless a building permit has been obtained within such two-year period. The foregoing notwithstanding, the DRC may, upon good cause shown, grant successive one (1) year extensions to the expiration date of a DP if the developer makes written request to the DRC chair prior to the expiration date.
7. Prior to construction plan approval, documentation with supporting calculations shall be submitted which certifies that the existing drainage system and pond have the capacity to accommodate this development and that this project is consistent with the approved master drainage plan (MDP) for this PD.
8. Prior to construction plan approval, documentation must be provided certifying that this project has the legal right to tie into the master drainage system.
9. 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.
10. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any Construction Plan submittal and must be approved prior to Construction Plan approval for any streets and/or tracts anticipated to be dedicated to the County and/or to the perpetual use of the public.
11. Unless otherwise allowed by County Code, the property shall be re-platted prior to the issuance of any vertical building permits.
12. All tracts are to be owned and maintained by a Property Owners Association.
13. 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.
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. 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.
17. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing wastewater and reclaimed water systems have been designed to support all development within the PSP, and that construction plans are consistent with an approved and up-to-date Master Utility Plan for the PD.
18. This project shall be allowed to connect to an existing private wastewater gravity main crossing Lake Nona Boulevard. Prior to Utilities Certificate of Completion approval for the gravity main connection, an Orange County Right-of-Way Use Agreement between the property owner(s) and Orange County shall be executed and recorded. In addition, a private cross access easement and utility agreement addressing ownership and maintenance of the common private wastewater system will be required prior to construction plan approval.
19. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
20. Outside sales, storage, and display shall be prohibited.
21. This property is located within Airport Noise Zones 'D' and 'E'. Developer shall comply with Ordinance No. 2000-07.
22. Prior to the mass grading of Parcel 5, a 6 ft. high PVC fence shall be constructed along the south property line of parcel 5. However, if the property to the south is rezoned to non-residential uses prior to that time, the fence is not required.