

**CASE # PSP-16-09-305**

Commission District # 1

## 1. REQUEST

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of March 14, 2018, to recommend approval of the National Spa and Resort Planned Development (PD) – National Spa and Resort Preliminary Subdivision Plan (PSP) to subdivide 28.7 acres in order to create seven commercial lots, three pond tracts and a lift station.

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

- 1) A waiver from Orange County Code Section 34-152(c) is granted to allow access to Lot 6 via an access easement, in lieu of the 20' fee simple access to a dedicated public road.

## 2. PROJECT ANALYSIS

- |                       |   |
|-----------------------|---|
| A. Location:          | South of Sand Lake Road / West of Turkey Lake Road  |
| B. Parcel ID(s):      | 02-24-28-0000-00-005, 02-24-28-0000-00-030,<br>02-24-28-0000-00-031   |
| C. Total Acres:       | 28.7  |
| D. Water Supply:      | Orlando Utilities Commission  |
| E. Sewer System:      | Orange County Utilities   |
| F. Schools:           | Bay Meadows ES - Capacity: 810 / Enrolled: 654<br>Southwest MS - Capacity: 1,215 / Enrolled: 1,412<br>Dr. Phillips HS - Capacity: 2,761 / Enrolled: 3,806 |
| G. School Population: | 81  |
| H. Parks:             | Dr. Phillips Park – 7.0 Miles   |
| I. Proposed Use:      | 148,600 Square Feet Commercial<br>120 Room Hotel<br>286 Multi-Family Residential Dwelling Units   |
| J. Site Data:         | Maximum Building Height: 87' (6-stories)<br>Building Setbacks:<br>150' Front<br>30' Side<br>20' Rear  |

K. Fire Station: 54 – 6500 Central Florida Parkway

L. Transportation: Turkey Lake Road: A Developer's Agreement between a group of Developers and Orange County was approved by the BCC on May 2, 2006 and recorded at OR Book/Page 8701/2599 to provide construction of intersection improvements at the intersection of Turkey Lake Road and Sand Lake Road in exchange for vested rights for a specific number of trips. Right-of-Way was also conveyed under the terms of this agreement. Developers deposited \$2,685,000 into escrow within 30 days of the effective date to fund design, permitting and construction of the intersection improvements. 611 vested trips were provided to the Developers under this agreement. The design and construction of the intersection improvements was completed on 5/19/2009. A First Amendment was approved by the BCC on August 4, 2009 and recorded at OR Book/Page 9915/2492. The First Amendment extended the timeframe for the conveyance of Right-of-Way to 120 days following the Effective Date of the First Amendment. All conveyances were completed on August 11, 2009.

There is a vested rights certificate 02-62 on file for this property for 312 pm peak hour trips. The proposed use of 286 multi-family dwelling units will generate 175 pm peak hour trips. A copy of the vested rights certificate is required along with application for building permit.

### **3. COMPREHENSIVE PLAN**

The PD has underlying Future Land Use Map (FLUM) designations of Commercial (C), High Density Residential (HDR) and Water Body (WB). The proposal is consistent with the Comprehensive Plan.

### **4. ZONING**

PD (Planned Development) (National Spa and Resort PD)

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

Approval subject to the following conditions:

1. Development shall conform to the PD National Spa and Resort Land Use Plan; Orange County Board of County Commissioners (BCC) approvals; National Spa and Resort Preliminary Subdivision Plan dated "Received March 21, 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 "March 21, 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 to promptly disclose to the County any changes in ownership, encumbrances, or other matters of record affecting the property that is subject to the plan, and to resolve any issues that may be identified by the County as a result of any such changes. Developer/applicant acknowledges and understands that any such changes are solely the developer's/applicant's obligation and responsibility to disclose and resolve, and that the developer's/applicant's failure to disclose and resolve any such changes to the satisfaction of the County may result in the County not issuing (or delaying issuance of) development permits, not recording (or delaying recording of) a plat for the property, or both.

5. Property that is required to be dedicated or otherwise conveyed to Orange County (by plat or other means) shall be free and clear of all encumbrances, except as may be acceptable to County and consistent with the anticipated use. Owner / Developer shall provide, at no cost to County, any and all easements required for approval of a project or necessary for relocation of existing easements, including any existing facilities, and shall be responsible for the full costs of any such relocation prior to Orange County's acceptance of the conveyance. Any encumbrances that are discovered after approval of a PD Land Use Plan shall be the responsibility of Owner / Developer to release and relocate, at no cost to County, prior to County's acceptance of conveyance. As part of the review process for construction plan approval(s), any required off-site easements identified by County must be conveyed to County prior to any such approval, or at a later date as determined by County. Any failure to comply with this condition may result in the withholding of development permits and plat approval(s).
6. The 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.
7. Approval of this plan does not constitute approval of a permit for the construction of a boat dock, boardwalk, observation pier, fishing pier, community pier or other similar permanently fixed or floating structures. Any person desiring to construct any of these structures shall apply for an Orange County Dock Construction Permit. Application shall be made to the Orange County Environmental Protection Division as specified in Orange County Code Chapter 15 Environmental Control, Article IX Dock Construction prior to installation.
8. 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.
9. 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).

10. 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.
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. No activity will be permitted on the site that may disturb, influence, or otherwise interfere with: areas of soil or groundwater contamination, or any remediation activities, or within the hydrological zone of influence of any contaminated area, unless prior approval has been obtained through the Florida Department of Environmental Protection (FDEP) and such approval has been provided to the Environmental Protection Division of Orange County. An owner/operator who exacerbates any existing contamination or does not properly dispose of any excavated contaminated media may become liable for some portion of the contamination pursuant to the provisions in section 376.308, F.S.
13. The developer shall obtain reclaimed water and wastewater service from Orange County Utilities.
14. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water and wastewater systems have been designed to support all development within the PD.
15. Length of stay for hotels shall not exceed 180 days.
16. Use of motorized watercraft (i.e., power boats, jet skis, etc.) shall be prohibited on Big Sand Lake. Motorized vessels shall not be launched from the property.
17. Pole signs and new billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
18. Outside sales, storage, and display shall be prohibited.
19. Short term rental shall be prohibited within the multi-family portion of the PD. Residential length of stay shall be for 180 days or greater.

20. 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.
21. 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.
22. 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.
23. Tree Mitigation shall be paid prior to permit approval.
24. The applicant / owner has an affirmative obligation to expressly notify potential purchasers, builders, and/or tenants of this development, through an appropriate mechanism, including a conspicuous note on the plat and/or a recorded restrictive covenant, as applicable, that neither potable wells nor irrigation wells using local groundwater will be allowed on site.
25. Big Sand Lake has an established Municipal Service Taxing Unit (MSTU) or Municipal Service Benefit Unit (MSBU) for the purpose of funding lake management services. To the extent this project is part of the taxing district or benefits from Big Sand Lake, this project shall be required to be a participant.
26. A waiver from Orange County Code Section 34-152(c) is granted to allow access to Lot 6 via an access easement in lieu of the 20' fee simple access to a dedicated public road.