

CASE # PSP-16-08-273

Commission District # 1

1. REQUEST

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of February 28, 2018, to approve the Fire Creek at Gotha Preliminary Subdivision Plan to subdivide 29.55 acres in order to construct 42 single-family residential dwelling units.

The project is proposed to be gated 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.

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

- 1) A waiver from Orange County Code Section 34-267(h) is granted to allow a diversion control structure in lieu of a separate collection system and retention outfall system.

This item was continued from the June 5, 2018, Board of County Commissioner's meeting.

2. PROJECT ANALYSIS

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| A. Location: | North of Moore Road / East of 7 th Avenue |
| B. Parcel ID: | 33-22-28-3100-24-030, 33-22-28-3100-24-071,
33-22-28-3104-04-090, 33-22-28-3104-04-111,
33-22-28-3104-05-280, 33-22-28-3104-05-301,
33-22-28-3104-05-311, 33-22-28-3104-05-320,
33-22-28-3104-05-332, 33-22-28-3100-15-110,
33-22-28-3100-20-180, 33-22-28-3100-20-181,
33-22-28-3100-20-201, 33-22-28-3104-05-331,
33-22-28-3104-05-001 |
| C. Total Acres: | 29.55 |
| D. Water Supply: | Orange County Utilities |
| E. Sewer System: | Orange County Utilities |
| F. Schools: | Thornebrooke ES: Capacity: 744 / Enrolled: 741
Gotha MS: Capacity: 820 / Enrolled: 1,273
Olympia HS: Capacity: 3,368 / Enrolled: 2,999 |
| G. School Population: | 17 |
| H. Parks: | Gotha Park – 0.1 Miles |

- I. Proposed Use: 42 Single-Family Residential Dwelling Units
- J. Site Data: Maximum Building Height: 35' (2-stories)
Minimum Living Area: 2,500 Square Feet
Building Setbacks:
20' Front
10' Side
20' Rear
15' Side Street
- K. Fire Station: 33 – 1700 South Apopka Vineland Road
- L. Transportation: Prop share agreement on file for a roundabout at the intersection of Park Ridge Gotha Road and Sixth Street. Agreement approved on 1-16-2018.

3. COMPREHENSIVE PLAN

The affected property has underlying Future Land Use Map (FLUM) designations of Rural Settlement 1/1 (RS 1/1) and Rural Settlement Low Density (RSLD), located within the Gotha Rural Settlement. The property was zoned to R-CE-C (Country Estate Cluster District) allowing for up to 43 dwelling units. The proposal is consistent with the Comprehensive Plan.

4. ZONING

R-CE-Cluster

5. REQUESTED ACTION:

Approval subject to the following conditions:

1. Development shall conform to the Fire Creek at Gotha Preliminary Subdivision Plan dated "Received April 30, 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 April 30, 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. Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement. Unless the property is otherwise vested or exempt, the applicant shall be subject to school concurrency and required to go through the review process prior to platting.
7. 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.
8. 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.
9. 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.
10. 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).
11. 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.

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 (OCEPD). 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. 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.
14. The developer shall obtain water and wastewater service from Orange County Utilities.
15. A Master Utility Plan (MUP) for the PD 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.
16. Tree removal/earthwork shall not occur unless and until construction plans for the first Preliminary Subdivision Plan and/or Development Plan with a tree removal and mitigation plan have been approved by Orange County.
17. Short term/transient rental is prohibited. Length of stay shall be for 180 days or greater.
18. Signage shall comply with Orange County Code Chapter 31.5.
19. The park / recreation tract(s) shown on this Preliminary Subdivision Plan (PSP) shall be constructed as part of the subdivision infrastructure and completed prior to issuance of the Certificate of Completion.
20. 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.
21. 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.
22. 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.
 23. The Petition to Vacate (PTV) process shall be completed prior to plat pre-application meeting.
 24. 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.
 25. Prior to construction plan approval, the developer shall provide documentation from the City of Ocoee stating their intent to grant access onto 7th Avenue to this project.
 26. Prior to construction plan approval, a Use Agreement shall be executed for the maintenance of the hardscape and landscape within the right-of-way, including, but not limited to, pavers within the roundabout and Tract M.
 27. A waiver from Sec 34-267(h) is granted to allow a diversion control structure in lieu of a separate collection system and retention outfall system.