

**CASE # CDR-19-09-302**

Commission District # 4

**1. REQUEST**

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of September 25, 2019, to approve a substantial change to the Moss Park North Planned Development (PD) / Parcel B Preliminary Subdivision Plan (PSP) to remove a portion of the July 10, 2018, BCC Condition of Approval #8, which states, "Temporary addressing must be provided for permits and the Certificate of Completion be issued prior to approval and recording of a plat." This change will allow the applicant to plat the property prior to construction of the recreation area, with the County retaining the ability to withhold a Certificate of Completion for the infrastructure until the recreation area has been completed.

**2. PROJECT ANALYSIS**

- A. Location: North of Moss Park Road / East of State Road 417
- B. Parcel ID: 09-24-31-5146-03-002, 09-24-31-5146-06-001
- C. Total Acres: 62.10
- D. Water Supply: Orange County Utilities
- E. Sewer System: Orange County Utilities
- F. Schools: Moss Park ES: Capacity 842 / Enrollment 898  
Innovation MS: Capacity 1,213 / Enrollment 1,014  
Lake Nona HS: Capacity 2,807 / Enrollment 3,046
- G. School Population: 52
- H. Parks: Moss Park – 3.1 miles
- I. Proposed Use: 122 Single-Family Detached Residential Dwelling Units
- J. Site Data: Maximum Building Height: 35'  
Minimum Living Area: 1,000 Square Feet  
Building Setbacks:
  - 20' Front
  - 5' Side
  - 20' Rear
  - 25' PD Perimeter
  - 15' Side Street
- K. Fire Station: 77- 11501 Moss Park Road

- L. Transportation: Based on the concurrency management system database dated 01-23-18, capacity is available to be encumbered for this project. This information is dated and subject to change. Innovation Way (Gary Randall-Amended & Restated Right-of-Way Agreement): The Amended and Restated Innovation Way South Right-of-Way Agreement (Gary T. Randall, Trustee) approved on 10/14/2014 and recorded at 10822/4560 will replace the Innovation Way South Right-of-Way Agreement (Gary T. Randall, Trustee) originally approved by the Board of County Commissioners on October 16, 2012 and recorded at OR Book/Page 10461/0059. Under the terms of the Amended and Restated Agreement, Lennar assumes responsibility for design, mitigation, permitting and construction of the Randall IWSS Improvements as defined in Subsection 7(a) along with the necessary intersection improvements. The City of Orlando has agreed to maintain the intersection improvements (including signalization) adjacent to the Randall property. Randall agrees to convey the right-of-way and a temporary construction easement needed for the road improvements to be completed by Lennar. Should any additional right-of-way be required, Lennar will fund County's projected costs for acquisition plus a 20% contingency. A Temporary Stormwater Drainage Easement exists over a retention pond located on the Randall property. Lennar, as part of the road construction, shall relocate the retention pond off of the Randall property to a different location on the Moss Park property. Moss Park shall execute and deliver to County a Permanent Drainage Easement for the relocated pond area once constructed. Lennar shall receive road impact fee credits for the actual cost of construction of the Randall IWSS road improvements as defined in Subsection 7(a) up to a cap of \$2,300,000. Randall has provided a First Amendment to Temporary Utility Easement to be approved contemporaneously with this agreement which reflects the revised typical cross-section shown on Exhibit C.

### **3. COMPREHENSIVE PLAN**

The subject property has an underlying Future Land Use Map (FLUM) designation of Planned Development - Medium Density Residential / Office / Conservation (PD-MDR/O/CONS). The subject property is designated PD (Planned Development District) on the zoning map, which is consistent with the FLUM designation.

### **4. ZONING**

PD (Planned Development) (Moss Park North PD)

**5. REQUESTED ACTION:**

Approval subject to the following conditions:

1. Development shall conform to the Moss Park North PD Land Use Plan; Orange County Board of County Commissioners (BCC) approvals; Parcel B Preliminary Subdivision Plan dated "Received April 4, 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 4, 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 project shall comply with the terms and conditions of that certain Amended and Restated Innovation Way South Right-of-Way Agreement recorded at Official Records Book/Page 10822/4560, Public Records of Orange County, Florida, as may be amended.
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. Unless otherwise specified to the County's satisfaction in the PSP, a Development Plan, in conformance with the requirements of Section 34-131(b) (20), including the appropriate group type, is required for the park / recreation tract(s) within this Preliminary Subdivision Plan (PSP), or phase thereof, as appropriate. Regardless of whether the park / recreation tract is included in the PSP or approved via a separate Development Plan, the park / recreation area tract(s) shall be constructed as part of the subdivision infrastructure and completed prior to issuance of the Certificate of

~~Completion (C of C) for the infrastructure for the phase in which the park / recreation tract(s) is located. Temporary addressing must be provided for permits and the C of C must be issued prior to approval and recording of a plat. All required inspections shall be complete and approved prior to issuance of a Certificate of Occupancy.~~

9. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
10. New streets which are an extension of or in alignment with existing streets shall bear the same name as that borne by such existing streets.
11. Roads and drainage system(s), including any retention pond(s), will be owned and maintained by Orange County with a Municipal Service Benefit Unit (MSBU) established for stormwater system functionality. Routine maintenance, including mowing, beyond that provided by the County, shall be the responsibility of the Homeowners' Association.
12. 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.
13. 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.
14. A Municipal Service Benefit Unit (MSBU) shall be established for the standard operation and maintenance of street lighting inventory including leasing, fuel, and energy costs for this project. Street lighting fixtures, poles, and luminaries used in this project shall be selected from the approved inventory list supplied by the Orange County Comptroller. Street lighting fixtures, poles, and luminaries used in this project shall be supplied and installed by the utility company that services the area of the project, as authorized by law or agreement, and thereafter maintains the street lighting inventory. The developer shall obtain approval of the street lighting fixtures, poles, and luminaries from the Orange County Comptroller Special Assessments Department via a "Letter of Commitment" prior to the installation of the street lighting fixtures, poles, and luminaries and prior to the plat being recorded by Orange County Comptroller Official Records section. All installation costs and street lighting operational costs prior to

the effective date of the MSBU approval by the Orange County Board of County Commissioners shall be the sole responsibility of the developer.

15. Prior to any certificate of occupancy, a certificate of completion for Street A Phase 2 shall be issued.
16. 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).
17. The developer shall comply with the Environmental Land Stewardship Agreement with Orange County entered into on June 7, 2017.
18. 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.
19. 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.
20. 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.
21. 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.

22. 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.