

LAND USE AND ZONING COMMITTEE AMENDMENT

The Land Use and Zoning Committee offers the following first amendment to File No. 2019-368:

- (1) On **page 1, line 20, after** "PUD" **insert** "PUD SUBJECT TO CONDITIONS;";
and
- (2) On **page 3, line 4, strike** "Exhibit 3 - Written Description dated May 2, 2019." and **insert** "Revised Exhibit 3 - Revised Written Description dated August 13, 2019."; and
- (3) On **page 3, line 5, strike** "Exhibit 4 - Site Plan dated March-2019."
and **insert** "Revised Exhibit 4 - Revised Site Plan dated August 12, 2019."; and
- (4) On **page 3, line 5½, insert** a new Section 2 to read as follows:

"Section 2. Rezoning Approved Subject to Conditions. This rezoning is approved subject to the following conditions. Such conditions control over the Written Description and Site Plan and may only be amended through a rezoning.

(1) This PUD is subject to the Transportation Planning Division memorandum dated June 5, 2019, or as otherwise approved by the Chief of the Transportation Planning Division.

(2) This PUD is subject to the following conditions regarding a Kayak/Canoe Launch:

1. The developer shall provide public vehicular access to Clapboard Creek through a perpetual, non-exclusive public access easement, dedication as part of the plat, or Deed of Dedication ("Kayak/Canoe Vehicular Access Easement") in favor of the City, in a form approved by the Office of General Counsel, over the local roads as contemplated in the development, from Cedar Point Road to the

small island in the southern portion of the Unit 2 property. The small island is depicted as "Island" on the Revised Site Plan dated August 12, 2019, **attached hereto as Revised Exhibit 4** ("Revised Site Plan").

2. As a condition of issuance of the first Single Family Residential New Building permit for the development, the conveyance documentation for the Kayak/Canoe Vehicular Access Easement shall be provided to the City for acceptance. This easement may make provision for an initial temporary kayak parking area ("Temporary Parking"), as indicated on the Revised Site Plan, as well as the permanent kayak Parking Area (located at the near southern extent of the uplands in Unit 2), but shall include the entire length of the easement from Cedar Point Road to the Kayak/Canoe Launch Site. The Easement shall include language that if the developer is unable to construct the Access, then the City, or other governmental agency, may do so.

3. As a condition of the issuance of the 41st Single Family Residential New Building permit for the development, the Kayak/Canoe Vehicular Access shall be constructed, and approved by the City, from Cedar Point Road to, as an initial stage, the northern portion of Unit 2, at the point where "Temporary Parking" is depicted on the Revised Site Plan. The portion of this access and parking area located within Unit 2 may be paved, or may be unpaved and graded so long as it is traversable by a non-four-wheel-drive car. From this initial temporary kayak parking area, which shall contain parking for 10 vehicles, the Trail, including the pedestrian bridge/boardwalk, shall be constructed to the shoreline Kayak/Canoe launching area (the "Kayak/Canoe Launch").

4. The temporary Kayak/Canoe Vehicular Access and the

Kayak/Canoe Launch Site shall be cleared of underbrush and maintained in a manner to allow passive recreation use, as approved by the Parks, Recreation and Community Services Department ("Parks Dept.").

5. The Kayak/Canoe Vehicular Access shall at all times make provision for the conveyance of drainage flow from the north, across or under the Access so that the drainage is not impeded by the Access, particularly between Unit 2 Lots 14 and 15, and Lots 33 and 34. A statement on the plat, in the recorded HOA documents, and a deed restriction for Lots 14, 15, 33 and 34 of Unit 2 shall prohibit the filling, grading, planting or constructing structures in that area.

6. As a condition of issuance of the 41st Single Family Residential New Building Permit, Directional Signs, in the form and locations approved by the Parks Dept. shall be provided on Cedar Point Road, and the designated shoreline launch Site, alerting the public of the Kayak/Canoe Launch Site.

7. The developer or the Homeowner's association ("HOA") shall maintain: the Kayak/Canoe Vehicular Access and Parking Area (both temporary and permanent); the drainage under the Vehicular Access; the Kayak/Canoe Launch Site, including any necessary repairs/replacement of the pedestrian bridge across the wetlands, as needed; and the Multi-Use Trail. A statement shall be included in the HOA documents alerting purchasers in this development of these requirements.

8. As a condition of acceptance of Unit 2, the paved Kayak/Canoe Parking Area, and the paved Kayak/Canoe Vehicular Access to it, shall be constructed through Unit 2 to the Kayak/Canoe Parking Area, as indicated on the Revised Site Plan. The parking lot

shall be to ADA standards.

(3) This PUD is subject to the following conditions regarding a Multi-Use Trail:

1. In lieu of providing the sidewalk as required in Ordinance 2017-44-E (Bradley Pond PUD I), the developer shall provide public access to the Kayak/Canoe Launch Site through a perpetual non-exclusive public access easement ("Multi-Use Trail Easement") that will contain a 10 foot wide paved Multi-Use Trail ("the Trail") as indicated on the Revised Site Plan, providing the connection from the sidewalk to be constructed by the City along Cedar Point Road to the Kayak/Canoe Launch Site, for the purposes of pedestrian and non-motorized bicycle use. The easement shall be in favor of the City, in a form approved by the Office of General Counsel. The developer shall construct and maintain the Trail, however, if the developer fails to do so, the City may do so with the cost charged to the developer or HOA, as the case may be. Rather than providing the exact location of the Trail through a survey, the developer may provide a blanket easement over the HOA Tract 1 in Unit 1, and the HOA Tract in Unit 2, so long as the location of the Trail is consistent with that shown on the Revised Site Plan.

2. As a condition of issuance of the 41st Single Family Residential New Building Permit in Unit 1, the developer shall design and construct, and the City shall review for acceptance, the 10 foot wide paved Trail provided through Unit 1 and as a paved Trail and pedestrian bridge/boardwalk through Unit 2, down to and including the Kayak/Canoe Launch Site, in conformance with specifications provided by the Parks Dept.

3. The Trail shall be designed and constructed such that

private vehicles cannot access the Trail, and shall be to ADA standards.

4. The Trail shall not be lighted, and shall have operating hours posted as from dawn to dusk.

(4) This PUD is subject to the following conditions regarding access to the Subject Property and access to the Lots:

1. Vehicular access to the Property shall be by way of Cedar Point Road, substantially as shown on the Revised Site Plan. The final location of the access point on Cedar Point Road is subject to the review and approval of the Planning and Development Department.

2. There shall be no vehicular access to Gate Road.

3. All Lots in Phase I of Parcel C (the TND Lots) shall be developed as shown on the Revised Site Plan with an alley providing vehicular access and utilities to the Lots. Any garage located on these Lots shall be located in the rear of the lot to allow vehicular access from the alley, with no garage door facing the right-of-way.

4. The alleys for the Parcel C Lots, and the roads abutting the frontage of Parcel C Lots, shall be constructed in conformance with the TND Roadway Typical Section as shown in Appendix 3 of the Land Development Procedures Manual, and in the Series 500 Paving drawings of the City Standard Details (April 2009) document.

5. Alleys and roads in Parcel C shall contain the utilities in order to allow street trees to line the streets.

6. Phase 2 of the Parcel C Lots (Lots 82-102), currently drawn as TND Lots on the Revised Site Plan, may be developed in the suburban model that is present in Parcels A and B, with a minimum width of 60 feet, or may be developed as TND Lots, but not a mixture of both.

7. All Lots not developed as TND Lots, shall have a minimum of 25 feet from the sidewalk, if any, to the face of the garage door. Along areas where no sidewalk is planned, there shall be a minimum of 20 feet from the right-of-way line to the face of the garage.

(5) This PUD is subject to the following conditions regarding internal circulation:

1. Cul-de-sacs with islands shall be designed such that SU-30 design vehicles can negotiate them.

2. The roundabout shall be designed to FHWA Single Lane Roundabout Standards.

3. Sidewalks, a minimum of 5 feet in width, shall be provided on both sides of all streets except: in Unit 2 a single 6 foot wide sidewalk will be provided fronting Lots 22-37, rather than providing a 5 foot sidewalk on both sides of the street; and in Unit 1, the sidewalk may be eliminated as shown on the Revised Site Plan on the northernmost cul-de-sac in Unit 1, if required for the proper turning radius in the cul-de-sac.

(6) This PUD is subject to the following conditions regarding buffers:

1. The 20 foot natural buffer as required by Sec. 656.1222, *Ordinance Code*, along Cedar Point Road and Gate Road shall be platted as a separate Tract and owned by the HOA. It shall contain an 85% opaque screen, fence, or wall, located along the Lot-side of the buffer, with trees and landscaping provided on the street-side of the buffer.

2. As a condition of Civil Plan Review and Approval of Unit 1, the developer shall provide the City with a perpetual, non-exclusive easement for the purpose of pedestrian and non-motorized

bicycle use, to construct an 8 foot wide sidewalk within the 20 foot Landscape Buffer Tract as shown on the Revised Site Plan along Cedar Point Road. The easement shall be in a form approved by the Office of General Counsel.

3. Pursuant to Sec. 656.1222, *Ordinance Code*, and in order to determine the amount and location of all trees of 3" d.b.h. or greater, the developer shall provide the City with a tree survey of trees 3" d.b.h. or greater along Cedar Point Road and Gate Road.

4. The tree survey along Cedar Point Road will be utilized by the City so that the sidewalk, which will be designed and constructed by the City, will meander in order to save existing trees while providing a safe distance from the roadbed of Cedar Point Road.

5. Within the 20 foot Buffer Tracts along Cedar Point Road and Gate Road, pursuant to Sec. 656.1222, *Ordinance Code*, if trees 3" or great d.b.h. are removed from the Tracts, they must be replaced with at least 3" caliper trees (equating to the amount of inches total removed) in each Tract. If the preserved trees do not equate to one tree per 40 linear feet along the perimeter adjacent to the rights-of-way, then trees of at least 4" caliper shall be provided.

6. As noted on the Revised Site Plan in Unit 2, a separate 20 foot deep HOA Tract shall be provided on the north property line adjacent to property owned by others. The Tract shall contain the preserved natural vegetation, and a fence on the Lot-side of the Tract. The fence shall not be required within the jurisdictional wetlands if conditions are such that construction of a fence is unreasonable.

7. Where property (Real Estate # 159827-0000) currently owned

by the Burkes is adjacent to the development, an 8 foot high fence, as shown on the Revised Site Plan, shall be provided. Where the fence is located on the property line at the development's Park area, clumping bamboo shall be provided on the Park side of the fence between the fence and the Multi-Use Trail.

(7) This PUD is subject to the following conditions regarding miscellaneous issues:

1. No subdivision identity sign may exceed a height of 6 feet.

2. The open ditch that runs in a north/south direction currently located on the Burke's property that is close to the east property line in the northern portion of Unit 2, shall be moved by the developer westward, off the Burke's property and wholly onto the Unit 2 property, prior to the issuance of the first Single Family Residential New Building Permit.

3. A separate platted Tract, to be owned by the HOA, shall be created in Unit 2 between Lots 14 and 15, and Lots 33 and 34 in order to allow the drainage to occur from the north offsite, south toward the wetlands adjacent to Clapboard Creek. A statement on the plat, in the recorded HOA documents, and a deed restriction for Lots 14, 15, 33 and 34 of Unit 2 shall indicate the prohibition of filling, grading, planting or constructing structures in that area.

4. Only one story homes shall be allowed to be constructed in Unit 1 on Lots 1-10, 25-29, 36, 37, and 40, as those Lots are located on the Revised Site Plan.

5. Only one story homes shall be allowed to be constructed in Unit 2, Lots 33-37, as those Lots are located on the Revised Site Plan.

6. The lot mix for Unit 2, totaling 37 lots, shall be as

follows: 18 lots at 60' wide (Lots 1-3, 16-30); 3 lots at 64'-69' wide (Lots 4, 31, 32); and 12 lots at 70' wide (Lots 5-13, 35-37). Lots 14, 15, 33, and 34 shall be as substantially shown on the Revised Site Plan.

7. Street trees shall be provided between the sidewalk and the roadway in Parcel C at a minimum, and shall count toward the required trees on the Lot, or as mitigation trees.”; and

- (5) Strike **Exhibit 3** and attach **Revised Exhibit 3**.
- (6) Strike **Exhibit 4** and attach **Revised Exhibit 4**.
- (7) Renumber the remaining Sections.
- (8) On **page 1, line 1**, amend the introductory sentence to add that the bill was amended as reflected herein.

Form Approved:

 /s/ Shannon K. Eller

Office of General Counsel

Legislation Prepared By: Shannon K. Eller

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