



MEMO

To: Brian Kepner, County Planner

From: Joel Foreman, County Attorney

Re: The Oaks PRRD and issuance of Rimrock Development Permit

Date: January 22, 2015

CC: Dale Williams, County Manager

We have recently discussed at length The Oaks Planned Residential Rural Development ("PRRD"), application of Columbia County's Land Development Regulations ("LDR") to that PRRD in its current state, whether the development plan as filed with the County and adopted by Ordinance 2006-46 should be viewed as "final" or "preliminary", your ability to modify a preliminary as opposed to final development plan, and issuance of building permits upon a lot or lots that are within the PRRD but outside any recorded map fixing the orientation or location of the lots for which a permit has been applied.

The backdrop for these discussions is a pending building permit application for a dwelling on an approximately 20-acre tract of land within the PRRD that is owned by Rimrock Development, LLC (the "Applicant"). Oaks of Lake City, LLC, (the "Developer") has adopted the position that the permit should be issued as a matter of right because the plan filed with the County pursuant to Ordinance 2006-46 was labeled by the Developer as a "Final Development Plan" and as such permits should be issued in accordance with LDR section 4.19.7. The Developer takes this position notwithstanding that maps reflecting the Developers proposed minor changes to the Development Plan indicate they are amendments to a preliminary plan. The Developer also takes this position in spite of the fact that changes like those proposed by the Developer only appear to be permissible for preliminary plans pursuant to section 4.19.8.

Planning has taken the position that until a map is recorded indicating the final position of lots within the PRRD, the plan is only preliminary. It is through recordation, according to Planning's interpretation of the LDR, that the Preliminary Development Plan as approved by

recorded phase map should be returned to AG zoning. The latter approach is not feasible because those lands within the PRRD and rendered final by the recorded maps must retain characteristics of a PRRD, specifically a 200' buffer around those areas that would remain within the PRRD.

I have seen nothing to show that the Developer filed any request for adoption of a Final Development Plan as provided in LDR section 4.19.6, subsection 3. Ordinance 2006-46 clearly references a "Preliminary Master Plan" bearing the same date as the "Final Development Plan" referenced by the Developer. Furthermore, Planning has verified that past phases of The Oaks have each been recorded in advance of permits issuing for construction within those phases, which is consistent with Planning's construction of the LDR and indicates that the Developer, at some point, concurred with that construction.

I am also advised that the Developer's proposals to modify the Development Plan were reviewed with Planning in the summer of 2013, that those discussions included presentation of draft revised maps of a proposed Phase 3 and Phase 4 (with Phase 4 being made up entirely of the Applicant's lot), and that the Developer held the belief, following that meeting, that those changes were approved. It is interesting to note that the Developer sought to modify the Development Plan at these meetings, which would not be possible under the LDRs if the Development Plan was, in fact, final. The Developer thereafter sold Applicant that portion of the PRRD that would have been in proposed Phase 4, and Applicant believed those lands were suited for permitting as part of the Development Plan of the PRRD. The Applicant is now poised to commence construction, having relied upon PRRD zoning and representations made to it.

Given the disparity in constructions of the LDR relating to the Development Plan for the PRRD, that the LDRs do not appear to spell out a specific process whereby a Developer can convert an approved Preliminary Development Plan into a Final Development Plan, and that the Developer apparently approached Planning about resolving this matter in the summer of 2013 and held the mistaken but good faith belief that the changes were approved for the lots subsequently sold to the Applicant, it is my advice that the permit be issued to the Applicant. This advice assumes that there are no deficiencies with the application and that the Applicant is otherwise compliant with all building and planning requirements for issuance of a permit.

Finally, I recommend that Planning convene a meeting as soon as possible with me, the Developer's agent, and Developer's counsel, if any, to discuss plans for the PRRD as presently situated and develop a set of defined objectives that the parties should meet before development of the PRRD lands continues.