

BCC Mtg. Date: October 18, 2016

ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS' MEETING

Date: Tuesday, August 23, 2016
Location: Commission Chambers, Orange County Administration Center,
First Floor, 201 S. Rosalind Avenue, Orlando, Florida
Members Present: Commissioners S. Scott Boyd, Bryan Nelson, Pete Clarke, Jennifer
Thompson, Victoria P. Siplin; County Mayor Teresa Jacobs,
Commissioner Ted Edwards joined the meeting where indicated.
Others Present: County Administrator Ajit Lalchandani, County Attorney Jeffrey J.
Newton, Deputy Clerk Katie Smith, Minutes Coordinator Jennifer
Lara-Klimetz

- CALL TO ORDER, 9:06 a.m.
- INVOCATION - Pastor Chad Harper, ReThink Life Church
- PLEDGE OF ALLEGIANCE
- MEMBER JOINED: Commissioner Edwards
- PUBLIC COMMENT

The following persons addressed the Board for public comment:

- Philip Kennedy
- David Bottomley
- Maria Bolton-Joubert
- Katrina Shadix

- COUNTY CONSENT AGENDA

Motion/Second: Commissioners Boyd/Thompson

Absent: County Mayor Jacobs

AYE (voice vote): All present members

Action: The Board approved the County Consent Agenda items as follows:

County Comptroller

1. Approval of the check register authorizing the most recently disbursed County funds, having been certified that same have not been drawn on overexpended accounts. Period as follows: August 12, 2016, to August 18, 2016; total of \$31,483,975.03. (Finance/Accounting)

County Administrator

1. Appointment of Representative Bruce H. Antone to the Community Action Board in the state or federal representative category with a term expiring December 31, 2020. (Agenda Development Office)
2. Receipt and filing of the minutes received by the Agenda Development Office of various advisory board meetings for the official county record. (Agenda Development Office)
3. Approval and execution of A Resolution 2016-B-10 of the Board of County Commissioners of Orange County, Florida approving the issuance of public finance authority subordinate multifamily housing revenue bonds (Waterview Apartments) Series 2016, in an aggregate principal amount not to exceed \$9,000,000; providing for certain findings; providing for certain limited approvals; and providing for an effective date.
4. Approval of the Collective Bargaining Agreement Between Orange County, Florida and The Charles E. Brookfield Lodge #86 of The Fraternal Order of Police (FOP) Bargaining Unit, Article 27 - Wages for Fiscal Year 2015-2016. (Human Resources Division)
5. Approval of the FY 2016-2017 non-bargaining pay plan structure adjustments and salary increase implementation plan for all regular, non-bargaining employees, effective October 9, 2016. (Human Resources Division)

Convention Center

1. Approval of Change Order No. 5, Contract Y16-721, with J. Kokolakis Contracting, Inc., in the amount of \$246,588.69, for a revised contract amount of \$11,116,391.24. (Capital Planning Section)

Administrative Services Department

1. Approval to issue a check for an amount not to exceed \$110,000 to the United States Postmaster for a one time large bulk mailing on September 30, 2016 by the Charter Review Commission; the actual amount will be determined by September 15, 2016. (Fiscal and Operational Support Division)
2. Approval to award Invitation for Bids Y16-1081-MR, Motor Fuels – Tank Wagon Deliveries, to the low responsive and responsible bidder, Atlas Oil Company, in the estimated contract award amount of \$1,900,000 for a 1-year term contract. Further, authorized renewal by the Procurement Division for two additional 1-year periods. ([Administrative Services Department Fleet Management Division] Procurement Division)

3. Approval to award Invitation for Bids Y16-1097-MG, Haul Rejected Recycling Materials, to the low responsive and responsible bidder, Merrell Bros., Inc., in the estimated contract award amount of \$812,976 for a 1-year term. Further, authorized the Procurement Division to renew the contract for two additional 1-year terms. ([Utilities Department Solid Waste Division] Procurement Division)
4. Approval to award Invitation for Bids Y16-765-CH, West Kaley Avenue and South Rio Grande Avenue Intersection Improvements, to the low responsive and responsible bidder, Parthenon Construction Company, for the estimated contract award amount of \$234,889. ([Public Works Department Engineering Division] Procurement Division)
5. Approval to award Invitation for Bids Y16-780-CC, Cassady and Sheriff Sector IV Elevator Modernization, to the low responsive and responsible bidder, Premier Elevator Co., Inc., in the total contract award amount of \$220,586. ([Administrative Services Department Capital Projects Division] Procurement Division)
6. Approval to award Invitation for Bids Y16-786-MM, Orange County Convention Center West Concourse D Chiller and AHU Replacement, to the low responsive and responsible bidder, Air Mechanical & Service Corp. for the total contract award amount of \$1,869,000, which includes Additive Bid Item No. 1. ([Convention Center Capital Planning and Building Systems Division] Procurement Division)
7. Approval of Amendment No. 1, Y16-2026, Human Services with Victim Service Center of Central Florida, Inc., for an additional estimated amount of \$53,570 for a revised total estimate annual contract amount of \$232,070. ([Family Services Department Citizens Commission for Children Division] Procurement Division)
8. Approval of Contract Y16-1126-MG, Watersmart Customer Conserve Program with Watersmart Software, Inc., in the total contract amount of \$224,668 for the initial 15 months. Further, authorized the Procurement Division to renew the contract for two additional 1-year terms. ([Utilities Department Water Division] Procurement Division)
9. Approval to Purchase from the United States Postal Service Computerized Meter Resetting System (CMRS-PBP), a subsidiary of Pitney Bowes, metered postage for FY 16-17 in the estimated amount of \$799,675. This amount will fluctuate depending on actual usage. ([Administrative Services Department Facilities Management Division] Procurement Division)
10. Approval and execution of Orlando United Assistance Center License Agreement between Orange County and Heart of Florida United Way, Inc., and delegation of authority to the Real Estate Management Division to renew, if needed, for Orlando United Assistance Center, File #8002, 507 East Michigan Street, Orlando, Florida. District 3. (Real Estate Management Division)

11. Approval and execution of First Amendment to Conservation and Access Easement between Royal Cypress Preserve Homeowners Association, Inc. and Orange County with Joinder and Consent from Toll FL Limited Partnership and authorization to record instrument for Conservation Area Impact Permit # CAI-13-08-018 (Royal Cypress Preserve). District 1. (Real Estate Management Division)
12. Approval and execution of Boat Dock Restriction Agreement between Masters Condominium, Inc. and Orange County and authorization to record instrument for Masters Condominiums, Inc., Semi-Private Dock BD-15-10-114. District 1. (Real Estate Management Division)
13. Approval of purchase price above appraised value, Contract for Sale and Purchase, Holdover Agreement, and Warranty Deed between Luis E. Noa-Torres and Maria E. Noa and Orange County and authorization to disburse funds to pay purchase price and closing costs and perform all actions necessary and incidental to closing for Pump Station No. 3103 (Walker Jr. High). District 3. (Real Estate Management Division)

Community, Environmental and Development Services Department

1. Approval and execution of Orange County, Florida, Resolutions establishing Special Assessment Liens for lot cleaning services and approval to record Special Assessment Liens on property cleaned by Orange County, pursuant to Orange County Code, Chapter 28, Nuisances, Article II, Lot Cleaning. All Districts. (Code Enforcement Division)

LC 16-0688	LC 16-0685	LC 16-0735	LC 16-0664	LC 16-0719
LC 16-0693	LC 16-0703	LC 16-0619	LC 16-0665	LC 16-0721
LC 16-0541	LC 16-0697	LC 16-0633	LC 16-0671	LC 16-0722
LC 16-0603	LC 16-0708	LC 16-0641	LC 16-0673	LC 16-0723
LC 16-0634	LC 16-0733	LC 16-0656	LC 16-0674	LC 16-0725
LC 16-0679	LC 16-0734	LC 16-0659	LC 16-0687	LC 16-0726
LC 16-0680	LC 16-0787	LC 16-0660	LC 16-0690	LC 16-0728
LC 16-0682	LC 16-0711	LC 16-0663	LC 16-0712	LC 16-0778

2. Approval and execution of Resolution of the Orange County Board of County Commissioners regarding Claim of Special Assessment Lien Pursuant to Section 9-278 of the Orange County Code, Property Maintenance and approval to file Claim of Special Assessment Liens by Resolution for unsafe structures demolished by Orange County. District 6. (Code Enforcement Division)

<u>Case No.</u>	<u>Dist. #</u>	<u>Property Owner</u>	<u>Amount*</u>
A 15-0356	6	PETWAY TREVON	\$12,816.65

3. Approval of Hold Harmless and Indemnification Agreement Parcel ID: 24-23-27-7820-01-011 by and between Gerald Cain and Doris Cain and Orange County to construct a Pool and Screen Enclosure and validate an existing residence at 6510 Sawyer Shores Lane, Windermere, Florida 34786. District 1. (Zoning Division)

Family Services Department

1. Approval and execution of Florida Department of Health Child Care Food Program Application; FY 2016-2017 Child Care Food Program (CCFP) Renewal Certification of Accuracy and Truthfulness; Delegation of Signing Authority for the Child Care Food Program; Certification Statement Regarding Business Integrity and Publicly-Funded Programs; Annual Information Update and Certification for Sponsors of Affiliated Child Care Centers; Child Care Food Program Budget for Sponsors of Affiliated Sites; and Supplemental Budget for Special Cost Items, which will allow the CCFP to reimburse Orange County up to an estimated amount of \$1,951,320 for nutritional meals served to eligible children in the Head Start Program. (Head Start Division)
2. Receipt and filing of Head Start Policy Council Program Information and Updates July 2016 and Head Start Policy Council Meeting Minutes June 16, 2016, for the official county record. (Head Start Division)

Fire Rescue Department

1. Approval and execution of State-Funded Grant Agreement Contract Number: 17-BG-83-06-58-01-055 between the State of Florida, Division of Emergency Management and Orange County for Fiscal Year 2016-2017 in the amount of \$115,806. There is no match required. (Office of Emergency Management)
2. Approval and execution of Federally-Funded Subaward and Grant Agreement Contract Number: 17-FG- -06-58-01-122 between the State of Florida, Division of Emergency Management and Orange County for Fiscal Year 2016-2017 in the amount of \$229,795. A match in the amount of \$229,795 is required. (Office of Emergency Management)
3. Approval and execution of State-Funded Subgrant Agreement Contract Number: 17-CP-11-06-58-01-XXX between the State of Florida, Division of Emergency Management and Orange County for Fiscal Year 2016-2017 in the amount of \$26,112. There is no match required. (Office of Emergency Management)

Health Services Department

1. Approval and execution of the renewal Paratransit Services License for Joyful Services of Orlando, L.L.C to provide wheelchair/stretchers service. The term of this License is from September 1, 2016 through September 1, 2018. There is no cost to the County. (EMS Office of the Medical Director)

Public Works Department

1. Approval of the installation of a traffic signal at Town Center Boulevard and Southmeadow Drive. District 4. (Traffic Engineering)
2. Approval of the installation of a traffic signal at the intersection of Pine Hills Road and Indialantic Drive. District 6. (Traffic Engineering)
3. Approval to issue Change Order No. 1-PW to Contract No. Y15-779/C15779 County Road 545 (Avalon Rd) Culvert Replacement to Prime Construction Group, Inc. in the amount of \$195,500 for a revised contract amount of \$1,634,165. District 1. (Highway Construction Division)
4. Approval and execution of Interlocal Agreement by and between the Ranger Drainage District and Orange County addressing Building and Zoning Policies and the Plan of Reclamation. District 5. (Development Engineering Division)
5. Approval and execution of Amended and Restated Transportation Impact Fee Agreement regarding an Alternative Impact Fee calculation for Prologis OAP from AMB OAP Warehouse 1 by and between AMB Orlando Airport Park, LLC and Orange County. District 4. (Traffic Engineering Division)
6. Approval and execution of Amended and Restated Transportation Impact Fee Agreement regarding an Alternative Impact Fee calculation for Prologis OAP for AMB OAP Warehouse 2 by and between AMB Orlando Airport Park, LLC and Orange County. District 4. (Traffic Engineering Division)

• INFORMATIONAL ITEMS

County Comptroller

1. Receipt of the following items to file for the record: (Clerk's Office)
 - a. Notice of Regular Monthly Meetings of the Orange County Industrial Development Authority for the period from August 2016 through July 2017 and copy of Affidavit of Publication from Orlando Sentinel regarding its publication of Notice on June 25, 2016.
 - b. Minutes of the January 14, February 11, February 23 and March 31, 2016, Charter Review Commission.

*With respect to informational items, Board action is neither required nor necessary, and Board approval (or disapproval) is not to be implied.

- COUNTY DISCUSSION AGENDA

County Administrator

1. Presentation of 2016 Charter Review Commission Final Report.

Charter Review Commission Chairman Kevin Shaughnessy presented an overview of the Charter Review Commission's deliberations and the charter proposals being placed on the November ballot.

Action: None

Health Services Department

1. Approval and execution of Intergovernmental Agreement between the City of Orlando, Florida and Orange County, Florida for the Administration of the Housing Opportunities for Persons with AIDS (HOPWA) Grant Program; approval for the Mayor or her designee to sign any future amendments to this agreement; and approval to sole source provider agreements for the upcoming grant. No county match is required.

County staff presented an overview of the Housing Opportunities for Persons with AIDS (HOPWA) and the Ryan White Part A funding.

- MEMBER JOINED: County Mayor Jacobs

Motion/Second: Commissioners Clarke/Thompson

AYE (voice vote): All members

Action: The Board approved and executed the Intergovernmental Agreement between the City of Orlando, Florida and Orange County, Florida for the administration of the Housing Opportunities for Persons with AIDS grant program and for the Mayor, or her designee, to sign any future amendments to the agreement; and further, approved to sole source provider agreements for the upcoming grant.

- COUNTY WORK SESSION AGENDA

Convention Center

1. Pedicab Ordinance. (Strategic Planning and Development Division)

County staff provided a presentation outlining the current pedicab conditions, best practices, preliminary draft ordinance provisions, and administrative considerations that are currently under discussion.

Board discussion ensued.

The following person addressed the Board: Garis Bener (phonetic).

Action: None

Utilities Department

1. Bear Management Program. (Solid Waste Division)

County staff presented information on the developing concepts for a bear management program designed to reduce bear and human interaction, education programs, an ordinance addressing bear resistant containers, and Florida Fish and Wildlife Service grant programs.

The following person addressed the Board: Mike Orlando.

Board discussion ensued.

Action: None

- MEETING RECESSED, 10:22 a.m.
- MEETING RECONVENED, 2:12 p.m.

Members Present: County Mayor Teresa Jacobs; Commissioners S. Scott Boyd, Bryan Nelson, Pete Clarke, Jennifer Thompson, Ted Edwards, Victoria P. Siplin

Others Present: County Administrator Ajit Lalchandani, Deputy County Attorney Joel Prinsell, Senior Minutes Coordinator Craig Stopyra, Minutes Coordinator Jennifer Lara-Klimetz

• RECOMMENDATIONS

August 4, 2016 Board of Zoning Adjustment Recommendations

Motion/Second: Commissioners Boyd/Clarke

AYE (voice vote): All members

Action: The Board accepted the recommendations of the Orange County Board of Zoning Adjustment under the date of August 4, 2016; subject to the usual right of appeal by any aggrieved party.

• PUBLIC HEARINGS

Petition to Vacate

1. Scott M. Gentry, of Kelly, Collins & Gentry, Inc., on behalf of KB Home Orlando, LLC, Petition to Vacate # 16-02-001, portion of an unopened and unimproved right-of-way; District 1

Applicant: Scott M. Gentry, Kelly, Collins & Gentry, Inc., on behalf of KB Home Orlando, LLC
Consideration: Resolution granting Petition to Vacate # 16-02-001, vacating a portion of an unopened and unimproved 30 ft wide right-of-way known as Ficquette Road containing approximately 0.01 acres.
Location: District 1, The parcel is unaddressed; S23/T23/R27; Orange County, Florida (legal property description on file)

The staff report indicates an unopened and unimproved 30 ft. wide right-of-way known as Ficquette Road containing approximately 0.01 acres.

The following person addressed the Board: Scott Gentry.

Motion/Second: Commissioners Boyd/Nelson
AYE (voice vote): All members

Action: The Board adopted a resolution granting Petition to Vacate # 16-02-001 vacating a portion of an unopened and unimproved 30 ft wide right-of-way known as Ficquette Road containing approximately 0.01 acres, on the described property.

2. Ryan MacDonald, on behalf of DR Horton, Inc., Petition to Vacate # 15-12-027, portion of an opened and improved right-of-way; District 4

Applicant: Ryan MacDonald, on behalf of DR Horton, Inc.
Consideration: Resolution granting Petition to Vacate # 15-12-027, vacating a portion of an opened and improved 60 ft wide right-of-way known as Ward Road containing approximately 0.144 acres.
Location: District 4, The parcel address is 14850 Ward Road; S33/T24/R30; Orange County, Florida (legal property description on file)

The following person addressed the Board: Robert Paymayesh.

Motion/Second: Commissioners Thompson/Boyd
AYE (voice vote): All members

Action: The Board adopted a resolution granting Petition to Vacate # 15-12-027 vacating a portion of an opened and improved 60 ft wide right-of-way known as Ward Road containing approximately 0.144 acres, on the described property.

Preliminary Subdivision Plan

3. Bryan Potts, Tannath Design, Inc., The Home Depot at Lee Road and Interstate 4 Preliminary Subdivision Plan (PSP), Case # CDR-16-01-019; District 2

Applicant: Bryan Potts, Tannath Design, Inc., The Home Depot at Lee Road and Interstate 4 Preliminary Subdivision Plan (PSP) – Case # CDR-16-01-019

Consideration: The Home Depot at Lee Road and Interstate 4 Preliminary Subdivision Plan (PSP) – Case # CDR-16-01-019, submitted in accordance with Section 38-1207, Section 34-69 and Section 30-89, Orange County Code; This request is to subdivide Lot 1 into two (2) lots and add 5,600 square feet of commercial entitlements in order to construct a RaceTrac service station. In addition, the following waiver is requested from Section 38-1476 of the Orange County Code: 1. A waiver from Orange County Code Section 38-1476 is requested to allow 389 parking spaces on Lot 1, in lieu of 712 parking spaces.

Location: District 2; property generally located North of Lee Road / West of Interstate 4; Orange County, Florida (legal property description on file in Planning Division)

The following persons addressed the Board:

- Tom Sullivan
- Brian Potts
- James Peterson

Board discussion ensued.

The following material was presented to the Board prior to the close of the public hearing: Exhibit 1, from Tom Sullivan.

Motion/Second: Commissioners Nelson/Edwards

AYE (voice vote): All members

Action: The Board tabled Public Hearing B3, The Home Depot at Lee Road and Interstate 4 Preliminary Subdivision Plan, to be heard after Public Hearing D8, Ordinance establishing a temporary Moratorium on all Medical Cannabis Activities.

4. Marc Stehli, Poulos & Bennett, LLC, Twin Acres on Lake Underhill Planned Development (PD)/Twin Acres on Lake Underhill Preliminary Subdivision Plan (PSP), Case # PSP-15-12-373; District 4

Applicant: Marc Stehli, Poulos & Bennett, LLC, Twin Acres on Lake Underhill Planned Development (PD) / Twin Acres on Lake Underhill Preliminary Subdivision Plan (PSP) – Case # PSP-15-12-373

Consideration: Twin Acres on Lake Underhill Planned Development (PD) / Twin Acres on Lake Underhill Preliminary Subdivision Plan (PSP) – Case # PSP-15-12-373, submitted in accordance with Sections 34-69 and Section 30-89, Orange County Code; This request is to subdivide 38.14 gross acres into one hundred two (102) detached single-family residential lots. In addition, the following waiver is requested from Section 34-209 of the Orange County Code: 1. A waiver from Orange County Code Section 34-209 is requested to allow for a 5' high aluminum fence in lieu of the 6' masonry wall along the frontage of Lake Underhill Road adjacent to the Stormwater tract D-1.

Location: District 4; property generally located South of Lake Underhill Road / East of S. Dean Road; Orange County, Florida (legal property description on file in Planning Division)

Commissioner Edwards announced a conflict of interest for the following reason, as stated in a Memorandum of Voting Conflict filed in the Clerk's Office: "A measure came or will come before my agency which inured to the special gain or loss of my relative, Nikki Seybold. The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Public Hearing B4 involves property owned by my fiancé."

- MEMBER EXITED: Commissioner Edwards

The following persons addressed the Board:

- Lance Bennett
- Brandon Tanguay
- Trini Quiroz
- David Fortna
- Lee Peterson
- Heidi Welch
- James Peterson

The following materials were presented to the Board prior to the close of the public hearing:

- Exhibit 1, from Brandon Tanguay
- Exhibit 2, from Lance Bennett

Board discussion ensued.

Based on input from the District Commissioner, and agreed upon by the applicant, Condition of Approval #29 was modified as follows:

29. A waiver from Orange County Code Section 34-209 is granted to allow for a five (5) foot high rot iron style aluminum fence with masonry columns, in lieu of a six (6) foot high masonry wall, along the frontage of Lake Underhill Road adjacent to the stormwater tract D-1.

Based upon input from the District Commissioner, Conditions of Approval #30 and 31 were added to read as follows:

30. No construction, traffic and/or maintenance traffic of any kind from Dean Creek Road onto or off of the property.
31. The addition of landscaping buffer such as bamboo to provide additional barrier between the lift station and existing neighbors.

Board discussion ensued.

Based upon input from Commissioner Boyd and agreed upon by the District Commissioner and the applicant, Condition of Approval #32 was added to read as follows:

32. A five (5) foot high rot iron style aluminum fence with masonry columns shall be installed along Dean Creek Lane adjacent to the western side of the subdivision.

Motion/Second: Commissioners Thompson/Boyd

Absent: Commissioner Edwards

Abstain: Commissioner Edwards

AYE (voice vote): County Mayor Jacobs; Commissioners Boyd, Nelson, Clarke, Thompson, Siplin

Action: The Board made a finding of consistency with the Comprehensive Plan; and further, approved Twin Acres on Lake Underhill Planned Development (PD) / Twin Acres on Lake Underhill Preliminary Subdivision Plan - Case # PSP-15-12-373 on the described property, subject to the following conditions:

1. Development shall conform to the Twin Acres on Lake Underhill PD Land Use Plan; Orange County Board of County Commissioners (BCC) approvals; Twin Acres on Lake Underhill Preliminary Subdivision Plan dated "Received July 18, 2016," 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 July 18, 2016," 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. A Development Plan shall be submitted and approved for the park tract located within this PSP and the park shall be constructed prior to issuance of Certificate of Completion for any phase.
7. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
8. Length of stay shall be for 180 days or greater. Short term/transient rental shall be prohibited.
9. A current title opinion shall be submitted to the County for review and approval as part of any Construction Plan submittal.
10. 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.
11. 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.
12. 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.
13. 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.

14. Future commercial development will be required to join the MSBU for the stormwater system.
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. The MUP shall outline any areas of soil or groundwater contamination and shall list any constraints on development or construction methods.
16. 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.
17. 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.
18. 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.

19. All wetlands must have an average 25-foot buffer (minimum 15-feet in limited locations) or indicate alternative means to avoid secondary impacts or submit a wetland impact permit.
20. 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.
21. 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).
22. 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.
23. This site shall comply with the Florida Department of Environmental Protection Excavation and Disposal Plan as approved by FDEP on April 22, 2015.
24. All development on this site shall comply with the guidelines established in the most recent edition of, "Guidance for Disturbance and Use of Old Closed Landfills or Waste Disposal Areas in Florida" published by the Florida Department of Environmental Protection.
25. The Covenants, Conditions, and Restrictions (CC&Rs) shall contain notification of the closed Cloyd Dairy Waste Disposal area located east and northeast of this site.
26. The covenants, conditions, and restrictions (CC&Rs) shall contain notification that areas of buried solid waste were located on this site and removed following the Florida Department of Environmental Protection guidelines.
27. This site shall comply with the "Agreement Concerning Development of Twin Acres on Lake Underhill PD," as approved by the Orange County Board of County Commissioners on June 2, 2015.

28. The covenants, conditions, and restrictions (CC&Rs) shall include notification to the homebuyers and HOA/POA that neither potable wells nor irrigation wells using local groundwater will be allowed on site.
29. A waiver from Orange County Code Section 34-209 is granted to allow for a five (5) foot high rot iron style aluminum fence with masonry columns, in lieu of a six (6) foot high masonry wall, along the frontage of Lake Underhill Road adjacent to the stormwater tract D-1.
30. No construction, traffic and/or maintenance traffic of any kind from Dean Creek Road onto or off of the property.
31. The addition of landscaping buffer such as bamboo to provide additional barrier between the lift station and existing neighbors.
32. A five (5) foot high rot iron style aluminum fence with masonry columns shall be installed along Dean Creek Lane adjacent to the western side of the subdivision.

Substantial Change

5. Tyrone K. Smith, Orange County Public Schools, Hubbard Construction Planned Development (PD) Land Use Plan (LUP), Case # CDR-16-02-069, amend plan; District 2

Applicant: Tyrone K. Smith, Orange County Public Schools, Hubbard Construction Planned Development / Land Use Plan (PD / LUP) – Case # CDR-16-02-069

Consideration: PD Substantial change to amend the existing development program in order to accommodate a transportation bus compound by increasing office / industrial uses to 565,000 square feet (an increase of 385,000 square feet) and eliminating multi-family residential use; pursuant to Orange County Code, Chapter 30, Article III, Section 30-89 and Orange County Code, Chapter 38, Article VIII, Division 1, Section 38-1207.

Location: District 2, property located at 5140 N. Pine Hills Road; or generally on the west side of N. Pine Hills Road, north of North Lane, and south of Clarcona Ocoee Road; Orange County, Florida (legal property description on file)

- MEMBER RE-ENTERED: Commissioner Edwards

The following persons addressed the Board:

- Tyrone K. Smith
- Richard Hosier

Motion/Second: Commissioners Nelson/Boyd

AYE (voice vote): All members

Action: The Board made a finding of consistency with the Comprehensive Plan; and further, approved the substantial change request by Tyrone K. Smith, Orange County Public Schools, Hubbard Construction Planned Development / Land Use Plan (PD / LUP), Case # CDR-16-02-069, to amend the existing development program in order to accommodate a transportation bus compound by increasing office / industrial uses to 565,000 square feet (an increase of 385,000 square feet) and eliminating multi-family residential use; which constitutes a substantial change to the development on the described property; subject to the following conditions:

1. Development shall conform to the Hubbard Construction Planned Development / Land Use Plan (PD/LUP) dated "Received July 7, 2016," and shall comply with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. Accordingly, the PD may be developed in accordance with the uses, densities, and intensities described in such Land Use Plan, subject to those uses, densities, and intensities conforming with the restrictions and requirements found in the conditions of approval and complying with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. If the development is unable to achieve or obtain desired uses, densities, or intensities, the County is not under any obligation to grant any waivers or modifications to enable the developer to achieve or obtain those desired uses, densities, or intensities. In the event of a conflict or inconsistency between a condition of approval of this land use plan and the land use plan dated "Received July 7, 2016," 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 Land Use 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. A current Level One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review and approval as part of any Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) submittal.
7. All acreages regarding conservation areas, wetland buffers and conservation encroachments are considered approximate until finalized through the Water Management District and/or the Florida Department of Environmental Protection environmental resource permitting process. Approval of this plan does not authorize any direct or indirect conservation area impacts.

8. 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).
9. 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 (EPD) 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.
10. The developer shall obtain water and wastewater service from Orange County.
11. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
12. Access locations shall be justified and shall require approval from Public Works at Development Plan submittal.
13. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated March 7, 2000, shall apply:
 - a. Development plans for the school board facility shall be submitted to the Development Review Committee for review and approval.
 - b. All conditions approved at the July 21, 1986, Board of County Commissioners' meeting shall apply.
14. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated July 21, 1986, shall apply:
 - a. A minimum twenty-five (25) foot wide landscape buffer shall be provided around the perimeter of the project. A six (6) foot high landscape screen shall be provided within said buffer along the West and South property boundaries. The determination of the adequacy of the landscape screen and landscape material requirements will be made during the Development Plan Review stage.
 - b. Maximum height of structures shall be as follows:
 - 1) Office Distribution: 45 feet

2) One story for all structures within 100 feet of adjacent single-family-zoned land.

c. Access rights to adjacent public roads shall be dedicated to Orange County, except at locations shown on Land Use Plan.

6. Rick Baldocchi, P.E., Thompson Road Planned Development (PD)/Land Use Plan (LUP), Case # CDR-16-04-163, amend plan; District 2

Applicant: Rick Baldocchi, P.E., Thompson Road Planned Development / Land Use Plan (PD / LUP) – Case #CDR-16-04-163

Consideration: Substantial change request to remove a previous restriction that limited development to senior adult housing only, and to grant a waiver from Orange County Code Section 38-79(24) to allow a single structure containing a maximum of one hundred twenty (120) multifamily dwelling units, in lieu of the maximum of four (4) dwelling units contained in any combination of attached dwellings and their customary uses; pursuant to Orange County Code, Chapter 30, Article III, Section 30-89 and Orange County Code, Chapter 38, Article VIII, Division 1, Section 38-1207.

Location: District 2, property generally located East of Thompson Road, approximately 1,300 feet north of East Semoran Boulevard; Orange County, Florida (legal property description on file)

The following persons addressed the Board:

- Francis Andrews
- Kathrein Markle (phonetic)

The following material was presented to the Board prior to the close of the public hearing: Exhibit 1, from Francis Andrews.

Board discussion ensued.

Based upon input from the District Commissioner, new Condition of Approval #9 was read as follows:

9. A six (6) foot high masonry wall between the single family and adjacent property on the north side of the property.

County staff noted with added Condition of Approval #9, all remaining conditions shall be renumbered sequentially from #10 to #11.

Motion/Second: Commissioners Nelson/Clarke

AYE (voice vote): All members

Action: The Board made a finding of consistency with the Comprehensive Plan; and

further, approved the substantial change request by Rick Baldocchi, P.E., Thompson Road Planned Development / Land Use Plan (PD / LUP) – Case #CDR-16-04-163, to remove a previous restriction that limited development to senior adult housing only, and to grant a waiver from Orange County Code Section 38-79(24) to allow a single structure containing a maximum of one hundred twenty (120) multifamily dwelling units, in lieu of the maximum of four (4) dwelling units contained in any combination of attached dwellings and their customary uses; which constitutes a substantial change to the development on the described property; subject to the following conditions:

1. Development shall conform to the Thompson Road Planned Development / Land Use Plan dated "Received June 10, 2016," and shall comply with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. Accordingly, the Thompson Road PD may be developed in accordance with the uses, densities, and intensities described in such Land Use Plan, subject to those uses, densities, and intensities conforming with the restrictions and requirements found in the conditions of approval and complying with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. If the development is unable to achieve or obtain desired uses, densities, or intensities, the County is not under any obligation to grant any waivers or modifications to enable the developer to achieve or obtain those desired uses, densities, or intensities. In the event of a conflict or inconsistency between a condition of approval and the land use plan dated "Received June 10, 2016," 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 land use 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. A current Level One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review and approval as part of any Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) submittal.
7. The following Education Condition of Approval shall apply:
 - a. Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of 07-26-2016.
 - b. Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Capacity Enhancement

Agreement, the County shall immediately cease issuing building permits for any residential units in excess of the zero (0) residential units allowed under the zoning existing prior to the approval of the PD zoning. The County may again begin issuing building permits upon Orange County Public Schools' written notice to the County that the developer is no longer in breach or default of the Capacity Enhancement Agreement.

- c. The developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, shall indemnify and hold the County harmless from any third party claims, suits, or actions arising as a result of the act of ceasing the County's issuance of residential building permits. Developer, and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, agrees that it shall not claim in any future litigation that the County's enforcement of any of these conditions are illegal, improper, unconstitutional, or a violation of developer's rights.
 - d. Orange County shall be held harmless by the developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Capacity Enhancement Agreement.
 - e. 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.
8. A waiver from Orange County Code Section 38-79(24) is granted to allow a single structure containing a maximum of one-hundred twenty (120) multi-family dwelling units, in lieu of the maximum of four (4) dwelling units contained in any combination of attached dwellings and their customary uses.
 9. A six (6) foot high masonry wall between the single family and adjacent property on the north side of the property.
 10. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated January 27, 2015, shall apply:
 - a. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a Capacity Encumbrance Letter (CEL) prior to construction plan submittal and must apply for and obtain a Capacity Reservation Certificate (CRC) prior to approval of the plat. Nothing in this condition, and nothing in the decision to approve this land use plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a CEL or a CRC.

- b. 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.
 - c. Short term / transient rental is prohibited. Length of stay shall be for 180 days or greater.
 - d. The one-hundred (100) single family residential units are exempt from school capacity enhancement review.
 - e. The following waivers from Orange County Code Chapter 38 are granted:
 - 1) A waiver from Orange County Code Section 38-1258(d) is granted to allow a maximum multi-family residential building height of three stories or fifty-five feet (55') in height, in lieu of the maximum of three stories or forty feet (40') in height.
11. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated August 3, 2004, shall apply:
- a. If at the Preliminary Subdivision Plan (PSP) submittal Orange County determines that additional right-of-way is needed for the widening of Thompson Road, the developer shall convey a strip of right-of-way up to 30 feet in width in exchange for road impact fee credits, with the date of valuation being August 2, 2004 (pre-rezoning date).

• RELINQUISHED CHAIR

County Mayor Jacobs relinquished the Chair to Vice-Mayor Nelson.

- 7. Scott Stuart, KCG Engineering, Project ABC Planned Development (PD)/Land Use Plan (LUP), Case # CDR-16-02-060, amend plan; District 4

Applicant: Scott Stuart, KCG Engineering, Project ABC Planned Development / Land Use Plan (PD / LUP) – Case #CDR-16-02-060

Consideration: Substantial change request to modify the allowable uses within PD Tract 6 by adding multi-family residential. More specifically, the request would accommodate up to 325 multi-family residential units, by reducing existing commercial square footage within PD Parcel 6 from 193,000 to 152,321; pursuant to Orange County Code, Chapter 30, Article III, Section 30-89 and Orange County Code, Chapter 38, Article VIII, Division 1, Section 38-1207.

Location: District 4, property generally located East of S. John Young Parkway on the north side of Central Florida Parkway; Orange County, Florida (legal property description on file)

The following person addressed the Board: Scott Stuart.

The applicant clarified that the commercial square footage within the PD is being reduced from 193,000 to 152,321 as detailed in the staff report.

Motion/Second: Commissioners Thompson/Boyd

Absent: County Mayor Jacobs

AYE (voice vote): All present members

Action: The Board made a finding of consistency with the Comprehensive Plan; and further, approved the substantial change request by Scott Stuart, KCG Engineering, Project ABC Planned Development / Land Use Plan (PD / LUP) – Case #CDR-16-02-060, to modify the allowable uses within PD Tract 6 by adding multi-family residential. More specifically, the request would accommodate up to 325 multi-family residential units, by reducing existing commercial square footage within PD Parcel 6 from 193,000 to 152,321; which constitutes a substantial change to the development on the described property; subject to the following conditions:

1. Development shall conform to the Project ABC Planned Development / Land Use Plan (PD/LUP) dated "Received May 5, 2016" and shall comply with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. Accordingly, the PD may be developed in accordance with the uses, densities, and intensities described in such Land Use Plan, subject to those uses, densities, and intensities conforming with the restrictions and requirements found in the conditions of approval and complying with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. If the development is unable to achieve or obtain desired uses, densities, or intensities, the County is not under any obligation to grant any waivers or modifications to enable the developer to achieve or obtain those desired uses, densities, or intensities. In the event of a conflict or inconsistency between a condition of approval and the land use plan dated "Received May 5, 2016" 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 land use 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/LUP 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 following Education Condition of Approval shall apply:
 - a. Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of 07-26-2016.

- b. Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Capacity Enhancement Agreement, the County shall immediately cease issuing building permits for any residential units in excess of the zero (0) residential units allowed under the zoning existing prior to the approval of the PD zoning. The County may again begin issuing building permits upon Orange County Public Schools' written notice to the County that the developer is no longer in breach or default of the Capacity Enhancement Agreement. The developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, shall indemnify and hold the County harmless from any third party claims, suits, or actions arising as a result of the act of ceasing the County's issuance of residential building permits.
 - c. Developer, and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, agrees that it shall not claim in any future litigation that the County's enforcement of any of these conditions are illegal, improper, unconstitutional, or a violation of developer's rights.
 - d. Orange County shall be held harmless by the developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Capacity Enhancement Agreement.
 - e. 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.
7. A current Level One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review and approval as part of any Preliminary Subdivision Plan (PSP) and / or Development Plan (DP) submittal.
8. 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.
9. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated May 13, 2014, shall apply:
- a. The applicant must apply for and obtain a Capacity Encumbrance Letter (CEL) prior to construction plan submittal and must apply for and obtain a Capacity Reservation Certificate (CRC) prior to platting. A copy of the vested rights certificate must be provided with application for a building permit. Nothing in this condition, and nothing in the decision to approve this plan, shall be

construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a CEL or a CRC.

10. Except as modified, amended, and/or superseded, all previous applicable BCC Conditions of Approval, dated April 23, 2013 shall apply:
 - a. Approval for commercial/office for Parcel 2B shall be restricted to 144,000 square feet. At issuance of the first permit for any of the commercial/office use square footage, then the automobile dealership use is eliminated. If an automobile dealership is developed on Tract 2B in lieu of the commercial / office, it shall be restricted to 72,000 square feet.
 - b. Approval of trips in excess of 50,685 (Average Daily Traffic) ADT's will require compliance with CMS Concurrency Management System.
 - c. All previous applicable BCC Conditions of Approval, including those dated, September 14, 2010, and April 1995, shall apply:
 - 1) Outdoor storage and display shall be prohibited on Lot 2B.
 - 2) Billboards and pole signs shall be prohibited.
 - 3) The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities.
 - 4) Master water, wastewater, and reclaimed water plans, including preliminary calculations, shall be required to be submitted for review and approval prior to submission of construction plans.
 - 5) The following performance standards shall apply to Lot 2B (if utilize for a car dealership):
 - i. The building shall be 40 feet from the right-of-way of John Young Parkway and Central Florida Parkway. The porte-cochere on the southeast corner of the building shall extend into the 40-foot setback. Except for under the porte-cochere, no vehicles shall be allowed in front of the building setback line (40 feet). The porte-cochere shall be limited to no more than 25 percent of each of the building facades.
 - ii. Cars shall be permitted under the porte-cochere only; no parking or display shall occur beyond clearly distinguished porte-cochere stage surface.
 - iii. Lighting shall comply with Article XVI of Chapter 9 of the Orange County Code.

- iv. There shall be no outdoor loud speakers or sound system.
- v. Temporary signs, banners, and balloons shall be prohibited.
- vi. Only 2 ground signs shall be permitted. Fascia signs shall comply with Chapter 31.5 of the Orange County Code.
- vii. A detailed landscape and lighting plan, and complete architectural elevations and final building footprint shall be submitted.
- viii. There shall be only 1 structure on site.
- ix. All parking and display areas (except under the porte-cochere) shall be set back at least 40 feet from all rights-of-way.
- x. A knee wall, minimum 36 inches high, shall be provided along the length of John Young Parkway and Central Florida Parkway except in front of the porte-cochere. Said wall shall include closely-spaced plaster/columns with cap feature.
- xi. The finished grade of the parking/display areas shall be at or below the finished grade of the knee wall.

Ordinance

- 8. Establishing a temporary Moratorium on all Medical Cannabis Activities within the unincorporated areas of Orange County

Consideration: AN ORDINANCE ESTABLISHING A TEMPORARY MORATORIUM WITHIN THE UNINCORPORATED AREAS OF ORANGE COUNTY; PROHIBITING ANY AND ALL MEDICAL CANNABIS ACTIVITIES DURING THE MORATORIUM PERIOD FOR ANY PROPERTY WITHIN ANY UNINCORPORATED AREAS OF ORANGE COUNTY; ADOPTING FINDINGS OF FACT; PROVIDING DEFINITIONS; AND PROVIDING AN EFFECTIVE DATE

County staff noted a correction to Section 4 of the proposed Ordinance to read as follows:

Section 4. Moratorium Period.

~~Except as set forth in subsection 4(b) of this ordinance,~~ Until the effective date of an ordinance establishing new or amended land development regulations concerning Medical Cannabis Activities within unincorporated Orange County, or until May 23, 2017, whichever date is earlier, no development permits shall be issued for any Medical Cannabis Activities.

The following person addressed the Board: Jim Peterson.

- REASSUMED CHAIR

County Mayor Jacobs reassumed the Chair from Vice-Mayor Nelson.

Board discussion ensued.

Motion/Second: Commissioners Edwards/Clarke

AYE (voice vote): All members

Action: The Board made a finding of consistency with the Comprehensive Plan; further, determined that this proposed ordinance will not have a substantial economic impact on the development of land in Orange County; and further, adopted Ordinance 2016-18, establishing a moratorium within unincorporated Orange County prohibiting any and all medical cannabis activities during the moratorium; with the following changes to the ordinance:

Section 4. Moratorium Period.

~~Except as set forth in subsection 4(b) of this ordinance,~~ Until the effective date of an ordinance establishing new or amended land development regulations concerning Medical Cannabis Activities within unincorporated Orange County, or until May 23, 2017, whichever date is earlier, no development permits shall be issued for any Medical Cannabis Activities.

Preliminary Subdivision Plan (TABLED)

3. Bryan Potts, Tannath Design, Inc., The Home Depot at Lee Road and Interstate 4 Preliminary Subdivision Plan (PSP), Case # CDR-16-01-019; District 2

Applicant: Bryan Potts, Tannath Design, Inc., The Home Depot at Lee Road and Interstate 4 Preliminary Subdivision Plan (PSP) – Case # CDR-16-01-019

Consideration: The Home Depot at Lee Road and Interstate 4 Preliminary Subdivision Plan (PSP) – Case # CDR-16-01-019, submitted in accordance with Section 38-1207, Section 34-69 and Section 30-89, Orange County Code; This request is to subdivide Lot 1 into two (2) lots and add 5,600 square feet of commercial entitlements in order to construct a RaceTrac service station. In addition, the following waiver is requested from Section 38-1476 of the Orange County Code: 1. A waiver from Orange County Code Section 38-1476 is requested to allow 389 parking spaces on Lot 1, in lieu of 712 parking spaces.

Location: District 2; property generally located North of Lee Road / West of Interstate 4; Orange County, Florida (legal property description on file in Planning Division)

Based upon input from County staff and agreed upon by the applicant, three (3) new Conditions of Approval were read as follows:

15. Storage of semi-trucks shall be prohibited on Lot 2.
16. A knee-wall shall be constructed along Lee Road in front of Lot 2.
17. Canopy structure shall include brink veneer wrap on the base portion of the support columns.

Clerk's Note: County staff announced new Conditions of Approval as #14, #15 and #16 yet in keeping with the sequential ordering, the new Conditions of Approval will be #15 #16 and #17.

The following person addressed the Board: Tom Sullivan.

The following material was presented to the Board prior to the close of the public hearing: Exhibit 2, from Tom Sullivan.

Motion/Second: Commissioners Nelson/Boyd

AYE (voice vote): All members

Action: The Board made a finding of consistency with the Comprehensive Plan; and further, approved The Home Depot at Lee Road and Interstate 4 Preliminary Subdivision Plan - Case # CDR-16-01-019 on the described property, subject to the following conditions:

1. Development shall conform to the The Home Depot at Lee Road & I-4 Preliminary Subdivision Plan dated "Received July 14, 2016," 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 July 14, 2016," 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 construction plan approval, documentation must be provided certifying that this project has the legal right to tie into the master drainage system.

7. Prior to construction plan approval, documentation with supporting calculations shall be submitted which certifies that the existing drainage system and pond have the capacity to accommodate this development and that this project is consistent with the approved master drainage plan (MDP) for this PD.
8. A Mobility analysis is required prior to obtaining building permit for the proposed development.
9. 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.
10. Pole signs and billboards shall be prohibited. Unless otherwise waived by the Board of County Commissioners, ground signs shall be per the Master Sign Plan, and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
11. Outside sales, storage, and display shall be prohibited.
12. A waiver from Orange County Code Section 38-1476 is granted to allow 389 parking spaces on Lot 1, in lieu of 712 parking spaces.
13. Approval of this Preliminary Subdivision Plan constitutes lot split approval.
14. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated September 18, 2001, shall apply:
 - a. The existing billboard shall be removed at the termination of the lease agreement (July 13, 2013), with no lease options to be exercised.
 - b. New development shall conform to the commercial design standards as adopted by the BCC on June 19, 2001.
 - c. The special exception allowing a heliport shall be voided with this PSP.
 - d. A waiver is granted to allow existing landscaping, parking, and setbacks for the existing buildings on Lots 2 and 3.
 - e. A waiver is granted on Lot 4 for existing parking, landscaping, and setbacks within the dedicated, unopened right-of-way for the Diplomat Circle Extension extending along the western boundary of Lot 4 to the northern boundary of Lot 4 until commencement of construction of the Diplomat Circle Extension. Upon

redevelopment of Lots 2, 3, or 4, the waivers granted in conditions 7 and 8 shall cease to apply to the redeveloped lot or lots.

15. Storage of semi-trucks shall be prohibited on Lot 2.
16. A knee-wall shall be constructed along Lee Road in front of Lot 2.
17. Canopy structure shall include brick veneer wrap on the base portion of the support columns.

Ordinance

9. Amending Orange County Code, Chapter 38, pertaining to General Amendments to Ch. 38 Zoning - 1st hearing (2nd hearing on September 13, 2016)

Consideration: AN ORDINANCE AFFECTING THE USE OF LAND IN ORANGE COUNTY, FLORIDA, BY AMENDING CHAPTER 38 ("ZONING") OF THE ORANGE COUNTY CODE; AND PROVIDING AN EFFECTIVE DATE

County staff highlighted significant and minor amendments to the proposed ordinance as follows:

Significant Amendments

Assisted Living Facility

- New use with appropriate standards similar to nursing homes, convalescent homes; SE in R-3 and permitted in commercial and industrial districts.

Farm Animals

- Revises amounts of chickens, pigs and horses
- Placement of compost and holding area
- Exempts commercial operations if bonafide Ag

Commercial Solar Farm

- New Use. Permitted in Ag and Industrial districts; Required to be 200 ft. from residential use

Special Exception Criteria

- Allow 2 years instead of 1 year for SE to obtain building permits

Parking

- New & revised standards
 - auto dealerships
 - assisted living facilities
 - mechanical garages

- Schools

Wind Turbine/Solar (Accessory Residential & Commercial)

- Introduces new standards establishing setbacks, height restriction per zoning district and screening requirements

Mobile Food Vendors (Food Trucks)

- Limits hours of operation, number of trucks, prohibit signage and audio/visual equipment

Compatibility of Building Heights in I-1/I-5 & I-2/I-3

- Changes height limit to 35 feet when adjacent (w/in 100 ft) to residential use (instead of only residential district)

Compatibility of Building Heights in C-1, C-2 & C-3

- Changes height limit to 35 feet when adjacent (w/100 ft) to residential use (instead of only residential district)

Alcohol Beverage License & Vacant Property

- New establishments which meet package sales criteria may be issued a license on vacant parcel with proper documentation

Village PD-Neighborhood Center & Restaurants with Alcohol

- Reduces alcohol on-site consumption distance separation from schools & religious institutions from 1000 ft. to 100 ft.

Alcohol Beverage License & Schools

- Alcohol distance separation reduction to restaurants from 1000 ft. to 500 ft.; May re-establish license within 5 yrs.; Revised distance measurement

Alcohol Beverage License in ACMU

- Reduce distance separation to school from 1000 ft. to 300 ft. for restaurants only; May apply to bars also through a public hearing process

ADU's

- Require Special Exception in Neighborhood Residential District; Remove restriction on ADU's being only for relatives; Add restrictions to avoid fee simple ownership;

Car Rental Agencies

- Allows for limited car rental services on hotel/motel and timeshare sites

Donation Bins

- Allow in Multifamily districts with minimum 100 units with standards; Renaming to Collection Bins

Minor Amendments

Auto Service Station & Towing

- Adding buffers when adjacent to residential uses. Allowing towing as an accessory to auto service station principal use

Accessory Structures

- Establish side and rear setbacks for covered parking for commercial uses

Retention/Detention Pond in R-2 Zoning

- Allowed per Zoning Use Table but not per condition Sec. 38-79(123). Correcting inconsistency

Refuse Solid Waste Areas

- Creating consistent standards for trash dumpsters in Commercial Districts C-1, C-2 & C-3 and Professional Office

Parking Design

- Creates standards to allow parallel parking

Street Classifications

- Amending road classification definitions and setbacks per Transportation Planning

Home Based Occupation

- Moving from definition to its own section; Limits use to max. area, clarifies nuisances

Temporary Portable Storage Containers

- Adding limits on frequency of use to create "downtime" of 6 months or from becoming permanent

Night Watchman

- Deletes requirement for Special Exception in Industrial Zones

Landscape Equipment

- Clarifies outdoor equipment associated with Agriculture is ok, but not with landscape business unless through Special Ex.

Emergency Generator

- Reduces side yard setback to 10ft. Instead of 30ft.

Residential Screen Room

- Reduce requirement from 20 ft. to 50% of rear yard for PD's. Average lot sizes are decreasing and cannot meet requirement

Townhouse Driveway

- Deletes driveway setback from building. Not necessary

Veterinary Service

- Outdoor Runs in Professional Office district requires sound proof structure similar to C-1, C-2 & C-3 districts

Fences

- Provides definition and requires uniformity of materials; Establish standards for clear view triangle for rear of corner lot which abuts front of adjacent lot.

Communication antenna/Cell Tower

- Clarifies canister type antenna can be used in ROW's. Allows Cell Tower to be approved through PD process instead of BZA

Lot Splits

- Requires lot splits to have at least 20 ft. road frontage unless less restrictive approved by PSP

Wood Chipping

- Amending language to allow a variance to be applied for if within the 100 feet setback

Conway/Hoffner Overlay

- Correct the appendix map approved by Ordinance 2015-19

Board discussion ensued. County Administrator Lalchandani contributed to the discussion.

The following persons addressed the Board:

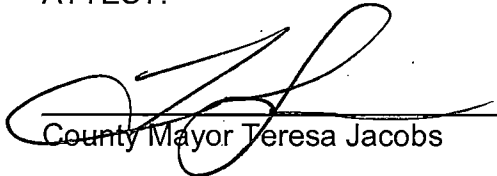
- Bobby Beagles
- Chuck Whittall
- Todd Pressman
- Kurt Ardaman
- Jennifer Eid
- Brenda Sweeting
- John Helm

Board discussion ensued.

Action: None.

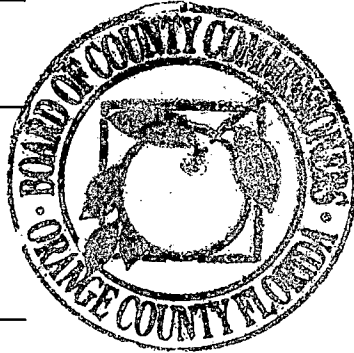
- ADJOURNMENT, 6:10 p.m.

ATTEST:



County Mayor Teresa Jacobs

Date: OCT 18 2016



ATTEST SIGNATURE:

Martha O. Haynie
County Comptroller as Clerk



Deputy Clerk