



Interoffice Memorandum

AGENDA ITEM

DATE: June 29, 2020
TO: Mayor Jerry L. Demings
—AND—
Board of County Commissioners
FROM: Jon V. Weiss, P.E., Director
Planning, Environmental and Development
Services Department

**CONTACT PERSON: Eric Raasch, DRC Chairman
Development Review Committee
Planning Division
(407) 836-5523**

SUBJECT: July 28, 2020 — Consent Item
Fifth Amendment to the First Amended and Restated
Development Order for Greenway Park Development of
Regional Impact
Case #DO-20-05-149 / District 4

The Greenway Park Development of Regional Impact and Development Order was originally approved by the Board on August 2, 2005, and is generally located south and east of Boggy Creek Road, and north and south of State Road 417.

The proposal is to amend the Development Order (DO) to extend the build-out/termination date and the build-out dates for each phase for five years. The new project build-out date will be October 22, 2036.

The proposed amendment received a recommendation of approval from the Development Review Committee (DRC) on June 24, 2020. After the DRC meeting, the agreement was amended to remove the applicant's signature page to comply with the County's standard procedures as it relates to DO amendments.

ACTION REQUESTED: Approval and execution of Fifth Amendment to the First Amended and Restated Development Order for Greenway Park Development of Regional Impact. District 4

Attachments
JVW/EPR/nt

BCC Mtg. Date: July 28, 2020

THIS INSTRUMENT WAS PREPARED BY
AND SHOULD BE RETURNED TO:

Christopher P. Roper, Esq.
Akerman LLP
Post Office Box 231
Orlando, FL 32802

**FIFTH AMENDMENT TO THE FIRST AMENDED AND RESTATED
DEVELOPMENT ORDER FOR GREENEWAY PARK
DEVELOPMENT OF REGIONAL IMPACT**

THIS FIFTH AMENDMENT TO THE FIRST AMENDED AND RESTATED DEVELOPMENT ORDER FOR GREENEWAY PARK (f.k.a. GINN PROPERTY DEVELOPMENT OF REGIONAL IMPACT) (the “Fifth Amendment”) is made and ordered as of the date set forth below by **ORANGE COUNTY, FLORIDA**, a charter County and political subdivision of the State of Florida (the “County”).

WITNESSETH:

WHEREAS, on August 2, 2005, the County adopted the First Amended and Restated Development Order for the Ginn Property Development of Regional Impact, recorded at Official Records Book 8113, Page 1679, in the Public Records of Orange County (the “First Amended and Restated Development Order”); and

WHEREAS, on November 27, 2007, the County adopted the First Amendment to the First Amended and Restated Development Order for the Ginn Property Development of Regional Impact, recorded at Official Records Book 9518, Page 1332, in the Public Records of Orange County (the “First Amendment”); and

WHEREAS, on April 28, 2009, the County adopted the Second Amendment to the First Amended and Restated Development Order for the Ginn Property Development of Regional Impact, recorded at Official Records Book 9866, Page 9460, in the Public Records of Orange County (the “Second Amendment”), which among other things, changed the project name to the “Greenway Park Development of Regional Impact;” and

WHEREAS, on January 7, 2014, the County adopted the Third Amendment to the First Amended and Restated Development Order for the Ginn Property Development of Regional Impact, recorded at Official Records Book 10697, Page 0698, in the Public Records of Orange County (the “Third Amendment”); and

WHEREAS, on November 13, 2018, the County adopted the Fourth Amendment to the First Amended and Restated Development Order for the Ginn Property Development of Regional Impact, recorded at Document # 20180701957, in the Public Records of Orange County (the “Fourth Amendment” and together with the First Amended and Restated Development Order, the

First Amendment, the Second Amendment, and the Third Amendment, collectively, the “Development Order”); and

WHEREAS, Greenway Park DRI, LLC, a Florida limited liability company (as successor in interest to Ginn-LA Airport LTD., LLLP, a Georgia limited liability limited partnership) (the “Developer”) is the master developer of the Greenway Park DRI; and

WHEREAS, the Development Order provides for an overall build-out/termination/anti-down zoning date of December 30, 2029, a Phase I build-out date of December 30, 2016, a Phase II build-out date of December 30, 2022, and a Phase III build-out date of December 30, 2029. However, these dates were later extended pursuant to Section 252.363, Florida Statutes, as follows:

- (a) the overall build-out/termination/anti-down zoning date was extended to October 22, 2031;
- (b) the Phase I build-out date was extended to October 22, 2018;
- (c) the Phase II build-out date was extended to October 21, 2024; and
- (d) the Phase III build-out date was extended to October 22, 2031;

all pursuant to that certain notice of extension (Tropical Storm Erika) filed by the Developer with the County on November 2, 2015, and acknowledged by the County Development Review Committee (“DRC”) on December 2, 2015, and that certain notice of extension (Zika Virus) filed by the Developer with the County on May 3, 2017, and acknowledged by the DRC on May 24, 2017;¹ and

WHEREAS, the Developer has filed an application with the County seeking an additional five (5) year extension of the applicable dates for the Greenway Park DRI, pursuant to Section 380.06(7), Florida Statutes; and

WHEREAS, as the owner or master developer of the Greenway Park DRI, which encompasses those lands described in **Exhibit “A”** attached hereto and incorporated herein, the Developer is authorized to file this application with the County in accordance with Section 380.06(7), Florida Statutes; and

WHEREAS, the requested extension is necessary in order to allow the Developer to complete the Greenway Park DRI consistent with the existing entitlements; and

WHEREAS, the County has determined that the proposed change to the Development Order falls within the guidelines of Section 380.06(7), Florida Statutes, that the applicable review process under Section 380.06(7), Florida Statutes, was followed, and that, after a public hearing, the Development Order is amended as provided herein.

¹ The extended dates set forth above reflect corrections made to the notices filed by the Developer with the County in 2015 and 2017.

NOW THEREFORE, the Development Order is hereby amended as follows:

1. **Recitals.** The above recitals are true and correct and incorporated herein by this reference.
2. **Project Buildout.** The Project Buildout set forth in Section I. Paragraph 8.F. of the Development Order is hereby amended to read as follows, with the new language being shown by underlining and the deleted language being struck through:

Project Buildout: ~~December 30, 2029~~ October 22, 2036

3. **Project Phases.** The Project Phases based on the traffic thresholds set forth in Section III, Paragraph 8.A, of the Development Order are hereby amended to read as follows, with the new language being shown by underlining and the deleted language being struck through:

For the purposes of the transportation conditions, the Greenway Park DRI shall be divided into the following traffic phases based on reaching any of the following thresholds or years, as follows:

Phase	Daily Trips	Daily Trips Cumulative	Peak Hour Trips	Peak Hour Trips Cumulative	External Peak Hour Trips*	External Peak Hour Trips Cumulative*
Phase I (12/30/2016) <u>(10/22/2023)</u>	21,642	21,642	2,124	2,124	1,924	1,924
Phase II (12/30/2022) <u>(10/21/2029)</u>	18,361	40,003	1,882	4,006	1,720	3,644
Phase III (12/30/2029) <u>(10/22/2036)</u>	9,702	49,705	1,578	5,584	1,446	5,090

* Includes passer-by and diverted trip ends but not internally captured trip ends

4. **Compliance Date.** The Compliance Date set forth in Section V. of the Development Order is hereby amended to read as follows, with the new language being shown by underlining and the deleted language being struck through:

The Development Order shall terminate on ~~December 30, 2029~~ October 22, 2036.

5. **Restriction on Down Zoning.** The Restriction on Down Zoning set forth in Section VI. of the Development Order is hereby amended to read as follows, with the new language being shown by underlining and the deleted language being struck through:

Until ~~December 30, 2029~~ October 22, 2036, the approved development described in the Development Order (as hereby amended) shall not be subject to down zoning, unit density

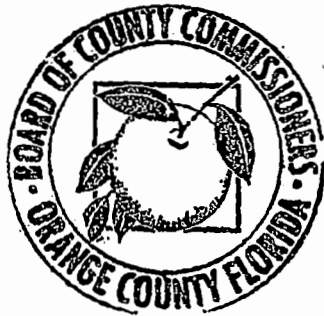
reduction or intensity reduction unless the County can demonstrate that substantial changes in conditions underlying the approval of this Development Order have occurred, or that this Development Order was based on substantially inaccurate information provided by the Developer, or that the change is clearly established by the County to be essential to the public health, safety or welfare.

6. **Conflict.** In the event of any inconsistency or conflict between the terms and conditions of this Fifth Amendment and the terms and provisions of the Development Order, the terms and provisions of this Fifth Amendment shall control.

7. **Effect of Amendment.** Except as expressly amended hereby, the Development Order shall continue in full force and effect in accordance with its terms.

8. **Effective Date.** This Fifth Amendment shall take effect immediately upon the Board of County Commissioners' approval of the same.

APPROVED AND ORDERED THIS _____ DAY OF JUL 28 2020 2020.



ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: *Jerry L. Demings*
for Jerry L. Demings, Orange County Mayor

Date: JUL 28 2020

ATTEST: PHIL DIAMOND, CPA, Orange
County Comptroller and Clerk to
the Board of County Commissioners

By: *Katie Smith*

Print Name: Katie Smith

Exhibit "A"

(Legal Description)

Lot 2, GINN-AIRPORT, according to the plat thereof, as recorded in Plat Book 55, Pages 44 through 49, LESS AND EXCEPT:

(A) All of the plat of J LAWSON BOULEVARD, according to the plat thereof, as recorded in Plat Book 58, Pages 64 through 68.

(B) That part deeded to D.R. Horton, Inc. in that certain Special Warranty Deed recorded December 6, 2002, in Official Records Book 6693, Page 3100.

(C) That part deeded to Orange County, Florida, in that certain Special Warranty Deed recorded August 11, 2004 in Official Records Book 7570, Page 4831.

(D) That part deeded to Spano & Associates, Inc. in that certain Special Warranty Deed recorded February 9, 2005 in Official Records Book 7821, Page 3389.

(E) That part deeded to D.R. Horton, Inc. in that certain Special Warranty Deed recorded September 23, 2005 in Official Records Book 8209, Page 3627, all in the Public Records of Orange County, Florida.

AND:

Tracts PD-1 (Retention Area), PD-2 (Retention Area), PD-3 (Retention Area), and PD-4 (Retention Area) of J LAWSON BOULEVARD, according to the plat thereof, as recorded in Plat Book 58, Pages 64 through 68, in the Public Records of Orange County, Florida.

AND:

Lot 1, Lot 2, Lot 3, Lot 4, Lot 5, Lot 6, Tract R-1, Tract R-2, Tract R-3 and Tract R-4, BEACON PARK BOULEVARD, according to the plat thereof, as recorded in Plat Book 71, Pages 145 through 149 of Public Records of Orange County, Florida.

AND:

A PORTION OF LOT 1, GINN-AIRPORT AS RECORDED IN PLAT BOOK 55, PAGES 44 THROUGH 49, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP 24 SOUTH, RANGE 30 EAST. ALSO BEING THE SOUTHWEST CORNER OF SECTION 28, TOWNSHIP 24 SOUTH, RANGE 30 EAST, THENCE SOUTH 89°49'23" WEST ALONG THE SOUTH LINE

OF SAID SOUTHEAST 1/4 OF SAID SECTION 29, A DISTANCE OF 2,652.01 FEET TO THE SOUTH 1/4 CORNER OF SAID SECTION 29; THENCE SOUTH 89°42'59" WEST ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 29, A DISTANCE OF 2,669.45 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 29; THENCE NORTH 00°10'46" EAST, ALONG THE WEST LINE OF SAID SOUTHWEST 1/4 A DISTANCE OF 1,781.56 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF STATE ROAD 417 (CENTRAL FLORIDA GREENEWAY); THENCE DEPARTING SAID WEST SECTION LINE AND ALONG SAID SOUTHERLY RIGHT OF WAY LINE THE FOLLOWING 16 COURSES, SOUTH 85°46'28" EAST, A DISTANCE OF 1,155.95 FEET; THENCE SOUTH 78°22'03" EAST, A DISTANCE OF 1,008.41 FEET; THENCE SOUTH 59°12'34" EAST, A DISTANCE OF 111.80 FEET; THENCE SOUTH 75°05'26" EAST, A DISTANCE OF 161.81 FEET; THENCE SOUTH 85°46'28" EAST, A DISTANCE OF 140.99 FEET; THENCE NORTH 44°01'52" EAST, A DISTANCE OF 156.20 FEET; THENCE NORTH 85°41'41" EAST, A DISTANCE OF 404.47 FEET; THENCE NORTH 89°42'42" EAST, A DISTANCE OF 381.18 FEET; THENCE SOUTH 04°13'32" WEST, A DISTANCE OF 355.00 FEET; THENCE SOUTH 85°04'33" EAST, A DISTANCE OF 820.06 FEET; THENCE NORTH 04°13'32" EAST, A DISTANCE OF 355.00 FEET; THENCE SOUTH 84°34'04" EAST, A DISTANCE OF 95.04 FEET; THENCE SOUTH 83°51'55" EAST, A DISTANCE OF 60.03 FEET; THENCE SOUTH 83°42'55" EAST, A DISTANCE OF 445.29 FEET; THENCE NORTH 85°41'44" EAST, A DISTANCE OF 202.23 FEET; THENCE SOUTH 83°29'03" EAST, A DISTANCE OF 380.19 FEET; THENCE DEPARTING SAID SOUTHERLY RIGHT OF WAY LINE, SOUTH 04°13'19" WEST, A DISTANCE OF 9.80 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 1,612.00 FEET, A CENTRAL ANGLE OF 08°05'10" AND A CHORD DISTANCE OF 227.31 FEET WHICH BEARS SOUTH 00°10'44" WEST; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 227.50 FEET; THENCE SOUTH 86°29'29" WEST, A DISTANCE OF 10.00 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 1,622.00 FEET, A CENTRAL ANGLE OF 07°30'54" AND A CHORD DISTANCE OF 212.59 FEET WHICH BEARS SOUTH 07°37'10" EAST; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 212.74 FEET TO A POINT OF REVERSE CURVATURE OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 86°31'31" AND A CHORD DISTANCE OF 34.27 FEET WHICH BEARS SOUTH 31°53'09" WEST, THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 37.75 FEET; THENCE SOUTH 75°08'54" WEST, A DISTANCE OF 16.34 FEET TO A POINT OF CURVATURE OF A NONTANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 1,662.00 FEET, A CENTRAL ANGLE OF 03°26'53" AND A CHORD DISTANCE OF 100.00 FEET WHICH BEARS SOUTH 13°59'44" EAST, THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 100.02 FEET; THENCE NORTH 75°08'54" EAST, A DISTANCE OF 15.57 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE 88°15'15" AND A CHORD DISTANCE OF 34.81 FEET WHICH BEARS SOUTH 60°43'29" EAST; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 38.51 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 1,622.00 FEET, A CENTRAL ANGLE OF

00°09'13" AND A CHORD DISTANCE OF 4.35 FEET WHICH BEARS SOUTH 16°40'27" EAST; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 4.35 FEET TO A POINT OF REVERSE CURVATURE OF A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 1,504.00 FEET, A CENTRAL ANGLE OF 10°58'10" AND A CHORD DISTANCE OF 287.51 FEET WHICH BEARS SOUTH 11°15'59" EAST; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 287.95 FEET; THENCE SOUTH 05°46'54" EAST, A DISTANCE OF 93.25 FEET; THENCE NORTH 84°13'06" EAST, A DISTANCE OF 10.00 FEET; THENCE SOUTH 05°46'54" EAST, A DISTANCE OF 86.81 FEET; THENCE SOUTH 02°59'35" EAST, A DISTANCE OF 136.22 FEET; THENCE SOUTH 00°12'16" EAST, A DISTANCE OF 151.43 FEET TO A POINT ON THE SOUTHERLY LINE OF SECTION 28-24-30; THENCE SOUTH 89°46'42" WEST, ALONG SAID SOUTHERLY SECTION LINE A DISTANCE OF 249.73 FEET TO THE POINT OF BEGINNING.

AND:

(SOURCE OFFICIAL RECORDS BOOK 9560, PAGE 2049, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA)

COMMENCING AT THE NORTHWEST CORNER OF SECTION 33, TOWNSHIP 24 SOUTH, RANGE 30 EAST, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; GO THENCE NORTH 89°13'39" EAST, ALONG THE NORTH LINE OF SAID SECTION, 2723.29 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 89°13'39" EAST, 658.51 FEET; THENCE GO SOUTH 01°45'45" EAST 330.15 FEET, THENCE GO SOUTH 89°13'39" WEST 661.52 FEET; THENCE GO NORTH 01°13'35" WEST 330.15 FEET TO THE POINT OF BEGINNING.

LESS:

(SOURCE SOUTHEASTERN SURVEYING AND MAPPING CORPORATION BOUNDARY SURVEY DRAWING NUMBER 59493002, DATED JULY, 2018 WITH A REVISION DATE OF 8/16/18)

A PORTION OF LOT 2, GINN - AIRPORT ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 55, PAGES 44 THROUGH 49, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT NORTHWEST CORNER OF TRACT PD-4, J LAWSON BOULEVARD PER THE PLAT THEREOF RECORDED IN PLAT BOOK 58, PAGES 64 THROUGH 68, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, SAID POINT BEING ON THE SOUTH LINE OF TRACT 1, LA CASCADA PHASE 1 ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 58, PAGES 101 THROUGH 111, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE SOUTH 89°50'32" WEST, A DISTANCE OF 27.88 FEET ALONG THE SOUTH LINE OF SAID TRACT 1 TO A POINT ON THE EAST LINE OF SAID LA CASCADA PHASE 1; THENCE ALONG SAID EAST

LINE THE FOLLOWING TWO (2) COURSES AND DISTANCES, SOUTH 00°09'42" EAST, A DISTANCE OF 110.00 FEET, THENCE SOUTH 00°28'24" WEST, A DISTANCE OF 228.29 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID EAST LINE SOUTH 89°31'36" EAST, A DISTANCE OF 30.38 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT PD-4; THENCE ALONG SAID SOUTH LINE THE FOLLOWING TEN (10) COURSES AND DISTANCES : SOUTH 85°15'33" EAST, A DISTANCE OF 87.71 FEET; THENCE NORTH 69°09'31" EAST, A DISTANCE OF 236.84 FEET; THENCE NORTH 81°35'24" EAST, A DISTANCE OF 185.43 FEET; THENCE SOUTH 89°31'26" EAST, A DISTANCE OF 92.69 FEET; THENCE SOUTH 74°57'37" EAST, A DISTANCE OF 67.44 FEET; THENCE SOUTH 69°27'59" EAST, A DISTANCE OF 144.54 FEET; THENCE SOUTH 62°06'53" EAST, A DISTANCE OF 193.12 FEET; THENCE SOUTH 62°05'26" EAST, A DISTANCE OF 453.05 FEET; THENCE SOUTH 76°10'18" EAST, A DISTANCE OF 118.97 FEET; THENCE NORTH 89°54'18" EAST, A DISTANCE OF 681.97 FEET; THENCE DEPARTING SAID SOUTH LINE SOUTH 15°41'37" EAST, A DISTANCE OF 1056.27 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF J LAWSON BOULEVARD AS SHOWN ON SAID PLAT OF J LAWSON BOULEVARD, SAID POINT BEING ON A NON-TANGENT CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 6117.05 FEET AND A CENTRAL ANGLE OF 05°53'00"; THENCE ALONG SAID NORTH RIGHT OF WAY LINE THE FOLLOWING SIX (6) COURSES AND DISTANCES, THENCE FROM A TANGENT BEARING SOUTH 73°09'52" WEST, WESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 628.13 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 670.00 FEET, A CENTRAL ANGLE OF 56°25'17" AND A CHORD BEARING OF NORTH 72°43'24" WEST; THENCE FROM A TANGENT BEARING SOUTH 79°03'58" WEST, WESTERLY, A DISTANCE OF 659.78 FEET ALONG THE ARC OF SAID CURVE TO A POINT OF TANGENCY OF SAID CURVE; THENCE NORTH 44°30'45" WEST, A DISTANCE OF 279.70 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 770.00 FEET AND A CENTRAL ANGLE OF 45°40'50"; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 613.90 FEET TO A POINT OF TANGENCY OF SAID CURVE; THENCE SOUTH 89°48'25" WEST, A DISTANCE OF 489.59 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 90°39'59"; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 39.56 FEET TO A POINT ON THE EAST LINE OF SAID LA CASCADA PHASE I ALSO BEING THE EAST RIGHT OF WAY LINE OF VICTORIA FALLS DRIVE, THENCE NORTH 00°28'24" EAST, A DISTANCE OF 821.15 FEET ALONG SAID EAST LINE AND SAID EAST RIGHT OF WAY LINE TO THE POINT OF BEGINNING.

TOGETHER CONTAINING 1368.056 ACRES MORE OR LESS AND BEING SUBJECT TO ANY RIGHTS-OF-WAY, RESTRICTIONS AND EASEMENTS OF RECORD.