

**GENERAL INFORMATION**

|                            |   |
|----------------------------|---|
| <b>APPLICANT</b>           | Tom Daly, Daly Design Group   |
| <b>OWNER</b>               | Singleton Family Limited Partnership  |
| <b>PROJECT NAME</b>        | Plunk Property Planned Development (PD)   |
| <b>HEARING TYPE</b>        | Planned Development / Land Use Plan (PD / LUP)  |
| <b>REQUEST</b>             | <b>A-2 (Farmland Rural District) to<br/>PD (Planned Development District)</b><br><br><i>A request to rezone one (1) parcel containing 17.16 gross acres from A-2 to PD, in order to allow for up to fifty-two (52) single family detached residential units. The request also includes the following waivers from Orange County Code:</i><br><br><ol style="list-style-type: none"><li>1. A waiver from Section 38-1501 to allow forty (40) foot width minimum lots and a minimum 4,400 square foot single-family detached lots, in lieu of a forty-five (45) foot width minimum and 4,500 square foot minimum.</li><li>2. A waiver from Section 38-1254(2)(b) to allow a thirty (30) foot building setback from the future Dean Road right-of-way, in lieu of a thirty-five (35) foot building setback from the future Dean Road right-of-way.</li></ol> |
| <b>LOCATION</b>            | 1466 S. Dean Road or generally north of Berry Dease Road and west of Dean Road.   |
| <b>PARCEL ID NUMBER</b>    | 32-22-31-0000-00-021  |
| <b>TRACT SIZE</b>          | 17.16 gross acres<br>10.49 developable acres  |
| <b>PUBLIC NOTIFICATION</b> | The notification area for this public hearing extended beyond 500 feet [ <i>Chapter 30-40(c)(3)(a) of Orange County Code requires 300 feet</i> ]. Four hundred ninety-three (493) notices were mailed to those property owners in the mailing area. A community meeting was held on September 18, 2017 and is summarized in the report below.   |
| <b>PROPOSED USE</b>        | Fifty-two (52) single-family detached residential units   |

## STAFF RECOMMENDATION

### Development Review Committee – (November 1, 2017)

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Plunk Property Planned Development / Land Use Plan (PD/LUP), dated “Received November 2, 2017”, subject to the following conditions:**

1. Development shall conform to the Plunk Property Planned Development / Land Use Plan (PD/LUP) dated "Received November 2, 2017," 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 November 2, 2017," 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 Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) submittal and must be approved prior to Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) approval for any streets and/or tracts anticipated to be dedicated to the County and/or to the perpetual use of the public.
  
7. 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.
  
8. All acreages identified as conservation areas and wetland buffers are considered approximate until finalized by a Conservation Area Determination (CAD) and a

Conservation Area Impact (CAI) Permit. Approval of this plan does not authorize any direct or indirect conservation area impacts.

9. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
10. 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.
11. 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 January 23, 2018.
  - 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 3 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.

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.

12. 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.

13. The developer shall obtain water and wastewater service from Orange County Utilities subject to County rate resolutions and ordinances.
14. 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.
15. All proposed vertical structures shall be located a minimum of 20 feet from the centerline of the existing 24-inch forcemain.
16. Simultaneous with the recording of the subdivision plat, the developer shall record in the public records of Orange County, Florida, a declaration of covenants, conditions and restrictions, the terms of which shall include a conspicuous requirement that each initial purchaser of a residential lot in the subdivision for the personal or family uses of the purchaser must be given a copy of the declaration at or prior to the time the sales contract is executed by the purchaser, together with a disclosure statement to be executed by the purchaser stating as follows:

"I acknowledge, understand, and accept that I am purchasing a lot or home in a subdivision that, on the date of its approval by the Board of County Commissioners on INSERT APPROVAL DATE OF PSP, is located north of an animal slaughtering and meat processing facility, and is bordered by active agricultural uses. I also acknowledge, understand, and accept that noises, odors, and aesthetic objections may be associated with those uses."

In addition to the declaration requirement described above, the developer shall incorporate the following statement into each deed initially conveying title to a lot: INSERT DATE AND PAGE "The property being conveyed is part of the INSERT NAME OF FUTURE SUBDIVISION Subdivision, which is located adjacent to agricultural land and a slaughterhouse/meat processing facility."

17. The following waivers from Orange County Code are granted:
  - a. A waiver from Section 38-1501 to allow forty (40) foot width minimum lots and a minimum 4,400 square foot single-family detached lots, in lieu of forty-five (45) foot width minimum and a 4,500 square foot minimum.
  - b. A waiver from Section 38-1254(2)(b) to allow a thirty (30) foot building setback from the future Dean Road right-of-way, in lieu of a thirty-five (35) foot building setback from the future Dean Road right-of-way.

## **IMPACT ANALYSIS**

### **Land Use Compatibility**

The applicant is seeking to rezone one (1) parcel containing 17.16 gross acres from A-2 to PD, in order to allow for up to fifty-two (52) single family detached residential units. The applicant is also seeking approval of two (2) waivers to reduce the minimum lot size from 4,500 square feet to 4,400 square feet and to reduce the minimum lot width from forty-five (45) feet to forty (40) feet.

The property is bordered by the Little Econ River to the west, with single-family detached homes on the north, the east, and south. There is also an animal processing facility to the south. A proposed condition requires the applicant to state in the covenants and restrictions the existence of the processing facility as a way of notifying potential residents.

The proposed development program is compatible with existing development in the area, and would not adversely impact any adjacent properties.

### **Comprehensive Plan (CP) Consistency**

The subject property has an underlying Future Land Use Map (FLUM) designation of Low Medium Density Residential (LMDR) which allows for a maximum residential density of ten (10) dwelling units per one (1) net developable acre. The proposed PD zoning district and development program is consistent with the LMDR FLUM designation and the following CP provisions:

**Housing Element Goal H1** states that Orange County shall promote and assist in the provision of an ample housing supply, within a broad range of types and price levels.

**Housing Element Objective H1.1** states that the County will support private sector housing production capacity sufficient to meet the housing needs of existing and future residents.

**FLU1.1.1** states that urban uses shall be concentrated within the Urban Service Area, except as specified for the Horizon West Village and Innovation Way Overlay (Scenario 5), Growth Centers, and to a limited extent, Rural Settlements.

**FLU1.1.5** states that the Future Land Use Map shall reflect the most appropriate maximum and minimum densities for residential development. Residential development in Growth Centers may include specific provisions for maximum and minimum densities.

**FLU1.4.2** states that Orange County shall ensure that land use changes are compatible with and serve existing neighborhoods.

**Future Land Use Element Goal FLU2** states that the County will encourage urban strategies such as infill development which promote efficient use of infrastructure, compact development and an urban experience with a range of choices and living options.

**Future Land Use Element Objective FLU8.2** states that compatibility will continue to be the fundamental consideration in all land use and zoning decisions.

**FLU8.2.1** states that land use changes be compatible with existing development and development trend in the area.

**FLU8.2.2** states that continuous stretches of similar housing types and density of uses shall be avoided. A diverse mix of uses and housing types shall be promoted.

**Community Meeting Summary**

A community meeting for this request was held on September 18, 2017 at Cypress Springs Elementary School with fifteen (15) residents in attendance. Residents expressed concern regarding traffic on Curry Ford Road and Dean Road, outdated utilities, buffering from adjacent properties, and sidewalk connectivity along Dean Road.

**SITE DATA**

|                           |  |
|---------------------------|--|
| <b>Existing Use</b>       | Undeveloped Land   |
| <b>Adjacent Zoning</b>    | N: R-3 (Multiple-Family Dwelling District) (1986)<br>E: PD – Dean Road Condos (Planned Development District) (1981)<br>W: R-CE (Country Estate District) (1968)<br>S: A-2 (Farmland Rural District) (1968)<br>A-2 (Farmland Rural District) (1957) |
| <b>Adjacent Land Uses</b> | N: Single Family Residential<br>E: Single Family Residential<br>W: Wetlands / Conservation (Little Econ River)<br>S: Single Family Residential<br>Animal Processing Facility   |

**APPLICABLE PD DEVELOPMENT STANDARDS**

|                          |   |
|--------------------------|---|
| PD Perimeter Setback     | 25 feet                                       |
| Maximum Building Height: | 35 feet                                       |
| Minimum Lot Size:        | 4,400-square feet ( <i>waiver requested</i> ) |
| Minimum Lot Width:       | 40 feet ( <i>waiver requested</i> )           |
| Minimum Living Area:     | 1,100 square feet (under HVAC)                |

Minimum Building Setbacks

|                      |                                     |
|----------------------|-------------------------------------|
| Front Setback:       | 20 feet                             |
| Rear Setback:        | 20 feet                             |
| Side Setback:        | 5 feet                              |
| Corner Side Setback: | 15 feet                             |
| <br>                 |                                     |
| Dean Road Setback:   | 30 feet ( <i>waiver requested</i> ) |
| <br>                 |                                     |
| Minimum Open Space:  | 1.05 acres (10%)                    |

**SPECIAL INFORMATION**

**Subject Property Analysis**

The applicant is seeking to rezone one (1) parcel containing 17.16 gross acres from A-2 to PD, in order to allow for up to fifty-two (52) single family detached residential units. The applicant is also seeking approval of two (2) waivers to reduce the minimum lot size from 4,500 square feet to 4,400 square feet and to reduce the minimum lot width from forty-five (45) feet to forty (40) feet.

**Comprehensive Plan (CP) Amendment**

The property has an underlying Future Land Use Map (FLUM) designation of Low Medium Density Residential (LMDR). The proposed use is consistent with this designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

**Rural Settlement**

The subject property is not located within a Rural Settlement.

**Joint Planning Area (JPA)**

The subject property is not located within a JPA.

**Overlay District Ordinance**

The subject property is not located within an Overlay District.

**Airport Noise Zone**

The subject property is not located in an Airport Noise Zone.

**Environmental**

There are 6.67 acres of Class I wetlands including a portion of the Little Econlockhatchee River located on-site. Orange County Conservation Area Determination CAD-16-03-022 was completed for this project with a certified wetland boundary survey approved on January 17, 2017. This determination is binding for a period of five years.

This property is located outside of the geographical limits of the Econlockhatchee River (Big Econ) Protection ordinance, so the basin-wide regulations in Orange County Code Chapter 15 Article XI do not apply. However, the property does need to comply with the regulations in Chapter 15 Article X Wetland Conservation Areas.



Development of the subject property shall comply with all state and federal regulations regarding wildlife and plants listed as endangered, threatened, or species of special concern. The applicant is responsible to determine the presence of listed species and obtain any required habitat permits from the U.S. Fish and Wildlife Service (USFWS) and/or the Florida Fish & Wildlife Conservation Commission (FWC).

**Transportation / Concurrency**

Based on the concurrency management system database dated August 3, 2017, there are three failing roadway segments within a one mile radius of this project: Dean Road from Curry Ford Road to Lake Underhill Road; Lake Underhill Road from Madeira Avenue to Dean Road, and Dean Road to Rouse Road are currently operating at level of service F. This information is dated and is subject to change. A traffic study will be required prior to obtaining an approved Capacity Encumbrance Letter (CEL) and building permit. Final permitting of any development on this site will be subject to review and approval under capacity constraints of the County's Transportation Concurrency Management System. Such approval will not exclude the possibility of a proportionate share payment in order to mitigate any transportation deficiencies.

Approximately ten (10) feet of Right-of-Way is required for the planned improvement of Dean Road from Curry Ford Road to Lake Underhill Road. The applicant has agreed to convey the required Right-of-Way at no cost to the County.

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 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.

**Water / Wastewater / Reclaim**

|             |                                     |
|-------------|-------------------------------------|
|             | <u>Existing service or provider</u> |
| Water:      | Orange County Utilities             |
| Wastewater: | Orange County Utilities             |
| Reclaimed:  | Orange County Utilities             |

**Schools**

A Capacity Enhancement Agreement (CEA) was approved by the School Board on January 23, 2018.

**Parks and Recreation**

Parks and Recreation staff reviewed the request and had no comments or issues.

**Code Enforcement**

No code enforcement, special magistrate or lot clearing issues on the subject property have been identified.

**Specific Project Expenditure Report and Relationship Disclosure Forms**

The original Specific Project Expenditure Report and Relationship Disclosure Form are currently on file with the Planning Division.

**ACTION REQUESTED**

**Planning and Zoning Commission (PZC) Recommendation – (December 21, 2017)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Plunk Property Planned Development / Land Use Plan (PD/LUP), dated “Received November 2, 2017”, subject to the buffer and compatibility recommendations provided by the applicant, with the addition of the condition regarding right-of-way conveyance of Dean Road at no cost to the County, and subject to the following conditions:**

1. Development shall conform to the Plunk Property Planned Development / Land Use Plan (PD/LUP) dated "Received November 2, 2017," 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 November 2, 2017," 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 Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) submittal and must be approved prior to Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) approval for any streets and/or tracts anticipated to be dedicated to the County and/or to the perpetual use of the public.
7. 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.

8. All acreages identified as conservation areas and wetland buffers are considered approximate until finalized by a Conservation Area Determination (CAD) and a Conservation Area Impact (CAI) Permit. Approval of this plan does not authorize any direct or indirect conservation area impacts.
9. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
10. 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.
11. 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 January 23, 2018.
  - 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 3 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.

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.
12. 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.

13. The developer shall obtain water and wastewater service from Orange County Utilities subject to County rate resolutions and ordinances.
14. 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.
15. All proposed vertical structures shall be located a minimum of 20 feet from the centerline of the existing 24-inch forcemain.
16. Simultaneous with the recording of the subdivision plat, the developer shall record in the public records of Orange County, Florida, a declaration of covenants, conditions and restrictions, the terms of which shall include a conspicuous requirement that each initial purchaser of a residential lot in the subdivision for the personal or family uses of the purchaser must be given a copy of the declaration at or prior to the time the sales contract is executed by the purchaser, together with a disclosure statement to be executed by the purchaser stating as follows:

"I acknowledge, understand, and accept that I am purchasing a lot or home in a subdivision that, on the date of its approval by the Board of County Commissioners on INSERT APPROVAL DATE OF PSP, is located north of an animal slaughtering and meat processing facility, and is bordered by active agricultural uses. I also acknowledge, understand, and accept that noises, odors, and aesthetic objections may be associated with those uses."

In addition to the declaration requirement described above, the developer shall incorporate the following statement into each deed initially conveying title to a lot: INSERT DATE AND PAGE "The property being conveyed is part of the INSERT NAME OF FUTURE SUBDIVISION Subdivision, which is located adjacent to agricultural land and a slaughterhouse/meat processing facility."

17. The following waivers from Orange County Code are granted:
  - a. A waiver from Section 38-1501 to allow forty (40) foot width minimum lots and a minimum 4,400 square foot single-family detached lots, in lieu of forty-five (45) foot width minimum and a 4,500 square foot minimum.
  - b. A waiver from Section 38-1254(2)(b) to allow a thirty (30) foot building setback from the future Dean Road right-of-way, in lieu of a thirty-five (35) foot building setback from the future Dean Road right-of-way.
18. The right-of-way for Dean Road shall be conveyed at no cost to the County, prior to or concurrently with the plat.
19. For compatibility purposes with Parcel #32-22-31-0000-00-020 (the "Caruso Parcel"), the following eleven (11) conditions have been presented by the applicant and shall apply to this project:

- a. A fifteen (15) foot “east” buffer shall be provided as an open space / landscape tract and shall be placed within the development site along the eastern property line of the Caruso Parcel.
- b. A six (6) foot tan PVC fence will be installed by the developer along the eastern side of the “east” buffer.
- c. The “east” buffer shall be planted with fourteen (14) to sixteen (16) foot tall cedar trees which shall be planted in areas where no existing vegetation is present on the Caruso Parcel with approximately twenty-five (25) trees required.
- d. An increased principal building setback from the common property line shall be provided along the “east” buffer of forty (40) feet for 1-story homes and fifty-five (55) feet for 2-story homes
- e. An eight (8) foot precast concrete wall shall be installed by the developer along the north property line of the Caruso Parcel for approximately one hundred sixty (160) feet and be colored to match the PVC fence with an additional six (6) foot PVC fence installed for the remainder of the common property line which is currently wooded.
- f. A retention pond shall be located adjacent to and north of the Caruso Parcel which shall be dedicated to Orange County. Approximately twenty (20) cedar trees measuring fourteen (14) to sixteen (16) feet tall shall be planted immediately adjacent to the Caruso Parcel and south of the retention pond.
- g. An increased principal building setback from the common property line shall be provided along the north property line of the Caruso Parcel of one hundred ten (110) feet for 1-story homes and one hundred twenty-five (125) feet for 2-story homes.
- h. Four (4) homes, identified as directly north of the retention pond (north of the Caruso Parcel) and which are closest to the midpoint of the northern Caruso Parcel property line, shall be restricted to a maximum building height of 1-story.
- i. No home development shall be permitted to the west of the Caruso Parcel.
- j. A stormwater pond, lift station, private passive recreation, and conservation area shall be located on the property west of the Caruso Parcel. The lift station shall be buffered from the Caruso Parcel with a solid landscape hedge.
- k. A six (6) foot tall black vinyl coated chain link fence shall be installed by the developer along the western common property line of the Caruso Parcel.

**PLANNING AND ZONING COMMISSION (PZC) PUBLIC HEARING SYNOPSIS**

The staff report was presented to the PZC with the recommendation that they make a finding of consistency with the Comprehensive Plan and recommend approval of the requested Plunk Property Planned Development / Land Use Plan (PD / LUP), subject to the seventeen (17) conditions in the staff report and one additional condition as presented.

Staff indicated that four hundred ninety-three (493) notices were mailed to surrounding property owners within a buffer extending beyond 500 feet from the subject property, with eight (8) oppositions received in addition to the five (5) oppositions received prior to the last hearing. The applicant was present and agreed with the staff recommendation of approval. There were two members of the public present to speak about this request.

Discussion ensued regarding the applicant's proposed buffer and compatibility plan and associated recommendations which were drafted in cooperation with the adjacent resident. Condition #19 was added to incorporate the eleven "voluntary" restrictions.

A motion was made by Commissioner Demostene to APPROVE the Plunk Property Planned Development / Land Use Plan (PD/LUP), dated "Received November 2, 2017", subject to the buffer and compatibility recommendations provided by the applicant, with the addition of the condition regarding right-of-way conveyance of Dean Road at no cost to the County, and subject to the seventeen conditions in the staff report. Commissioner DiVecchio seconded the motion, which was then carried on a 9-0 vote.

**Motion / Second**

*Tina Demostene / Pat DiVecchio*

**Voting in Favor**

*William Gusler, Pat DiVecchio, Yog Melwani, Tina Demostene, Gordon Spears, Paul Wean, Jose Cantero, James Dunn, and JaJa Wade*