

**GENERAL INFORMATION**

**APPLICANT** Bryan Potts, Tannath Design Inc.  
**OWNER** Florida Housing Affordability Inc.  
**PROJECT NAME** Rouse Road Townhomes Planned Development (PD)  
**HEARING TYPE** Planned Development / Land Use Plan (PD / LUP)  
**REQUEST** R-1 (Single-Family Dwelling District) to PD (Planned Development District)

*A request to rezone two (2) parcels containing 8.58 gross acres from R-1 (Single-Family Dwelling District) to PD (Planned Development District), in order to construct fifty-four (54) attached residential dwelling units. The request also includes the following waiver from Orange County Code:*

1. A waiver from Section 38-1254 is requested to allow a minimum PD perimeter setback of ten (10) feet along the north property line for one-story and two-story buildings, in lieu of a minimum PD perimeter setback of twenty-five (25) from all boundaries of the PD.

***Applicant Justification:*** *The project is located in flood zone and contains substantial areas of wetlands. As a result, the environmental regulatory requirements for flood plain compensating storage along with the inability to impact wetlands create development hardships not generally burdening other properties within the same zoning district. In addition, relative to total acreage, the project is physically very long and narrow in shape compared to the typical property of the same acreage within the same zoning district. Strict application of the minimum boundary setback requirement will not allow the same use and development of the project as is enjoyed generally by other property within the same zoning district. The environmental regulatory burdens, coupled with the special condition of the project's long, narrow shape create usable land hardships necessitating waiver of the minimum setback of the north and south boundaries. These hardships have not been created by any person or entity presently having a legal interest in the project.*

<b>LOCATION</b>	2460 and 2484 Rouse Road; generally south of Jay Blanchard Trail, and west of Rouse Road.
<b>PARCEL ID NUMBERS</b>	16-22-31-8972-00-080 and 16-22-31-8972-00-090
<b>TRACT SIZE</b>	8.58 gross acres / 6.96 developable acres
<b>PUBLIC NOTIFICATION</b>	The notification area for this public hearing was 1,000 feet [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Three hundred seventy-two (372) notices were mailed to those property owners in the mailing area. A community meeting was not required for this application.
<b>PROPOSED USE</b>	Fifty-four (54) attached residential dwelling units.

### **STAFF RECOMMENDATION**

#### **Development Review Committee – (August 14, 2019)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Rouse Road Townhomes Planned Development / Land Use Plan (PD/LUP), dated “July 19, 2019”, subject to the following conditions:**

1. Development shall conform to the Rouse Road Townhomes Land Use Plan (LUP) dated "Received July 19, 2019," 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 July 19, 2019," 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 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 April 9, 2019.
  - 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 four (4) 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.

8. 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.
9. 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).
10. 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.

11. The developer shall obtain water and wastewater service from Orange County Utilities, subject to County rate resolutions and ordinances.
12. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water and wastewater systems have been designed to support all development within the PD.
13. 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.
14. Short term/transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater.
15. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
16. A waiver from Orange County Code Section 38-1254 is granted to allow a minimum PD perimeter setback of ten (10) feet along the north property line for one-story and two-story buildings, in lieu of a minimum PD perimeter setback of twenty-five (25) from all boundaries of the PD.

## **IMPACT ANALYSIS**

### **Land Use Compatibility**

The applicant is seeking to rezone the subject parcels from R-1 (Single Family Dwelling District) to PD (Planned Development District) in order to construct fifty-four (54) attached residential dwelling units. The applicant is also seeking approval of a two (2) waivers to reduce the PD perimeter setback on the northern boundary of the property.

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 developable acre. The proposed PD zoning district and development program is consistent with the Low-Medium Density Residential (LMDR) FLUM designation and the following CP provisions:

**Goal FLU1** Orange County shall implement an urban planning framework that provides for long-term, cost-effective provision of public services and facilities and the desired future development pattern for Orange County.

**OBJ FLU1.1** Orange County shall use urban densities and intensities and Smart Growth tools and strategies to direct development to the Urban Service Area and to facilitate such development (See FLU1.1.2.B and FLU1.1.4). The Urban Service Area shall be the area for which Orange County is responsible for providing infrastructure and services to support urban development.

**Policy FLU1.1.1** 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.

**OBJ FLU 1.2** Orange County shall use the Urban Service Area concept as an effective fiscal and land use technique for managing growth. The Urban Service Area shall be used to identify the area where Orange County has the primary responsibility for providing infrastructure and services to support urban development.

**Policy FLU1.4.1** Orange County shall promote a range of living environments and employment opportunities in order to achieve a stable and diversified population and community.

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

**FLU8.2.1** Land use changes shall be required to be compatible with the existing development and development trend in the area. Performance restrictions and/or conditions may be placed on property through the appropriate development order to ensure compatibility. No restrictions or conditions shall be placed on a Future Land Use Map change.

**FLU8.2.11** Compatibility may not necessarily be determined to be a land use that is identical to those uses that surround it. Other factors may be considered, such as the design attributes of the project, its urban form, the physical integration of a project and its function in the broader community, as well its contribution toward the Goals and Objectives in the CP. The CP shall specifically allow for such a balance of considerations to occur.

### **Community Meeting Summary**

A community meeting for the associated Comprehensive Plan amendment was held on February 5, 2019. At the time of the community meeting, the requested development program included multi-family units. However, in response to community concern about compatibility between multi-family and the existing single-family uses in the area, the applicant revised the application to attached single-family units.

### **SITE DATA**

<b>Existing Use</b>	Undeveloped Land
<b>Adjacent Zoning</b>	N: R-CE (Country Estate District) (1967)
	E: R-CE (Country Estate District) (1967) R-2 (Residential District) (1992)
	W: A-2 (Farmland Rural District) (1957) R-1 (Single-Family Dwelling District) (1957)

- S: A-1 (Citrus Rural District) (1982)  
R-CE (Country Estate District) (1967)
- Adjacent Land Uses**
- N: County Park (Jay Blanchard Park)
- E: Undeveloped Land
- W: Wetland
- S: Single-Family Residence and Undeveloped Land

**APPLICABLE PD DEVELOPMENT STANDARDS**

**PD Perimeter Setbacks**

- 35 feet (Rouse Road)
- 25 feet Min 50 feet Average (West/Wetland)
- 10 Feet (North) \*Per Waiver Request
- 25 Feet (South)

- Maximum Building Height: 35 feet (2-story)  
Minimum Living Area: 750 Square Feet (2 Bed) / 1,000 Square Feet (3 Bed)

**Minimum Building Setbacks**

- Front Setback: 20'  
Rear Setback: 20'  
Side/End Units Setback: 0'/10 feet

**SPECIAL INFORMATION**

**Subject Property Analysis**

The applicant is seeking to rezone the subject property from R-1 (Single-Family Dwelling District) to PD (Planned Development District) to allow for the construction of fifty-four (54) attached residential dwelling units. The subject property is located within a corridor along Rouse Road that is characterized by single-family detached residential subdivisions. The subject property is in a unique location with wetlands bounding the property to the west and southwest, and the entrance to the J Blanchard Trail and County Park to the north.

While the surrounding area is primarily zoned R-1 (Single-Family Dwelling District), this PD is proposing development standards consistent with the R-2 (Residential District) zoning designation, as there are several R-2 zoned properties in the surrounding area. These include subdivisions to the southeast and northwest. In addition, the property across Rouse Road to the east was rezoned from R-CE (Country Estate District) to R-2 (Residential District) in 1992, however, the property remains undeveloped. There is one existing single-family residence located on the adjacent parcel to the south of the subject property.

**Comprehensive Plan (CP) Amendment**

The property has an underlying Future Land Use Map (FLUM) designation Low-Medium Density Residential (LMDR), which was adopted by the BCC on July 2, 2019. The proposed use is consistent with this designation and all applicable CP provisions.

**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 located within an Airport Noise Zone "D". Noise mitigation criteria may be applicable at the time of building permit review.

**Environmental**

A previously Conservation Area Determination (CAD) CAD 08-032 for the subject property expired on May 12, 2013. A new CAD will be completed prior to PSP/DP submittal.

The subject property is located within the geographical limits of the Econlockhatchee River Protection Ordinance. Basin-wide regulations apply. Reference Orange County Code Chapter 15 Article XI Section 15-442. The basin-wide regulations include, but are not limited to, wetlands and protective buffers, wildlife habitat, stormwater management, and landscaping with native plant species.

The applicant is responsible for addressing any adverse impacts, including secondary impacts, to surface waters or wetlands that may occur as a result of development of the site. Protective measures include but are not limited to: 50-foot minimum undisturbed upland buffer along the wetland boundary, signage, and pollution abatement swales upland of the buffer if adjacent to surface waters and if drainage is not diverted to treatment.

Development of the subject properties shall comply with all state and federal regulations regarding wildlife or 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 December 20, 2018, there are no failing roadway segments within a one mile radius of this project. This information is dated and subject to change.

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 / preliminary subdivision 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**

Capacity Enhancement Agreement (CEA) #OC-18-069 was approved by the Orange County School Board on April 9, 2019.

**Parks and Recreation**

The Parks and Recreation Division reviewed this request but did not provide any comments or objections.

**Code Enforcement**

There are no active Code Enforcement violations on the subject property.

**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.

**PLANNING AND ZONING COMMISSION (PZC) FINDINGS**

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 Rouse Road Townhomes Planned Development (PD), subject to sixteen (16) conditions.

Staff indicated that three hundred seventy-two (372) notices were mailed to surrounding property owners within a buffer of 1,000 feet from the subject property, with zero (0) commentaries in support and zero (0) in opposition. The applicant was present for the hearing and concurred with staff's recommendation. Two (2) member of the public were present to speak on this request and expressed opposition to multi-family development, and concerns about increased traffic and impacts to wildlife.

After limited discussion, a motion was made by Commissioner Spears to find the request to be consistent with the Comprehensive Plan and recommend APPROVAL of the Rouse Road Townhomes Planned Development Land Use Plan (LUP), subject to sixteen (16) conditions. Commissioner Cantero seconded the motion, which then carried on an 8-0 vote.

**Motion / Second**

*Gordon Spears / Jose Cantero*

<b>Voting in Favor</b>	<i>Gordon Spears, Jose Cantero, Jaja Wade, Diane Velazquez, Yog Melwani, Jimmy Dunn, Eddie Fernandez, and Mohammed Abdallah</i>
<b>Voting in Opposition</b>	<i>None</i>
<b>Absent</b>	<i>Carlos Nazario</i>

**PZC RECOMMENDED ACTION**

**Planning and Zoning Commission (PZC) Recommendation – (September 19, 2019)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Rouse Road Townhomes Planned Development / Land Use Plan (PD/LUP), dated “July 19, 2019”, subject to the following conditions:**

1. Development shall conform to the Rouse Road Townhomes Land Use Plan (LUP) dated "Received July 19, 2019," 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 July 19, 2019," the condition of approval shall control to the extent of such conflict or inconsistency.
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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.
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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 April, 9, 2019.
  - 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 four (4) 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.

- 8. 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 / preliminary subdivision plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a CEL or a CRC.
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- 11. The developer shall obtain water and wastewater service from Orange County Utilities, subject to County rate resolutions and ordinances.
- 12. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water and wastewater systems have been designed to support all development within the PD.
- 13. 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.

14. Short term/transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater.
15. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
16. A waiver from Orange County Code Section 38-1254 is granted to allow a minimum PD perimeter setback of ten (10) feet along the north property line for one-story and two-story buildings, in lieu of a minimum PD perimeter setback of twenty-five (25) from all boundaries of the PD.