



Interoffice Memorandum

DATE: January 11, 2021

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

FROM: Jon V. Weiss, P.E., Director
Planning, Environmental and Development
Services Department

CONTACT PERSON: **Alberto A. Vargas, MArch, Manager,
Planning Division
(407) 836-5354**

SUBJECT: January 26, 2021 – Public Hearing
Rocking Horse Rural Residential Enclave - Remedial
Amendment; *1182/3526S Rouse, LLC, and 1185/3626N Rouse,
LLC, vs. Orange County, State of Florida* Division of
Administrative Hearings Case No. 18-5985GM

On October 16, 2018, the Board approved amendments to the Orange County Comprehensive Plan by adopting Ordinance No. 2018-23 that established the Rocking Horse Rural Residential Enclave ("Rocking Horse RRE") in District 5.

On November 15, 2018, two entities whose properties were impacted by Ordinance No. 2018-23, 1182/3526S Rouse, LLC and 1185/3626N Rouse, LLC, filed a Petition for a Formal Administrative Hearing under Section 163.3184, Florida Statutes, challenging the comprehensive plan amendments adopted by Ordinance No. 2018-23 ("Petition"). They alleged in the Petition that those amendments were not "in compliance," as that term is defined in Section 163.3184, Florida Statutes. In particular, one Petitioner's property, located at 3626 N. Rouse Road, Orlando (Parcel ID No. 04-22-31-0000-00-019), was included in the boundaries of the Rocking Horse RRE under Ordinance No. 2018-23, over the Petitioners' objection at the October 16, 2018 hearing.

On April 16, 2019, an Administrative Law Judge with the Department of Administrative Hearings held a final hearing in this case, and on October 14, 2019, she issued a Recommended Order that the Florida Administration Commission (the Governor and Cabinet) issue a Final Order determining that the Rocking Horse RRE amendments adopted by Ordinance No. 2018-23 are not "in compliance," based solely on a purported urban sprawl issue.

Subsequently, the County filed Exceptions to the Recommended Order, and the County's Exceptions and the Recommended Order are currently pending before the Florida Administration Commission.

Although the County disputes, and continues to dispute, that the comprehensive plan amendments adopted by Ordinance No. 2018-23 are not "in compliance," the Petitioners and the County staff have negotiated a Settlement Agreement to resolve the claims and defenses, and to avoid the inconvenience, expense, and uncertainty of continuing to litigate the dispute.

If the Board approves the Settlement Agreement at a noticed and advertised public hearing, then under the terms of the Settlement Agreement the Board will hold a second noticed and advertised public hearing to consider approval of the following proposed comprehensive plan amendment described in the Settlement Agreement: to remove the property located at 3626 N. Rouse Road from inclusion in the Rocking Horse RRE, modify Ordinance No. 2018-23 accordingly, and leave the remainder of the comprehensive plan amendments adopted by Ordinance No. 2018-23 intact (the "Remedial Amendment").

In the event the Board approves the Settlement Agreement and the Remedial Amendment, the Petitioners stipulate and agree in the Settlement Agreement that the comprehensive plan amendments adopted by Ordinance No. 2018-23, as amended by the Remedial Amendment, will be "in compliance," and as such, within ten days after adoption of the Remedial Amendment, the Petitioners will dismiss the Petition by submitting a Notice of Voluntary Dismissal with Prejudice with the Division of Administrative Hearings.

On the other hand, in the event the Board rejects the proposed Remedial Amendment, or fails to take final action on the Remedial Amendment by February 26, 2021, the Settlement Agreement will be null and void, both parties will no longer be bound by any of the recitals or terms set forth in the Settlement Agreement, and the parties agree to notify the Florida Administration Commission that it may issue a Final Order in the pending case.

Please call Joel Prinsell at 407-836-7329 or Alberto Vargas at 407-836-5354 if you have any questions or comments.

ACTION REQUESTED: **Adoption of an Ordinance Amending Ordinance No. 2018-23 regarding the Rocking Horse Rural Residential Enclave and 1182/3526S Rouse, LLC, and 1185/3626N Rouse, LLC, vs. Orange County, State of Florida Division of Administrative Hearings Case No. 18-5985GM. District 5.**

Attachments
JVW/AAV/jmd

ORDINANCE NO. 2021-____

AN ORDINANCE PERTAINING TO COMPREHENSIVE
PLANNING IN ORANGE COUNTY, FLORIDA; AMENDING
THE ORANGE COUNTY COMPREHENSIVE PLAN,
COMMONLY KNOWN AS THE "2010-2030
COMPREHENSIVE PLAN," AS AMENDED, BY
AMENDING ORDINANCE NO. 2018-23 THAT CREATED
THE ROCKING HORSE RURAL RESIDENTIAL
ENCLAVE; AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF

ORANGE COUNTY:

Section 1. Legislative Findings, Purpose, and Intent.

a. On January 26, 2021, the Board of County Commissioners approved a Settlement Agreement in the State of Florida Division of Administrative Hearing case relating to the Rocking Horse Rural Residential Enclave, styled *1182/3526S Rouse LLC, and 1185/3626N Rouse LLC vs. Orange County*, Case No. 18-5985GM;

b. The Settlement Agreement calls for the BCC to now consider whether to adopt the amendment to the Comprehensive Plan, as described in the approved Settlement Agreement and this ordinance;

c. On January 26, 2021, the Board of County Commissioners held a public hearing on the adoption of the proposed amendment to the Comprehensive Plan, as described in this ordinance.

Section 2. Authority. This ordinance is adopted in compliance with and pursuant to Part II of Chapter 163, Florida Statutes.

Section 3. Amendment to Future Land Use Map. The Comprehensive Plan is hereby

amended by amending Ordinance No. 2018-23 that created the Rocking Horse Rural Residential Enclave, by repealing Map 25(d) of the Future Land Use Map Series for the Rocking Horse Rural Residential Enclave, as described in Ordinance No. 2018-23, including its **Appendix "A,"** and replacing it with a new Map 25(d), as shown in **Appendix "A"** attached hereto and incorporated herein. In all other respects, the Rocking Horse Rural Residential Enclave and Ordinance No. 2018-23 shall remain unchanged.

Section 4. Effective Dates for Ordinance and Amendment.

(a) This ordinance shall become effective as provided by general law.

(b) In accordance with Section 163.3184(3)(c)4., Florida Statutes, the plan amendment adopted under this ordinance shall not become effective until 31 days after the DEO notifies the County that the plan amendment package is complete. However, if the amendment is timely challenged, the amendment shall not become effective until the DEO or the Administration Commission issues a final order determining the challenged amendment to be in compliance.

(c) No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective.

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By: Board of County Commissioners

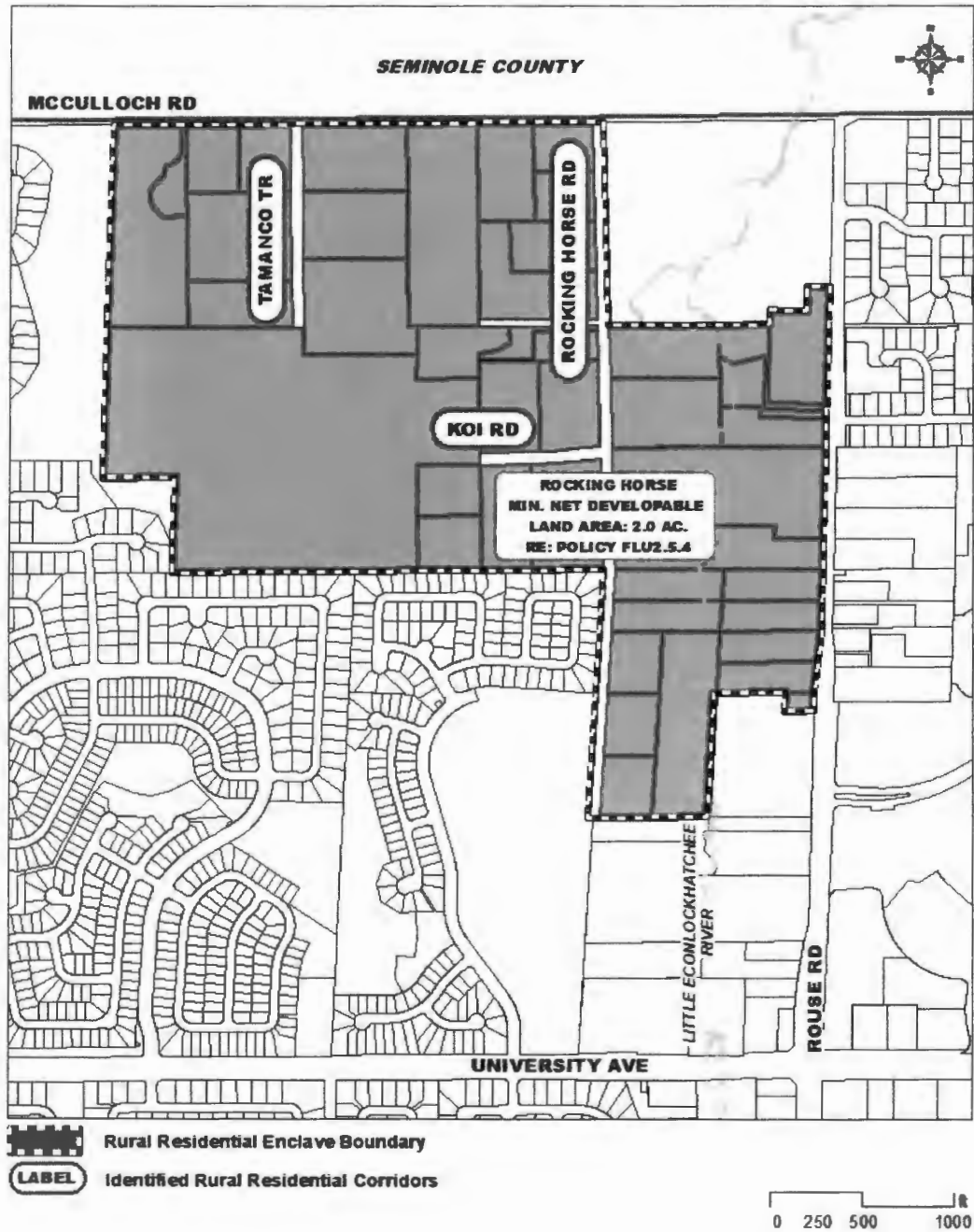
ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk to the Board of County Commissioners

By: _____
Deputy Clerk

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APPENDIX "A"

Map 25(d) of Future Land Use Map Series
Rocking Horse Rural Residential Enclave



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