

**GENERAL INFORMATION**

<b>APPLICANT</b>	Larry Poliner, RCE Consultants, LLC
<b>OWNER</b>	William R. Henry, Jr.
<b>PROJECT NAME</b>	Rainbow Ridge Planned Development (PD)
<b>HEARING TYPE</b>	Planned Development / Land Use Plan (PD / LUP)
<b>REQUEST</b>	<b>A-1</b> (Citrus Rural District) <b>to</b> <b>PD</b> (Planned Development District)  <i>A request to rezone two (2) parcels containing 43.99 gross acres from A-1 to PD, in order to construct up to twenty (20) single-family detached residential dwelling units on minimum 0.70-acre lots. The request also includes the following waiver from Orange County Code:</i>  <ol style="list-style-type: none"><li>1. A waiver from Orange County Code Section 38-1253 to eliminate the requirement to provide recreation facilities.</li></ol>
<b>LOCATION</b>	Generally located at the terminus of McGuire Road, approximately 1,200 feet south of Haas Road, and 2,150 feet east of Plymouth Sorrento Road.
<b>PARCEL ID NUMBERS</b>	07-20-28-0000-00-007 and 07-20-28-0000-00-072
<b>TRACT SIZE</b>	43.99 gross acres
<b>PUBLIC NOTIFICATION</b>	The notification area for this public hearing extended beyond 1,500 feet [ <i>Chapter 30-40(c)(3)(a) of Orange County Code requires 300 feet</i> ]. Ninety-six (96) notices were mailed to those property owners in the mailing area.
<b>PROPOSED USE</b>	Twenty (20) single-family detached residential dwelling units on minimum 0.70-acre lots.

**STAFF RECOMMENDATION**

**Development Review Committee – (December 21, 2016)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Rainbow Ridge Planned Development / Land Use Plan (PD/LUP), dated “Received January 11, 2017”, subject to the following conditions:**

1. Development shall conform to the Rainbow Ridge Planned Development / Land Use Plan (PD/LUP) dated "Received January 11, 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 January 11, 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. 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.
7. Ground signs shall comply with Chapter 31.5 of the Orange County Code.
8. A current Level One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review and approval as part of any Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) submittal.
9. 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.
10. 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 February 8, 2017.
  - 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.
  - e. Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.
11. A waiver from Orange County Code Section 38-1253 is granted to eliminate the requirement to provide recreation facilities.

## **IMPACT ANALYSIS**

### **Land Use Compatibility**

The applicant is seeking to rezone the subject parcels from A-1 (Citrus Rural District) to PD (Planned Development District) in order to construct up to twenty (20) single-family detached residential dwelling units on minimum 0.70-acre lots. Given the substantial amount of dedicated open space as required by the Wekiva Study Area regulations (50%), the applicant is also seeking a waiver from Orange County Code to eliminate the standard PD requirement that all PDs provide additional active and passive recreation areas.

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 is located within the Rainbow Ridge Rural Settlement and has an underlying Future Land Use Map (FLUM) designation of Rural Settlement 1/2 (RS 1/2) which allows for a maximum residential density of one (1) dwelling unit per two (2) net developable acres. The proposed PD zoning district and development program is consistent with RS 1/2 FLUM designation and the following CP provisions:

**FLU1.1.4** states that Rural Settlement related Future Land Use Map designations recognize and preserve existing development patterns, provide for a rural residential lifestyle, and manage the transition of rural areas near the Urban Service Area.

**OBJ FLU6.2** states that Rural Settlements provide for a rural residential lifestyle, allow a transition of rural areas adjacent to the Urban Service Area, and were intended to recognize and preserve existing development patterns at the time the CP was adopted in 1991.

**FLU6.2.3** states that development proposals consisting of greater than 25 residential units within a Rural Settlement shall have final approval as a Planned Development. The Planned Development shall reflect the intended rural character consistent with the criteria listed in Future Land Use Policies FLU6.2.4 and FLU6.2.5.

**FLU6.2.4** states that the County may use the PD designation and include criteria to ensure new development within the Rural Settlement contributes to the community's sense of place, to include:

Designs for new roads, and alterations to existing roads, should ensure the physical impact on the natural and historic environment is kept to a minimum;

New roads or road improvements shall be designed to accommodate the anticipated volume and nature of traffic, but pavement shall be kept as narrow as safety allows while encouraging equestrian, bicycle, pedestrian, and other non-motorized, alternative means of transportation, preservation of wildlife corridors and habitat, and aesthetically pleasing landscape treatment;

New buildings and structures shall be located where their construction or access does not cause substantial modification to the topography and natural resources; and,

Provide for increased setbacks along roadways to preserve views, open space, and rural character; and provide guidelines for lot layout and cluster development for residential development to maintain open space and rural character.

**FLU6.2.5** states that the permitted densities and intensities of land use within the Rural Settlements shall maintain their rural character, and consider factors including lot size, open space and views, tree canopy, building location and orientation, and compatibility with existing land uses.

**FLU6.2.6** states that the Future Land Use Map shall reflect the permitted densities of development within the Rural Settlements. Clustering of units with dedicated open space shall be allowed so long as the overall density does not exceed that specified on the Future Land Use Map.

Clustering shall be supported to maintain the rural character through preservation of open space and lot layout and design. Generally recognized and accepted conservation subdivisions can be used where they minimize impacts on areas with rural character provided their use is consistent with the overall intent of Rural Settlement boundaries.

Clustering, with permanent protection of open space, shall be encourage or required for all new development and redevelopment within the Wekiva Study Area, based on location, i.e., Urban Service Area, Rural Service Area, Rural Settlement, Growth Center and overall project acreage.

**OBJ 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 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.

**OS1.3.6** states that for the portion of the Wekiva Study Area located within the Joint Planning Area of the City of Apopka, Orange County shall require compliance with minimum open space and density requirements described by the Joint Planning Area Agreement (JPA) with the City of Apopka adopted on October 26, 2004. If a discrepancy exists between the City of Apopka and Orange County in terms of requirements, the most stringent shall apply. The County shall adopt Land Development Regulations by January 1, 2007 for these areas to provide for a pattern of development that protects most effective recharge areas, karst features, and sensitive natural habitats.

All areas shown as High Recharge Areas identified in the Data and Analysis of this element on Map 4 (aka Figure WSA-3) shall be recognizable by the presence of Type "A" Hydrologic Soil Group identifying the most effective recharge areas. During the site planning process, a soil analysis shall be performed by a qualified professional to determine the location of most effective recharge areas, considered Type "A" Hydrologic soils described by the NRCS Soil Survey maps. To maximize open space and preserve the natural environment, all development shall conform to the following requirements.

An acceptable alternative plan to a configuration in which the required percentage of open space is located on site is a plan that ensures that the required percentage of open space is permanently preserved through the transfer of density credits, development rights, or property purchases (such off-site transfers shall be limited to property located within the Wekiva Springshed), and such open space shall be permanently protected through conservation easements or similar binding mechanisms.

The following text describes areas of Orange County that contain special criteria for open space. For these following areas, all open space shall be permanently protected and unless otherwise noted, the clustering of open space is required.

**Residential land uses in existing Rural Settlements.**

Within all areas in the Wekiva Study Area designated as Rural Settlement, minimum lot size shall be determined by the availability of water and sewer services. Within any such development, any sensitive resource elements shall be permanently protected. The following standards shall apply:

Development with densities less than or equal to one unit per acre (1du/ac) – open space shall equal 50% or greater;

Development with densities greater than one unit per acre (1du/ac) in a development with an overall size of less than or equal to 100 acres – open space shall be 60% or greater;

Development with densities greater than one unit per acre (1du/ac) in a development with an overall size greater than 100 acres – open space shall be 70% or greater.

**Community Meeting Summary**

A community meeting was not required for this request.

**SITE DATA**

<b>Existing Use</b>	Undeveloped Land / Farm Land
<b>Adjacent Zoning</b>	N: A-1 (Citrus Rural District) (1957) A-1 (City of Apopka Zoning)
	E: A-1 (Citrus Rural District) (1957)
	W: A-1 (Citrus Rural District) (1957)
	S: A-1 (Citrus Rural District) (1957) R-CE (Country Estate District) (1972)
<b>Adjacent Land Uses</b>	N: Single Family Residential / Farm Land
	E: Undeveloped Land / Farm Land
	W: Single Family Residential / Farm Land
	S: Single Family Residential / Farm Land

**APPLICABLE PD DEVELOPMENT STANDARDS**

PD Perimeter Setback:	25 feet
Maximum Building Height:	35 feet
Minimum Lot Size:	0.70-acre
Minimum Lot Width:	150 feet
Minimum Living Area:	2,000 Square Feet (under HVAC)

**Minimum Building Setbacks**

Front Setback:	25 feet
Rear Setback:	50 feet
Side Setback:	10 feet

Minimum Open Space: 50% (per Wekiva Study Area regulations)

## **SPECIAL INFORMATION**

### **Subject Property Analysis**

The applicant is seeking to rezone the 43.99-acre subject property from A-1 (Citrus Rural District) to PD (Planned Development District) in order to construct up to twenty (20) single-family detached residential dwelling units on minimum 0.70-acre lots. The applicant is also seeking approval of a waiver to eliminate the recreational facility requirement due to the amount of open space as otherwise provided per the Wekiva Study Area regulations.

### **Comprehensive Plan (CP) Amendment**

The property has an underlying Future Land Use Map (FLUM) designation of Rural Settlement 1/2 (RS 1/2). 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 located within the Rainbow Ridge Rural Settlement.

### **Joint Planning Area (JPA)**

The subject property is not located within a JPA.

### **Overlay District Ordinance**

The subject property is located within the Wekiva Study Area. Per Open Space Element Policy OS1.3.6, residential development within an existing Rural Settlement is required to provide a minimum of 50% open space. The purpose of this requirement is to ensure protection of identified sensitive resources, including recharge areas, sensitive uplands, wetlands, Longleaf Pine, Sand Hill, Sand Pine, and Xeric Oak Scrub.

### **Airport Noise Zone**

This property is not located within an Airport Noise Zone.

### **Environmental**

This site is located within the geographical limits of the Wekiva Study Area, as established by the Wekiva Parkway and Protection Act, Section 369.316 of the Florida Statutes (F.S.) Additional environmental regulations apply, as noted. These requirements may reduce the total net developable acreage. Regulations include, but are not limited to: septic tank criteria, open space requirements, stormwater treatment, upland preservation, setbacks related to karst features and the watershed, and aquifer vulnerability. In addition to the state regulations, local policies are included in Orange County Comprehensive Plan 2010-2030 Destination 2030, Future Land Use Element (but not limited to) Objective FLU6.6 Wekiva and the related policies.

If a septic system is required or in use, the applicant is required to notify the Florida Department of Health (FDOH), Environmental Health Division, about the septic system permit application, modification or abandonment. Residential lots are also required to be configured to accommodate the requirements of the Individual On-Site Sewage Disposal Ordinance in Orange County Code Chapter 37, Article XVII, regarding setbacks, lot size, soils, distance to potable water supply wells, and elevations.



This project site has a prior agricultural land use that may have resulted in spillage of petroleum products, fertilizer, pesticide or herbicide. Prior to the earlier of platting, demolition, site clearing, grading, grubbing, review of mass grading or construction plans, the applicant shall provide documentation to assure compliance with the Florida Department of Environmental Protection (FDEP) regulation 62-777 Contaminant Cleanup Target Levels, and any other contaminant cleanup target levels found to apply during further investigations, to the Orange County Environmental Protection and Development Engineering Divisions.

This property is also located within an ethylene dibromide (EDB, a soil fumigant) groundwater contamination zone delineated by the Florida Department of Environmental Protection (FDEP). Any new potable water wells will require special permitting per Florida Administrative Code FAC 62-524.

Finally, this site is located in close proximity to three publicly managed properties: the Sandhill Preserve, the Wekiva Springs State Park and the Lake Lucie Conservation Area. The covenants, conditions, and restrictions (CC&Rs) shall contain notification to potential purchasers, builders or tenants of this development that the adjacent land use includes publicly managed property. The notice shall indicate that the adjacent property will require the use of resource management practices that may result in periodic temporary conditions that may limit outdoor activities. These practices will include, but not be limited to, ecological burning, pesticide and herbicide usage, exotic plant and animal removal, usage of heavy equipment and machinery, and other practices as may be deemed necessary for proper resource management.

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 9th Edition of the ITE trip generation manual, the proposed request to develop up to 20 single-family residential dwelling units will generate 239 daily and 25 pm peak hour trips. According to the concurrency management system database dated 01/20/17 there are no failing roadways within the project impact area and capacity is available to be encumbered. This information is dated and is subject to change.

Final permitting or approval of any development on this site will be subject to further review and approval through the County's Concurrency Management System and the applicant will be required to address any projected deficiencies in accordance with Orange County Code. In addition, Pursuant to Section 30-552(3) of the County's Code of Ordinances, any application for Planned Development (PD) zoning is also required to conduct a traffic study to assess the traffic and capacity impacts of the proposed development. The applicant is required to submit a traffic analysis for the proposed PD to the Transportation Planning Division for review and approval prior to obtaining an approved Capacity Encumbrance Letter (CEL).

**Water / Wastewater / Reclaim**

Water:	<u>Existing service or provider</u> Private Wells
Wastewater:	Septic
Reclaimed:	N/A

**Schools**

A Capacity Enhancement Agreement (CEA) addressing public school capacity issues is required for this project. A final Board County Commissioners (BCC) public hearing for this rezoning cannot be requested until notice of final approval of the CEA by Orange County Public Schools (OCPS) has been received.

**Parks and Recreation**

Orange County Parks and Recreation staff reviewed the request but did not identify any issues or concerns.

**Code Enforcement**

No code enforcement, special magistrate or lot cleaning 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 – (January 19, 2017)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Rainbow Ridge Planned Development / Land Use Plan (PD/LUP), dated "Received January 11, 2017", subject to the following conditions:**

1. Development shall conform to the Rainbow Ridge Planned Development / Land Use Plan (PD/LUP) dated "Received January 11, 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 January 11, 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. 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.
7. Ground signs shall comply with Chapter 31.5 of the Orange County Code.
8. A current Level One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review and approval as part of any Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) submittal.
9. 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.
10. 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 February 8, 2017.
  - 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.
  - e. Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.
11. A waiver from Orange County Code Section 38-1253 is granted to eliminate the requirement to provide recreation facilities.

### **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 PD (Planned Development District) zoning, subject to eleven (11) conditions.

Staff indicated that ninety-six (69) notices were sent to an area extending beyond 1,500 feet from the subject property, with three (3) responses in favor and two (2) in opposition received. Those in opposition expressed concern with perceived impacts to rural character. Larry Poliner, applicant, was present and agreed with the staff recommendation.

During PZC discussion, Commissioner Spears expressed concern with the increase in density within the spring-shed of the Wekiva Springs and Rock Springs as well as the proposed septic tanks. Commissioner Spears proposed a condition to require connection to sewer when it becomes available. The applicant stated that the residents out there do not want water and sewer because it would cause more development. The applicant also stated it would be very difficult and expensive for the home owners to connect to a sewer line in the future. Staff stated that it would not be possible to make the homeowners connect at a future date.

Following lengthy discussion, a motion was made by Commissioner Cantero to find the request to be consistent with the Comprehensive Plan and recommend **APPROVAL** of the Rainbow Ridge Planned Development / Land Use Plan (PD/LUP) dated "Received January 11, 2017", subject to the eleven (11) conditions listed in the staff report. Commissioner DiVecchio seconded the motion, which was then carried on a 6-1 vote, with Commissioner Spears voting in the negative.

<b>Motion / Second</b>	<i>Jose Cantero / Pat DiVecchio</i>
<b>Voting in Favor</b>	<i>Pat DiVecchio, Jose Cantero, Paul Wean, Tina Demostene, Jaja Wade, and James Dunn</i>
<b>Voting in Opposition</b>	<i>Gordon Spears</i>
<b>Absent</b>	<i>Yog Melwani (Note: The District 2 PZC seat was vacant)</i>