





## Interoffice Memorandum

June 22, 2016

TO: Mayor Teresa Jacobs  
and the Board of County Commissioners

FROM:  Mark V. Massaro, P.E., Director, Public Works Department 

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SUBJ: **Resolution Providing Interim Procedures for Gated Communities  
With Shared Drainage Facilities**

The Orange County Subdivision Regulations, Chapter 34 Orange County Code, contain provisions that govern the allowance and requirements for gated communities. One of those requirements is that the community must maintain their private streets and private retention ponds. Section 34-280(a)(3) states that a gated community may be appropriate when an existing gated subdivision requests to add additional phases to the community where, among other criteria, it is "impractical to separate the drainage of the new subdivision." However, in older mixed use developments, some of the retention ponds were designed to take stormwater from commercial, condominium, or private residential developments along with stormwater from public roadways. Additionally, certain existing public/private partnership road agreements allowed and contemplated that stormwater from public roadways would be provided for within the adjoining privately owned ponds.

However, Section 34-280(b)(4) strictly prohibits the commingling of drainage from public and private facilities. This provision does not allow for older master stormwater facilities to be utilized as originally designed, nor does it allow for developments with road agreements that provided joint-use ponds to have gated residential communities as part of their development plan.

The purpose of this Resolution is to provide interim procedures to allow only developments that have already received approval from the Board to be a gated community and that by necessity have commingled stormwater facilities to receive approval for final platting (or other development approval(s)), while staff is in the process of drafting a proposed amendment to Chapter 34, Article VIII, Orange County Code ("Gated Communities"). This would be accomplished by requiring that the subdivision either be part of a Master Property Owners Association that will apportion responsibility for pond maintenance or provide an additional statement in the Declaration of Restrictive Covenants' Cost Disclosure Statement to disclose that the subdivision is using a shared or joint drainage facility. Additionally, in scenarios where stormwater from the gated community will be commingled with stormwater from a public facility, a Hold Harmless Agreement indemnifying the County from any claims or liabilities resulting from or relating to maintenance and/or repair of the stormwater facility shall be required prior to platting.

**Action Requested:** Approval and execution of Resolution of the Orange County Board of County Commissioners regarding interim procedures for certain approved gated communities with shared drainage facilities seeking final plat or development order approval from the County. All Districts.

MVM/JCK/wjn