

**GENERAL INFORMATION**

<b>APPLICANT</b>	Julie C. Salvo, Orange County Public Schools
<b>OWNER</b>	Hamilton, LLC
<b>PROJECT NAME</b>	Timber Creek Relief High School Planned Development (PD)
<b>HEARING TYPE</b>	Planned Development / Land Use Plan (PD / LUP)
<b>REQUEST</b>	<b>A-2</b> (Farmland Rural District) <b>and</b> <b>PD</b> (Planned Development District) <b>to</b> <b>PD</b> (Planned Development District)  <i>To rezone one (1) parcel containing 15.69 acres from A-2 (Farmland Rural District) to PD (Planned Development District), incorporate the property into the Timber Creek Relief High School PD, and develop athletic practice fields on the subject property. No waivers are associated with this request.</i>
<b>LOCATION</b>	Generally located south of E. Colonial Drive, west of Story Partin Road, and north of Hamilton Drive.
<b>PARCEL ID NUMBER</b>	20-22-32-0000-00-003 (parcel to be aggregated)
<b>TRACT SIZE</b>	87.71 gross acres (existing PD) <u>15.69 gross acres (parcel to be aggregated)</u> 103.40 gross acres (overall aggregated PD)
<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> ]. Five hundred thirty-six (536) notices were mailed to those property owners in the mailing area. A community meeting was not required for this application.
<b>PROPOSED USE</b>	Athletic practice fields

**STAFF RECOMMENDATION**

**Development Review Committee – (October 10, 2018)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Timber Creek Relief High School Planned Development / Land**

**Use Plan (PD/LUP), dated "Received October 10, 2018", subject to the following conditions:**

1. Development shall conform to the Timber Creek Relief High School Land Use Plan (LUP) dated "Received October 10, 2018," 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 October 10, 2018," 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. The project shall be consistent with Orange County Code Chapter 15, Article X (Wetland Conservation Areas) and Article XI (Econlockhatchee River Protection), Section 15-444 (review and appeal procedures).
7. No activity will be permitted on the site that may disturb, influence, or otherwise interfere with: areas of soil or groundwater contamination, or any remediation activities, or within the hydrological zone of influence of any contaminated area, unless prior approval has been obtained through the Florida Department of Environmental Protection (FDEP) and such approval has been provided to the Environmental Protection Division of Orange County. An owner/operator who exacerbates any existing contamination or does not properly dispose of any excavated contaminated media may become liable for some portion of the contamination pursuant to the provisions in section 376.308, F.S.
8. All acreages identified as conservation areas and wetland buffers are considered approximate until finalized by a state application and approved permit, to be provided to Orange County. Approval of this plan does not authorize any direct or indirect conservation area impacts.
9. Parcel 20-22-32-0000-00-003 shall be used as practice fields only, and shall not have any vertical construction, lighting, or sound/intercom systems on the parcel.
10. No vehicular or pedestrian access shall be provided to Hamilton Drive from this PD.

11. 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.
12. All existing structures shall be removed.
13. The school site shall comply with Orange County School Siting Ordinance.
14. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County code. An Electronic Message Center for the school site shall comply with Orange County Code Section 38-1755(o).
15. 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.
16. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated October 23, 2007 shall apply:
  - a. The developer shall obtain water and wastewater service from Orange County Utilities.
  - b. Access to Story Partin Road is prohibited other than that provided for emergency access.

## **IMPACT ANALYSIS**

### **Land Use Compatibility**

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 Educational (EDU). The property recently proceeded through a FLUM amendment (#2018-2-A-5-1) from Rural (R) to Educational (EDU) and that amendment was approved by the BCC on November 13, 2018. The proposed PD zoning district and development program are consistent with FLUM designation and the following CP provisions:

**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.

**FLU8.7** states that Orange County shall promote safe and adequate public school site locations. (For purposes of this Comprehensive Plan, the terms “public schools,” “schools,” “public school facilities,” “educational facilities,” and the like, shall mean (1) traditional, publicly supported and controlled schools under the jurisdiction of the Orange County School Board, consisting of kindergarten, elementary and/or secondary school grades, and (2) schools organized as a nonprofit organization that have applied for and received authorization from the School Board to operate a charter school for kindergarten, elementary and/or secondary school grades in accordance with Florida Statutes pertaining to charter schools, which became law in 1996, as that statute may be amended or replaced, but only where the permanent student capacity is 550 or greater.)

**FLU8.7.7** states that In the event the School Board determines a public school facility is required in an area designated Rural/Agricultural on the Future Land Use Map, an amendment to the Future Land Use Map as EDU shall be required. The School Board may request an amendment to the Future Land Use Map at no cost.

**FLU8.7.9** states that Public educational facilities shall be allowed in future land use designations specified in Policies FLU8.7.5 through FLU8.7.7. Subsequent to the construction of those facilities, the Future Land Use Map may be amended to reflect an Educational (EDU) designation. Any plan amendments required under FLU8.7.7 in the Rural Service Area or under FLU8.7.6 in a Rural Settlement shall be designated EDU.

**PS5.3.2** states that the school siting ordinance shall establish procedures for the review and coordination of plans for school sites.

**PW1.4.2** states that Potable water service shall not be extended to areas outside the Urban Service Area except in the following circumstances:

- A. The facilities to be extended will serve a Growth Center, Lake Pickett, public school, or other exception areas as provided in the Comprehensive Plan;
- B. The Board of County Commissioners has made an affirmative finding that a public health hazard exists for existing development. Such facilities shall not serve as the basis for additional new development;
- C. The facilities are to be extended to provide adequate fire flows to existing developments which are located within one-half (1/2) mile of an existing water transmission main;
- D. For approved sector plans as provided for in the CP; and
- E. The circumstances described under Policy PW1.5.2 and Policy PW1.5.3.

This policy is not intended to preclude the use of conservation or rural areas for withdrawal or treatment facilities.

**WW1.4.3** states that Central wastewater facilities, consisting of wastewater treatment facilities, pump stations, force and gravity mains shall not be extended beyond the boundary of the Urban Service Area except in the following circumstances:

- A. The facilities to be extended will serve a Growth Center, public school, or other exception areas within Specific Area Plan (SAP) boundaries as provided for in the Comprehensive Plan (CP), or a Lake Pickett-designated area;
- B. The Board of County Commissioners has made an affirmative finding that a public health hazard exists for existing development. Such extended facilities shall not serve as a basis for additional new development;
- C. For approved sector plans as provided for in the CP; and
- D. Those circumstances described under Policy WW1.5.2 herein.

This policy is not intended to preclude the use of conservation or rural areas for wastewater treatment facilities or the interconnecting of the overall system.

**Community Meeting Summary**

A community meeting was not required for this application, but one was held for an associated Future Land Use Map amendment on June 11, 2018 at East River High School. There were twelve (12) residents in attendance who expressed concerns with noise from the athletic facilities, vehicular and pedestrian access from Hamilton Drive, expansion of the high school, and future evolution of the site to include construction of educational buildings and athletic facilities.

**SITE DATA**

<b>Existing Use</b>	Undeveloped Land
<b>Adjacent Zoning</b>	N: PD (Planned Development District) (Timber Creek Relief High School PD) (2007)
	E: PD (Planned Development District) (Timber Creek Relief High School PD) (2007)
	W: A-2 (Farmland Rural District) (1957)
	S: A-2 (Farmland Rural District) (1957)
<b>Adjacent Land Uses</b>	N: East River High School
	E: East River High School
	W: Single-Family Dwelling, Grazing Land
	S: Single-Family Dwellings, Undeveloped Land

**APPLICABLE PD DEVELOPMENT STANDARDS**

PD Perimeter Setback	25 feet
Maximum Building Height:	50 feet
Minimum Lot Size:	50 acres

**Minimum Building Setbacks**

North Setback:	35 feet
East Setback:	30 feet
South Setback:	35 feet
West Setback:	30 feet

**SPECIAL INFORMATION**

**Subject Property Analysis**

The applicant is seeking to rezone one (1) parcel containing 15.69 acres from A-2 (Farmland Rural District) to PD (Planned Development District), incorporate the property into the Timber Creek Relief High School PD, and develop athletic practice fields on the subject property. The PD today contains East River High School, which was the relief school for Timber Creek High School.

This request meets all of the requirements for consistency with the Comprehensive Plan and the school siting ordinance, as the proposed use would be considered a renovation or construction on an existing school site that does not include a change in the primary use of the school and does not increase the permanent student capacity of the school.

**Comprehensive Plan (CP) Amendment**

The subject property has an underlying Future Land Use Map (FLUM) designation of Educational (EDU). The proposed PD zoning is consistent with the FLUM 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, but is located within proximity of the Bithlo, Sunflower Trail, and Corner Lake Rural Settlements.

**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 within an Airport Noise Zone.

**Environmental**

The Threatened and Endangered Wildlife Survey dated May 14, 2018 reported 25 gopher tortoise burrows on site. 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).

The Phase I Environmental Site Assessment (ESA) dated May 8, 2018 reported Business Environmental Risks (BERs) and/or additional considerations related to large amounts of solid wastes, above ground storage tanks and water supply wells used for agricultural irrigation observed on site. 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 applicable Florida Department of Environmental Protection (FDEP) regulations.

The subject site has a prior land use as a container nursery that may have resulted in soil and/or groundwater contamination due to 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.

**Transportation / Concurrency**

The proposed athletic fields are considered ancillary to the high school use. Additionally, the high school is exempt from concurrency.

**Water / Wastewater / Reclaim**

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

**Schools**

Orange County Public Schools (OCPS) staff reviewed the request, but did not identify any issues or concerns.

**Parks and Recreation**

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

**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 Timber Creek Relief High School Planned Development / Land Use Plan Amendment (PD/LUPA), dated "Received October 10, 2018", subject to the sixteen (16) DRC recommended conditions. Staff also noted that proposed Condition #12 be should revised to reflect removal of the existing structures on the subject property, not the entire PD.

Staff indicated that five hundred thirty-six (536) notices were mailed to the surrounding property owners within a buffer extending 1,500 feet from the subject property, with zero (0) commentaries received in support and one (1) received in opposition. The applicant was present and agreed with the staff recommendation. There were no members of the public present to speak on this request.

After a brief discussion regarding compatibility conditions, a motion was made by Commissioner Spears to find the request to be consistent with the Comprehensive Plan and recommend APPROVAL of the Timber Creek Relief High School Planned Development / Land Use Plan (PD/LUP) dated "Received October 10, 2018", subject to the sixteen (16) DRC recommended conditions, and staff recommended modification to Condition #12 limiting the effect of the condition to only the subject parcel. Commissioner Cantero seconded the motion, which carried on an 8-0 vote.

<b>Motion / Second</b>	<i>Gordon Spears / Jose Cantero</i>
<b>Voting in Favor</b>	<i>Gordon Spears, Jose Cantero, William Gusler, Tina Demostene, Paul Wean, James Dunn, Pat DiVecchio and Yog Melwani</i>
<b>Voting in Opposition</b>	<i>None</i>
<b>Absent</b>	<i>JaJa Wade</i>

### **PZC RECOMMENDED ACTION**

#### **Planning and Zoning Commission (PZC) Recommendation – (November 15, 2018)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Timber Creek Relief High School Planned Development / Land Use Plan (PD/LUP), dated "Received October 10, 2018", subject to the following conditions:**

1. Development shall conform to the Timber Creek Relief High School Land Use Plan (LUP) dated "Received October 10, 2018," 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 October 10, 2018," 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.
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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. The project shall be consistent with Orange County Code Chapter 15, Article X (Wetland Conservation Areas) and Article XI (Econlockhatchee River Protection), Section 15-444 (review and appeal procedures).
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8. All acreages identified as conservation areas and wetland buffers are considered approximate until finalized by a state application and approved permit, to be provided to Orange County. Approval of this plan does not authorize any direct or indirect conservation area impacts.
9. Parcel 20-22-32-0000-00-003 shall be used as practice fields only, and shall not have any vertical construction, lighting, or sound/intercom systems on the parcel.
10. No vehicular or pedestrian access shall be provided to Hamilton Drive from this PD.
11. 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.
12. All existing structures on Parcel 20-22-32-0000-00-003 shall be removed.
13. The school site shall comply with Orange County School Siting Ordinance.
14. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County code. An Electronic Message Center for the school site shall comply with Orange County Code Section 38-1755(o).
15. 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.

16. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated October 23, 2007 shall apply:
- a. The developer shall obtain water and wastewater service from Orange County Utilities.
  - b. Access to Story Partin Road is prohibited other than that provided for emergency access.