

GENERAL INFORMATION

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| APPLICANT | Doug Kelly, GAI Consultants |
| OWNER | Carter-Orange Ward Road Land Trust |
| PROJECT NAME | Bishop Planned Development (PD) |
| HEARING TYPE | Planned Development / Land Use Plan (PD / LUP) |
| REQUEST | <p>A-2 (Farmland Rural District) and PD (Planned Development District) to PD (Planned Development District)</p> <p><i>A request to rezone two (2) parcels containing 14.80 gross acres from A-2 (Farmland Rural District) to PD (Planned Development District), incorporate the property into the existing Bishop PD, and add 53 single-family detached residential dwelling units into the PD development program (167 dwelling units overall). No waivers are associated with this request.</i></p> |
| LOCATION | 14950 and 14958 Ward Road; or generally located on the west side of Ward Road, north of the Orange County/Osceola County Line, and south of Bishop Landing Way |
| PARCEL ID NUMBERS | 33-24-30-0000-00-023 and 33-24-30-0000-00-046 (<i>affected parcels only</i>) |
| TRACT SIZE | 46.47 gross acres (<i>existing PD</i>) <u>14.80 gross acres (<i>parcels to the aggregated</i>)</u> 61.27 gross acres (<i>overall aggregated PD</i>) |
| PUBLIC NOTIFICATION | <p>The notification area for this public hearing extended beyond 500 feet [<i>Chapter 30-40(c)(3)(a) of Orange County Code requires 300 feet</i>]. Two hundred and nine (209) notices were mailed to those property owners in the mailing area.</p> <p>Community meetings for this request, in conjunction with the associated Future Land Use Map amendment, were held on October 19, 2017 and September 5, 2018. A summary of those meetings can be found on Page 7 of this staff report.</p> |
| PROPOSED USE | 53 Single-Family Detached Dwelling Units (167 Dwelling Units overall) |

STAFF RECOMMENDATION

Development Review Committee – (September 12, 2018)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Bishop Planned Development / Land Use Plan (PD/LUP), dated “Received July 20, 2018”, subject to the following conditions:

1. Development shall conform to the Bishop Land Use Plan (LUP) dated "Received July 20, 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 July 20, 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. 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.
7. 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).
8. A Master Utility Plan (MUP) for the PD shall be submitted to Orange County Utilities at least thirty (30) days prior to submittal of the first set of construction plans. The MUP must be approved prior to Construction Plan approval.
9. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.

10. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
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. This property is located within Airport Noise Zone "E." Development shall comply with Article XV, Chapter 9, Orange County Code (Airport Noise Impact Areas), as may be amended from time to time. Residential plats recorded within Noise Zones C, D, and E shall note the potential for objectionable aircraft noise on the plat. Specifically, the plat shall note in 12 point or larger font type the following: "The properties delineated on this plat are subject to aircraft noise that may be objectionable."
13. 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.
14. The following Education Condition of Approval shall only apply to Parcels 33-24-30-000-00-023 and 33-24-30-0000-00-046 (known to OCPS as "Bishop Landing Phase 3") and any previous condition of approval shall continue to be enforced:
 - a. Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of May 22, 2018.
 - 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 two (2) 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.

15. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated February 20, 2014 shall apply:
- a. All acreages regarding 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.
 - b. The following Education Condition of Approval shall apply:
 - 1) Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of February 25, 2014.
 - 2) 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 shall 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.
 - 3) Developer, or 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.
 - 4) 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. At the time of platting, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.

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 Planned Development – Low Density Residential (PD-LDR), which was adopted by the Board of County Commissioners on December 18, 2018. That amendment adopted a development program of 53 dwelling units for the subject property into the Comprehensive Plan. The proposed PD zoning district and development program is consistent with adopted FLUM designation and the following CP provisions:

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

FLU1.4.2 states that Orange County shall ensure that land uses changes are compatible with and serve existing neighborhoods.

GOAL FLU2 states that Orange County will encourage urban strategies such as infill development, coordinated land use and transportation planning, and mixed-use development, which promote efficient use of infrastructure, compact development and an urban experience with a range of choices and living options.

FLU8.1.1 states that the zoning and future land use correlation shall be used to determine consistency with the Future Land Use Map. Land use compatibility, the location, availability and capacity of services and facilities, market demand, and environmental features shall also be used in determining which specific zoning district is most appropriate. Density is restricted to the maximum and minimum allowed by the Future Land Use Map designation regardless of zoning.

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 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 states that 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

Two community meetings were held for this application. The first meeting was held on October 19, 2017 at Wyndham Lakes Elementary School where seven (7) residents attended. The residents expressed concerns related to traffic on Ward and Simpson Roads and lack of commercial services in the area.

The second community meeting was held on September 5, 2018 at Wyndham Lakes Elementary School. As with the first meeting, there were seven (7) residents in attendance who expressed concerns with traffic on Ward and Simpson Road, as well as concerns with increased flooding in the area.

SITE DATA

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| Existing Use | Single-Family Dwelling |
| Adjacent Zoning | N: PD (Planned Development District) (Bishop PD) (2014) E: R-CE-5 (Rural Country Estate Residential District) (1985) W: A-2 (Farmland Rural District) (1957) S: RS-3 (Residential Single-Family) (Osceola County) |
| Adjacent Land Uses | N: Single Family Residential E: Single-Family Residential W: Retention Pond S: Single-Family Residential |

APPLICABLE PD DEVELOPMENT STANDARDS

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|--------------------------|--------------------------------|
| PD Perimeter Setback: | 25 feet |
| Maximum Building Height: | 35 feet |
| Minimum Lot Size: | 5,000 Square Feet |
| Minimum Lot Width: | 50 feet |
| Minimum Living Area: | 1,200 Square Feet (under HVAC) |

Minimum Building Setbacks

| | |
|----------------|---------|
| Front Setback: | 20 feet |
| Rear Setback: | 20 feet |
| Side Setback: | 5 feet |

SPECIAL INFORMATION

Subject Property Analysis

The applicant is seeking to rezone two (2) parcels containing 14.80 gross acres from A-2 (Farmland Rural District) to PD (Planned Development District), incorporate the property into the existing Bishop PD, and add 53 single-family detached residential dwelling units into the PD development program (167 dwelling units overall).

Comprehensive Plan (CP)

The property has an adopted Future Land Use Map (FLUM) designation of Planned Development – Low Density Residential (PD-LDR). 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 Airport Noise Zone “E”.

Environmental

Environmental Protection Division (EPD) staff has reviewed the proposed request, but did not identify any issues or concerns.

Transportation / Concurrency

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.

Based on the Concurrency Management System database dated February 2, 2018, Boggy Creek Road from the Central Florida Greenway to the Osceola County Line is currently operating at Level of Service “D” and there are 26 pm peak hour trips available. A traffic study will be required and final permitting of any development on this site will be subject to review and approval under capacity constraints of the county’s Transportation Concurrency Management System. Such approval will not exclude the possibility of a proportionate share payment in order to mitigate any transportation deficiencies.

Water / Wastewater / Reclaim

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|--------|-------------------------------------|
| | <u>Existing service or provider</u> |
| Water: | Orange County Utilities |

Wastewater: Orange County Utilities

Reclaimed: Orange County Utilities

Schools

A Capacity Enhancement Agreement (CEA) for the subject property is was reviewed by Orange County Public Schools (OC-17-031) and was approved by the Orange County School Board on May 22, 2018. The existing CEA will continue to apply to the remainder of the Bishop PD.

Parks and Recreation

The Orange County Parks and Recreation reviewed this request, but did not provide any comments 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, which was presented in conjunction with Future Land Use Map Amendment 2018-1-A-4-1, 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 fifteen (15) DRC recommended conditions.

Staff indicated that two-hundred and nine (209) notices were sent to an area extending beyond 500 feet from the subject property, with zero (0) responses in favor or in opposition received.

Following limited discussion, a motion was made by Commissioner DiVecchio to find the request to be consistent with the Comprehensive Plan and recommend **APPROVAL** of the Bishop Planned Development / Land Use Plan (PD/LUP) dated "Received July 20, 2018", subject to the fifteen (15) conditions listed in the staff report. Commissioner Gusler seconded the motion, which was then carried on a 6-0 vote.

Motion / Second

Pat DiVecchio / William Gusler

Voting in Favor

Pat DiVecchio, William Gusler, Jose Cantero, Tina Demostene, Paul Wean, and James Dunn

Voting in Opposition

None

Recused

Gordon Spears

Absent

Yog Melwani

PZC RECOMMENDED ACTION

Planning and Zoning Commission (PZC) Recommendation – (October 18, 2018)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Bishop Planned Development / Land Use Plan (PD/LUP), dated "Received July 20, 2018", subject to the following conditions:

1. Development shall conform to the Bishop Land Use Plan (LUP) dated "Received July 20, 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 July 20, 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. 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.
7. 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).
8. A Master Utility Plan (MUP) for the PD shall be submitted to Orange County Utilities at least thirty (30) days prior to submittal of the first set of construction plans. The MUP must be approved prior to Construction Plan approval.
9. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.

10. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
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. This property is located within Airport Noise Zone "E." Development shall comply with Article XV, Chapter 9, Orange County Code (Airport Noise Impact Areas), as may be amended from time to time. Residential plats recorded within Noise Zones C, D, and E shall note the potential for objectionable aircraft noise on the plat. Specifically, the plat shall note in 12 point or larger font type the following: "The properties delineated on this plat are subject to aircraft noise that may be objectionable."
13. 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.
14. The following Education Condition of Approval shall only apply to Parcels 33-24-30-000-00-023 and 33-24-30-0000-00-046 (known to OCPS as "Bishop Landing Phase 3") and any previous condition of approval shall continue to be enforced:
 - a. Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of May 22, 2018.
 - 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 two (2) 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.

15. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated February 20, 2014 shall apply:

- a. All acreages regarding 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.
- b. The following Education Condition of Approval shall apply:
 - 1) Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of February 25, 2014.
 - 2) 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 shall 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.
 - 3) Developer, or 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.
 - 4) 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. At the time of platting, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.