

BCC Mtg. Date: November 15, 2016

ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS' MEETING

Date: Tuesday, September 20, 2016
Location: Commission Chambers, Orange County Administration Center,
First Floor, 201 S. Rosalind Avenue, Orlando, Florida
Members Present: Vice Mayor Bryan Nelson; Commissioners Pete Clarke, Ted
Edwards, Victoria P. Siplin; Commissioners S. Scott Boyd joined
the meeting where indicated
Members Absent: County Mayor Teresa Jacobs; Commissioner Jennifer Thompson
Others Present: County Comptroller Martha Haynie as Clerk, Chief Deputy
Comptroller Margaret A. McGarrity, County Administrator Ajit
Lalchandani, County Attorney Jeffrey J. Newton, Senior Minutes
Coordinator Craig Stopyra, Minutes Coordinator Jennifer Lara-
Klimetz

- CALL TO ORDER, 9:10 a.m.
- INVOCATION – Eddie Engram, Multimedia Coordinator, Communications Division
- PLEDGE OF ALLEGIANCE
- PRESENTATION
District 5 Citizen of the Year Award
- MEMBER JOINED: Commissioner Boyd
- PRESENTATION
Proclamation designating September 19 through September 25, 2016, as Pollution
Prevention Week
- PRESENTATION
Art in the Chambers
- PUBLIC COMMENT

The following persons addressed the Board for public comment:

- Frank Vassell
- Kelly Semrad

- COUNTY CONSENT AGENDA

Motion/Second: Commissioners Boyd/Clarke

Absent: County Mayor Jacobs; Commissioner Thompson

AYE (voice vote): All present members

Action: The Vice Mayor deferred action on Community, Environmental and Development Services Department Items 1 and 4 for consideration with public hearing for Dwight Saathoff, The Grow Planned Development-Regulating Plan, Case # LUP-16-01-002; and further, the Board approved the balance of the County Consent Agenda items as follows:

County Comptroller

1. Approval of the check register authorizing the most recently disbursed County funds, having been certified that same had not been drawn on overexpended accounts. Period is as follows: September 9, 2016, to September 15, 2016; total of \$30,648,502.87. (Finance/Accounting)
2. Disposition of Tangible Personal Property (Property Accounting)

Approval is requested of the following:

- a. Dispose of assets not found during fiscal years 1991 to 2011 inventory cycles

County Administrator

1. Receipt and filing of the minutes received by the Agenda Development Office of various advisory board meetings for the official county record. (Agenda Development Office)
2. Approval of budget amendments #16-57, #16-58, and #16-59. (Office of Management and Budget)

Administrative Services Department

1. Approval to award Invitation for Bids Y16-1113-MG, Head Start Child Care Food Program, to the low responsive and responsible bidder, Second Harvest Food Bank of Central Florida, Inc. dba Meals For Good, in the estimated contract award amount of \$1,441,145.32 for a 1-year term. The Head Start Division anticipates the entire estimated contract amount will be ordered during the initial contract term. Further, authorized the Procurement Division to renew the contract for two additional 1-year periods. ([Family Services Department Head Start Division] Procurement Division)
2. Approval to award Invitation for Bids Y16-789-MM, Orange County Convention Center West Building Restrooms Renovation, to the low responsive and responsible bidder, J. Kokolakis Contracting, Inc., for the total contract award amount of \$14,982,000, including Additive #1 for restrooms 43 and 44 and Additive #2 for

restrooms 69.1 and 70.1 which are new restrooms converted from repurposed food court space in order to comply with Florida Statutes pertaining to the ratio between men's and women's restrooms. ([Convention Center Capital Planning and Building Systems Division] Procurement Division)

3. Approval to award Invitation for Bids Y16-794-MM, Orange County Convention Center North South Roofing Fall Arrest System, to the sole responsive and responsible bidder, Core Construction Services of Florida, LLC, for the total contract award amount of \$1,821,000. ([Convention Center Capital Planning and Building Systems Division] Procurement Division)
4. Approval to award Invitation for Bids Y16-796-CH, Town Center Boulevard Sidewalk and Curb Ramp Intersection Improvements, to the low responsive and responsible bidder, MCG Services, LLC, for the estimated contract award amount of \$391,777.50. ([Public Works Department Traffic Engineering Division] Procurement Division)
5. Approval to award Invitation for Bids Y16-7003-CC, State Attorney Grand Jury Room, to the sole responsive and responsible bidder, Grove Construction Corporation, in the total contract award amount of \$103,835. ([Administrative Services Department Capital Projects Division] Procurement Division)
6. Approval to award Invitation for Bids Y16-7005-CH, Destination Parkway Section 1B/2A (A.K.A. Canadian Court/John Young Parkway Connector Roadway) Improvements (from Tradeshow Boulevard to West of Universal Boulevard), to the low responsive and responsible bidder, Jr. Davis Construction Company, Inc. for the estimated contract award amount of \$7,083,510.04. ([Public Works Department Engineering Division] Procurement Division)
7. Approval of Amendment No. 2, Contract Y12-824, Final Engineering Design Services for Lake Underhill Road (from West of Econlockhatchee Trail to West of Rouse Road) with Stantec Consulting Services, Inc. in the amount of \$404,425.02 for a revised contract amount of \$1,602,514.54. ([Public Works Department Engineering Division] Procurement Division)
8. Approval to award Invitation for Bids Y16-1092-DG, Janitorial Services for the Orange County Courthouse and Juvenile Justice Center, to the low responsive and responsible bidder, Building Maintenance Services, Inc., in the estimated contract award amount of \$809,645.92, for a 1-year term contract. Further, authorized the Procurement Division to renew contract for two additional 1-year periods. ([Administrative Services Department Facilities Management Division] Procurement Division)

9. Approval and execution of Ground Lease Agreement between Journey Christian Church, Inc. and Orange County and delegation of authority to the Real Estate Management Division to exercise renewal options and execute Estoppel Certificates, if needed for Journey Church Neighborhood Park, File #8001, 1965 S. Orange Blossom Trail, Apopka, Florida. (INVEST) District 2. (Real Estate Management Division)
10. Approval and execution of Fourth Amendment to Lease Agreement for Office Facilities between Church Street Investment Properties, Inc. and Orange County and delegation of authority to the Real Estate Management Division to exercise renewal options and execute Tenant Estoppel Certificates, if needed for Magnolia Place, Lease File #2028, 109 E. Church Street, Suites 200, 300, 400, and 450, Orlando, Florida. District 3. (Real Estate Management Division)
11. Approval and execution of Termination of Easement Agreement and authorization to record instrument for Wetherbee Road – Phase II (Landstar Blvd to Harness Track Property). District 4. (Real Estate Management Division)
12. Approval of As Is Residential Contract for Sale and Purchase between Orange County and Carmen G. Barahona, approval and execution of County Deed from Orange County to Carmen G. Barahona and authorization to perform all actions necessary and incidental to closing for NSP Resale – 2322 Arbor Court, Orlando, FL 32817 (NCST). District 5. (Real Estate Management Division)
13. Approval of As Is Residential Contract for Sale and Purchase with Comprehensive Riders to the Residential Contract for Sale and Purchase and Addendum to Contract between Orange County and Yoel Mena Rodriguez and Natasha Noriega Carvajal, approval and execution of County Deed from Orange County to Yoel Mena Rodriguez and Natasha Noriega Carvajal and authorization to perform all actions necessary and incidental to closing for NSP Resale – 2618 Pisces Drive, Orlando, FL 32837 (NCST). District 4. (Real Estate Management Division)
14. Approval of Quit Claim Deeds from Central Florida Expressway Authority to Orange County, approval and execution of County Deed from Orange County to Central Florida Expressway Authority and authorization to disburse funds to pay recording fees and record instruments for State Road 429, Daniel Webster Western Beltway, Part C. District 1. (Real Estate Management Division)
15. Approval of Warranty Deed from Savi Investments LLC to Orange County and authorization to perform all actions necessary and incidental to closing for Lake Avalon PD (Avalon Road) (RAC). District 1. (Real Estate Management Division)

Community, Environmental and Development Services Department

1. Approval and execution of Adequate Public Facilities Agreement for The Grow PD (a/k/a Lake Pickett South) by and among Banksville of Florida, Inc., Nivesa of Florida, Inc., New Ideas Incorporated, Margot H. Lopez; and Orange County. District 5. (Development Review Committee)

(This item was deferred.)

2. Approval and execution of: Single Family Affordable Housing Agreement between Orange County, Florida and Family Promise of Greater Orlando; Resolution 2016-M-43 of the Orange County Board of County Commissioners regarding authorization to convey certain county property interests to Family Promise of Greater Orlando, Inc.; and County Deed from Orange County to Family Promise of Greater Orlando, Inc. and authorization to perform all actions necessary and incidental to closing to facilitate the conveyance of a property for affordable housing. District 2. (Housing and Community Development Division)
3. Approval and execution of Supplemental Agreement to Transportation Agreement North of Albert's PD 2015 Roads A, B, and C (Section C-1) by and between Westside Shoppes, LLC and Orange County providing for the Developer to design, permit and construct roadway improvements to connect Road C-1 to Tattant Boulevard and be reimbursed for actual costs not to exceed \$30,782.02. District 1. (Roadway Agreement Committee)
4. Approval and execution of Road Network and Mitigation Agreement (The Grow (a/k/a Lake Pickett South) S.R. 50 (FDOT Project No. 239203-7) and Chuluota Road by and among American Land Investments of Orange County, LLC, Banksville of Florida, Inc., Nivesa of Florida, Inc., New Ideas Incorporated, Margot H. Lopez, and Orange County to fund transportation improvements and provide for a road network to mitigate the traffic effects from The Grow Development. District 5. (Roadway Agreement Committee)

(This item was deferred.)

Family Services Department

1. Approval to process payment of Department of Juvenile Justice (DJJ) invoices for FY 2016-2017 up to \$5,000,000. (Fiscal Division)
2. Approval and execution of Florida Department of Children and Families Application for a License to operate a Child Care Facility at Taft Head Start. This application is only executed by Orange County. (Head Start Division)

Health Services Department

1. Approval and execution of the renewal Paratransit Services License for Access Lynx to provide wheelchair/stretchers service. The term of this License is from October 1, 2016 through October 1, 2018. There is no cost to the County. (EMS Office of the Medical Director)
2. Approval and execution of the renewal Paratransit Services License for ProMed Transportation, Inc. to provide wheelchair/stretchers service. The term of this License is from October 1, 2016 through October 1, 2018. There is no cost to the County. (EMS Office of the Medical Director)
3. Approval and execution of the renewal Paratransit Services License for ANM Wheelchair Transportation, LLC to provide wheelchair/stretchers service. The term of this License is from October 1, 2016 through October 1, 2018. There is no cost to the County. (EMS Office of the Medical Director)
4. Approval and execution of the renewal Paratransit Services License for Florida Medtrans Corp. to provide wheelchair/stretchers service. The term of this License is from October 1, 2016 through October 1, 2018. There is no cost to the County. (EMS Office of the Medical Director)
5. Approval and execution of Contract between Orange County Board of County Commissioners and State of Florida Department of Health for Operation of the Orange County Health Department Contract Year 2016-2017. Orange County's cash contribution is a total of \$1,419,449 to be submitted to the Health Department in quarterly installments of \$354,862.25.

Public Works Department

1. Authorization to record the plat of Zen Luxury Living. District 1. (Development Engineering Division)
2. Approval and execution of Use Agreement between Hunter's Creek Community Association, Inc. and Orange County, Florida for the maintenance of Tract H and I within the Pointe of Hunter's Creek Subdivision. District 1.
3. Authorization to record the plat of Bainbridge Grande Pines. District 1. (Development Engineering Division)

Utilities Department

1. Approval and execution of Second Amendment and Renewal to the Contract for Operation, Maintenance and Engineering Services for the Water Conserv II Reclaimed Water System Joint Facilities by and between the City of Orlando, Florida, Orange County, Florida and Woodard & Curran, Inc. and approval of funding for the Orange County/City of Orlando Water Conserv II Joint Facilities Annual Target Budget with Woodard & Curran, Inc. The County's share of the estimated project budget is \$4,865,505.71. All Districts. (Water Reclamation Division)

• COUNTY DISCUSSION AGENDA

Health Services Department

1. Approval and execution of Resolution of the Orange County Board of County Commissioners regarding certain services fees charged by Orange County Health Department and authorizing revisions to the schedule of fees to take effect immediately.

Kevin Sherin, Director of the Florida Department of Health in Orange County, presented additional information regarding the proposed fee schedule for the Orange County Health Department. Mr. Sherin also presented information regarding public health in Orange County.

Vice Mayor Nelson recommended changing the tattoo artist license fee from a 1-year term in the amount of \$25.00 to a 3-year term in the amount of \$75.00.

The following person addressed the Board: David Overfield.

Board discussion ensued. County Administrator Lalchandani contributed to the discussion.

Motion/Second: Commissioners Clarke/Edwards

Absent: County Mayor Jacobs; Commissioner Thompson

AYE (voice vote): All present members

Action: The Board approved and executed Resolution 2016-M-44 of the Orange County Board of County Commissioners regarding certain service fees charged by the Orange County Health Department; and authorized the following revisions to the schedule of fees: tattoo artist license fee to a 3-year term in the amount of \$75.00 with an annual inspection and Health Department Research Fee cost to provide service and proposed fee amount of \$20.00, to take effect immediately.

Administrative Services Department

1. Selection of one firm and one ranked alternate to provide Labor/Management Legal Counsel Services, Request for Proposals Y16-1074-LC, from the following firms listed alphabetically:

- Dean, Ringers, Morgan & Lawton, P.A.
- GrayRobinson, P.A.

Further request authority for the Procurement Division to negotiate and execute a 3-year contract with a budget of \$200,000. Further request authorization for the Procurement Division to renew the contract for two additional 1-year periods. ([Office of Accountability Risk Management Division and Professional Standards Division] Procurement Division)

Motion/Second: Commissioners Boyd/Clarke

Absent: County Mayor Jacobs; Commissioner Thompson

AYE (voice vote): All present members

Action: The Board selected one firm, GrayRobinson, P.A., and one ranked alternate, Dean, Ringers, Morgan & Lawton, P.A., to provide Labor/Management Legal Counsel Services; further, authorized the Procurement Division to negotiate and execute a 3-year contract with a budget of \$200,000; and further, authorized the Procurement Division to renew the contract for two additional 1-year periods, Request for Proposals Y16-1074-LC.

Community, Environmental and Development Services Department

1. Development Activity and School Impact Fee Increase.

County staff presented to the Board a brief overview highlighting the efforts of the Community, Environmental and Development Services Department Permitting Services to inform the development community of the rate increase and effective date regarding commercial and residential plan review processes for those projects subject to the increase.

Board discussion ensued.

Action: None

- MEETING RECESSED, 10:08 a.m.

- MEETING RECONVENED, 2:03 p.m.

Members Present: Vice Mayor Bryan Nelson; Commissioners S. Scott Boyd, Pete Clarke, Jennifer Thompson, Ted Edwards, Victoria P. Siplin

Member Absent: County Mayor Teresa Jacobs

Others Present: County Administrator Ajit Lalchandani, Assistant County Administrator Chris Testerman, Deputy County Attorney Joel Prinsell, Senior Minutes Coordinator Craig Stopyra, Minutes Coordinator Jennifer Lara-Klimetz

- RECOMMENDATIONS

September 1, 2016 Board of Zoning Adjustment Recommendations

Motion/Second: Commissioners Clarke/Thompson

Absent: County Mayor Jacobs

AYE (voice vote): All present members

Action: The Board accepted the recommendations of the Orange County Board of Zoning Adjustment under the date of September 1, 2016; subject to the usual right of appeal by any aggrieved party.

- PUBLIC HEARINGS

Board-Called Board of Zoning Adjustment

1. Margaret Rogers, Case # VA-15-12-118, May 5, 2016; District 2 (Continued from July 12, 2016)

Applicant: Margaret Rogers

Case No.: Board of Zoning Adjustment, Case # VA-15-12-118; May 5, 2016

Consideration: Request for a variance to construct a 2nd floor addition to an existing single family home 2 ft. from the side (west) property line in lieu of 10 ft.

Location: District 2; property generally located South Side of Lake Ola Dr., approximately 125 ft. east of Lake St., and approximately .3 miles east of North OBT (legal property description on file in Zoning Division)

Court Reporter: Sharon L. Tramonte, 1st Choice Reporting and Video Services

The following persons addressed the Board:

- Mark Lippman
- Maggie Rogers
- Mack Alan Cope
- Archibald Tanner Scofield III
- Nicole Turcotte

- Lynn Bucklew
- Kathryn Sasser
- William Ellison
- Theresa Ellison

The following materials were presented to the Board prior to the close of the public hearing:

- Exhibit 1, from Mark Lippman
- Exhibit 2, from Nicole Turcotte
- Exhibit 3, from Nicole Turcotte

The following materials were received by the Clerk prior to the close of the public hearing. The materials referenced by the speaker were not presented to the Board.

- Submittal 1, from Lynn Bucklew
- Submittal 2, from Lynn Bucklew

Motion/Second: Vice Mayor Nelson/Commissioner Edwards

Absent: County Mayor Jacobs

AYE (voice vote): All present members

Action: The Board upheld the Board of Zoning Adjustment of May 5, 2016 and denied the request by Margaret Rogers, Case # VA-15-12-118, for a variance to construct a 2nd floor addition to an existing single family home 2 ft. from the side (west) property line in lieu of 10 ft., on the described property.

Development Plan

2. Scott M. Gentry, Kelly, Collins & Gentry, Inc., Hamlin PD / UNP / Publix PSP / Lot B Commercial DP, Case # DP-16-03-108; District 1

Applicant: Scott M. Gentry, Kelly, Collins & Gentry, Inc., Hamlin PD / UNP / Publix PSP / Lot B Commercial Development Plan, Case # DP-16-03-108

Consideration: Hamlin PD / UNP / Publix PSP / Lot B Commercial Development Plan submitted in accordance with Article II of the Orange County Subdivision Regulations; The request is to construct three (3) commercial buildings with a total of 26,503 square feet on a total of 6.03 acres. The request also includes the following waiver from Orange County Code: 1. A waiver from Orange County Code Section 38-1390.53(c) is requested to allow understory trees at a rate of 2 to 1 with a clear trunk of six (6) feet and a minimum caliper of three (3) inches at a maximum average spacing of thirty (30) feet on-center be planted directly to the west side of Building B from New Independence Parkway to the first drive entry to the south (approximately 144') in lieu of canopy street trees with a clear trunk of six (6) feet, and a minimum caliper of three (3) inches at the time of planting at a maximum

average spacing of forty (40) feet on center; pursuant to Section 38-1381, Orange County Code.

Location: District 1; property generally located South of New Independence Parkway / West of Hamlin Groves Trail; Orange County, Florida (legal property description on file in Planning Division)

The following person addressed the Board: Scott Gentry.

Motion/Second: Commissioners Boyd/Clarke

Absent: County Mayor Jacobs

AYE (voice vote): All present members

Action: The Board made a finding of consistency with the Comprehensive Plan; and further, approved Hamlin PD / UNP / Publix PSP / Lot B Commercial Development Plan, Case # DP-16-03-108 on the described property, subject to the following conditions:

1. Development shall conform to the Hamlin Planned Development / Unified Neighborhood Plan; Orange County Board of County Commissioners (BCC) approvals; Publix Preliminary Subdivision Plan; BCC approvals; Lot B Commercial Development Plan dated "Received August 8, 2016" and to the conditions of approval listed below. Development based upon this approval shall comply with all applicable federal, state, and county laws, ordinances, and regulations, which are incorporated herein by reference, except to the extent any applicable county laws, ordinances, or regulations are expressly waived or modified by these conditions, or by action approved by the BCC, or by action of the BCC.
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 development 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. Outside sales, storage, and display shall be prohibited unless otherwise approved by BCC.
7. Signage shall comply with the Master Sign Plan.
8. Prior to commencement of any earth work or construction, if one acre or more of land will be disturbed, the developer shall provide a copy of the completed National Pollutant Discharge Elimination System (NPDES) Notice of Intent (NOI) form for stormwater discharge from construction activities to the Orange County Environmental Protection Division, NPDES Administrator. The original NOI form shall be sent to the Florida Department of Environmental Protection by the developer.

9. As proof of satisfaction of the project's transportation concurrency obligations, the project must comply with that certain Town Center East Road Network Agreement recorded at O.R. Book 10306, Page 1364, Public Records of Orange County, Florida. The developer must provide a valid Assignment of Vested Trips document together with the applicable Confirmation Letter issued by Orange County, concurrently with or prior to plat approval. In addition, any Development Plan must show a legend with trip allocations by parcel identification number and phase of the development.
10. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water, wastewater and reclaimed water systems have been designed to support all development within the DP, and that construction plans are consistent with an approved Master Utility Plan for the PD/Village.
11. Prior to construction plan approval, documentation with supporting calculations shall be submitted which certifies that the existing drainage system and pond have the capacity to accommodate this development and that this project is consistent with the approved master drainage plan (MDP) for this PD.
12. Prior to construction plan approval, documentation must be provided certifying that this project has the legal right to tie into the master drainage system.
13. A waiver from Orange County Code Section 38-1390.53(c) is granted to allow understory trees at a rate of 2 to 1 with a clear trunk of six (6) feet and a minimum caliper of three (3) inches at a maximum average spacing of thirty (30) feet on-center be planted directly to the west side of Building B from New Independence Parkway to the first drive entry to the south (approximately 144') in lieu of canopy street trees with a clear trunk of six (6) feet, and minimum caliper of three (3) inches at the time of planting at a maximum average spacing of forty (40) feet on-center.

Substantial Change

3. John T. Townsend, Donald W. McIntosh Associates, Inc., Ginn Property Planned Development / Land Use Plan (PD / LUP), Case # CDR-16-04-142, amend plan; District 4

Applicant: John T. Townsend, Donald W. McIntosh Associates, Inc., Ginn Property Planned Development / Land Use Plan (PD / LUP), Case # CDR-16-04-142

Consideration: A PD substantial change request for the following waivers from Orange County Code, and applicable to PD Parcels 1a, 1b, 4, 5, and 6 only:

1. A waiver from Section 38-1251(b) to allow a maximum Impervious Surface Ratio (ISR) of 0.55 for residential use, in lieu of a maximum ISR of 0.30.

2. A waiver from Section 38-1272(a)(5) to allow a maximum non-residential height of fifty (50) feet, or one-hundred twenty (120) feet for hotel use, in lieu of a maximum height of fifty (50) feet or thirty-five (35) feet when within one-hundred (100) feet of any residential district (internal or external to the PD).
3. A waiver from Section 38-1327 to allow a maximum Impervious Surface Ratio (ISR) of 0.85 for commercial, industrial and office uses, in lieu of a maximum ISR of 0.70; pursuant to Orange County Code, Chapter 30, Article III, Section 30-89 and Orange County Code, Chapter 38, Article VIII, Division 1, Section 38-1207.

Location: District 4; property generally located on both sides of State Road 417 (Central Florida Greenway), west/southwest of Boggy Creek Road; approximately 1/4 mile east of Rhode Island Woods Circle; and north of Wyndham Lakes Boulevard; Orange County, Florida (legal property description on file)

The following persons addressed the Board:

- John Townsend
- Jeffrey Tuell

Clerk's Note: The Board continued public hearing C3, John T. Townsend, Donald W. McIntosh Associates, Inc., Ginn Property Planned Development / Land Use Plan (PD / LUP), Case # CDR-16-04-142, to be heard after public hearing C4, William Burkett, Burkett Engineering, Inc., Collegiate Village Planned Development / Land Use Plan (PD / LUP), Case # CDR-16-01-036.

- MEMBER EXITED: Commissioner Thompson

Substantial Change

4. William E. Burkett, Burkett Engineering, Inc., Collegiate Village Planned Development / Land Use Plan (PD / LUP), Case # CDR-16-01-036, amend plan; District 5

Applicant: William E. Burkett, Burkett Engineering, Inc., Collegiate Village Planned Development / Land Use Plan (PD / LUP), Case # CDR-16-01-036

Consideration: A PD substantial change request to convert 200,000 square feet of existing office entitlements into 30,000 square feet of commercial, while adding another 36,100 square feet, and thereby increasing commercial entitlements from 99,900 square feet to 166,000 square feet. Consistent with an existing Condition of Approval, the applicant is also seeking to reflect existing multi-family / student housing entitlements as "1,400 beds", in lieu of 350 units; pursuant to Orange

County Code, Chapter 30, Article III, Section 30-89 and Orange County Code, Chapter 38, Article VIII, Division 1, Section 38-1207.
Location: District 5; property generally located south of University Boulevard and west of Alafaya Trail; Orange County, Florida (legal property description on file)

The following person addressed the Board: Bill Burkett.

Motion/Second: Commissioners Edwards/Clarke

Absent: County Mayor Jacobs; Commissioner Thompson

AYE (voice vote): All present members

Action: The Board made a finding of consistency with the Comprehensive Plan; further, approved the substantial change request by William E. Burkett, Burkett Engineering, Inc., Collegiate Village Planned Development / Land Use Plan (PD / LUP), Case # CDR-16-01-036, to convert 200,000 square feet of existing office entitlements into 30,000 square feet of commercial, while adding another 36,100 square feet, and thereby increasing commercial entitlements from 99,900 square feet to 166,000 square feet; and further, consistent with an existing Condition of Approval, the applicant is also seeking to reflect existing multi-family / student housing entitlements as "1,400 beds", in lieu of 350 units; which constitutes a substantial change to the development on the described property; subject to the following conditions:

1. Development shall conform to the Collegiate Village Planned Development / Land Use Plan (PD / LUP) dated "Received July 19, 2016," 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 19, 2016," 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/LUP 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. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water and wastewater system has been designed to support all development within the PD.
7. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated October 6, 2009, 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 permit any proposed conservation impacts.
 - b. Billboards and new pole signs shall be prohibited. Ground and fascia signs shall comply with the Master Sign Plan.
 - c. Outdoor storage and display shall be prohibited.
 - d. The Developer shall obtain water and wastewater service from Orange County Utilities.
 - e. The applicant must apply for and obtain a capacity encumbrance letter or vested rights certificate prior to construction plan submittal and must apply for and obtain a capacity reservation certificate prior to platting. However, 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 capacity encumbrance letter or a capacity reservation certificate.
 - f. The (Covenants, Conditions, and Restrictions) CC&Rs for senior housing shall include language that at least one owner/resident shall be at least 55 years of age or older, and in no case shall there be any residents 18 years or under. In the event this project becomes market rate housing, it shall be deemed a substantial change, and a Capacity Enhancement Agreement (CEA) and compliance with school concurrency may be required.
 - g. A waiver from Section 38-1272(5) is granted to allow a maximum building height of seventy-five (75) feet for the commercial and a maximum building height of one hundred fifty (150) feet for the office in lieu of fifty (50) feet.
 - h. A waiver from Section 38-1254(1) is granted to allow a reduction of the PD boundary setback to ten (10) feet in lieu of twenty-five (25) feet.
 - i. A waiver from Section 38-1258(d) is granted to allow a building height of sixty-five (65) feet for senior housing in lieu of three (3) stories / forty (40) feet.

- j. A waiver from Section 38-1476 is granted for senior housing to allow for a reduction of parking spaces to one (1) space per two (2) bedrooms in lieu of two (2) spaces per dwelling unit.
- k. This project is approved for Student Housing or Senior Housing. In the event that this project is developed as Student Housing, the following waivers are approved:
 - 1) A waiver from Section 38-1259(h) is granted to allow a height of sixty-five (65) feet for student housing in lieu of three (3) stories / forty (40) feet.
 - 2) A waiver from Section 38-1259(c) is granted to allow fourteen hundred (1,400) beds in lieu of seven hundred fifty (750) total bedrooms.
 - 3) A waiver from Section 38-1476 is granted to allow a reduction of parking spaces to one (1) space per bed in lieu of one and a quarter (1.25) spaces per bed.
 - 4) A waiver from Section 38-1259(d) is granted to allow for decorative fencing and/or landscaping with a two (2) to three (3) foot optional knee wall along the right-of-way in lieu of the required six (6) foot high masonry wall, brick wall, or block wall, along a right-of-way.
 - 5) A waiver from Section 38-1259(b) is granted to allow for a twenty-five (25) foot single-family separation with buffer, fence, or landscaping in lieu of four hundred (400) feet.

Substantial Change (CONTINUED)

- 3. John T. Townsend, Donald W. McIntosh Associates, Inc., Ginn Property Planned Development / Land Use Plan (PD / LUP), Case # CDR-16-04-142, amend plan; District 4

Applicant: John T. Townsend, Donald W. McIntosh Associates, Inc., Ginn Property Planned Development / Land Use Plan (PD / LUP), Case # CDR-16-04-142

Consideration: A PD substantial change request for the following waivers from Orange County Code, and applicable to PD Parcels 1a, 1b, 4, 5, and 6 only:

- 1. A waiver from Section 38-1251(b) to allow a maximum Impervious Surface Ratio (ISR) of 0.55 for residential use, in lieu of a maximum ISR of 0.30.
- 2. A waiver from Section 38-1272(a)(5) to allow a maximum non-residential height of fifty (50) feet, or one-hundred twenty (120) feet for hotel use, in lieu of a maximum height of fifty (50) feet or thirty-five (35) feet when within one-hundred (100) feet of any residential district (internal or external to the PD).

3. A waiver from Section 38-1327 to allow a maximum Impervious Surface Ratio (ISR) of 0.85 for commercial, industrial and office uses, in lieu of a maximum ISR of 0.70; pursuant to Orange County Code, Chapter 30, Article III, Section 30-89 and Orange County Code, Chapter 38, Article VIII, Division 1, Section 38-1207.

Location: District 4; property generally located on both sides of State Road 417 (Central Florida Greenway), west/southwest of Boggy Creek Road; approximately 1/4 mile east of Rhode Island Woods Circle; and north of Wyndham Lakes Boulevard; Orange County, Florida (legal property description on file)

• MEMBER RE-ENTERED: Commissioner Thompson

Motion/Second: Commissioners Thompson/Boyd

Absent: County Mayor Jacobs

AYE (voice vote): All present members

Action: The Board made a finding of consistency with the Comprehensive Plan; and further, approved the substantial change request by John T. Townsend, Donald W. McIntosh Associates, Inc., Ginn Property Planned Development / Land Use Plan (PD / LUP), Case # CDR-16-04-142, for the following waivers from Orange County Code, and applicable to PD Parcels 1a, 1b, 4, 5, and 6 only:

1. A waiver from Section 38-1251(b) to allow a maximum Impervious Surface Ratio (ISR) of 0.55 for residential use, in lieu of a maximum ISR of 0.30.
2. A waiver from Section 38-1272(a)(5) to allow a maximum non-residential height of fifty (50) feet, or one-hundred twenty (120) feet for hotel use, in lieu of a maximum height of fifty (50) feet or thirty-five (35) feet when within one-hundred (100) feet of any residential district (internal or external to the PD).
3. A waiver from Section 38-1327 to allow a maximum Impervious Surface Ratio (ISR) of 0.85 for commercial, industrial and office uses, in lieu of a maximum ISR of 0.70;

which constitutes a substantial change to the development on the described property; subject to the following conditions:

1. Development shall conform to the Ginn Property Planned Development / Land Use Plan (PD/LUP) dated "Received July 18, 2016," 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 18, 2016," 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 comply with the terms and conditions of the Ginn Development of Regional Impact Developer's Agreement and the Boggy Creek Bridge Agreement, as both may be amended from time to time.
7. All acreages identified as 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.
8. 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).
9. The following waivers from Orange County Code are granted for development within PD Parcels 1a, 1b, 4, 5, and 6 only:
 - a. A waiver from Section 38-1251(b) to allow a maximum Impervious Surface Ratio (ISR) of 0.55 for residential use, in lieu of a maximum ISR of 0.30;
 - b. A waiver from Section 38-1272(a)(5) to allow a maximum non-residential height of fifty (50) feet, or one-hundred twenty (120) feet for hotel use, in lieu of a maximum height of fifty (50) feet or thirty-five (35) feet when within one-hundred (100) feet of any residential district (internal or external to the PD); and
 - c. A waiver from Section 38-1327 to allow a maximum Impervious Surface Ratio (ISR) of 0.85 for commercial, industrial and office uses, in lieu of a maximum ISR of 0.70.

10. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated October 20, 2015, shall apply:
 - a. 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. Unless the property is otherwise vested or exempt, the applicant shall be subject to school concurrency and required to go through the review process prior to platting.
 - b. Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP). MUP updates shall be submitted to Orange County Utilities at least thirty (30) days prior to the corresponding construction plan submittal. The updated MUP must be approved prior to construction plan approval.
 - c. Public right-of-way access for the required interconnection between Greenway Park DRI and Boggy Creek Enclave PO to the south shall be provided from a point on Beacon Park Blvd. through Parcel 1B within the Greenway Park DRI to the right-of-way stub-out provided in the Boggy Creek Enclave PD. The 50-foot wide right-of-way shall be dedicated to Orange County prior to the issuance by Orange County of any Certificate(s) of Occupancy, whether temporary or permanent, for improvements on Parcel 1B totaling more than 40% of the total permitted Development Program within Parcel 18, as measured by the total number of traffic trips associated with such Parcel 18 Development Program. The 50-foot wide dedicated right-of-way is not an impact fee eligible dedication or road. Therefore, road impact fee credits shall not be issued for such dedication. Traffic trips and the Development Program for the Greenway Park DRI, including for Parcel 18, shall not be reduced, altered, or diminished by, or because of, traffic trips entering the Greenway Park DRI to or from the Boggy Creek Enclave PD; such provision shall be memorialized by a duly approved amendment to the Development Order for the Greenway Park DRI.
11. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated January 7, 2014, shall apply:
 - a. 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 platting. Nothing in this condition, and nothing in the decision to approve this 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.
 - b. The Developer shall obtain water (except Parcels 4 & 5), wastewater and reclaimed water service from Orange County Utilities.

- c. Billboards and pole signs shall be prohibited. Ground and fascia signs shall comply with Ch. 31.5.
 - d. Outdoor sales, storage, and display shall be prohibited.
 - e. A waiver from Orange County Code Section 38-1272(a) (i) is granted to allow for a maximum I.S.R. of 0.85 (eighty-five percent), in lieu of a maximum I.S.R. of 0.70 (seventy percent).
12. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated April 28, 2009, and July 9, 2002 shall apply:
- a. Master stormwater, water, reclaim water and wastewater plans including preliminary calculations shall be submitted and approved prior to approval of construction plans.
 - b. Pole signs are prohibited. Any existing billboards shall be removed prior to PSP or DP approvals. Ground signs and fascia signs shall be permitted per Ch. 31.5.
 - c. All commercial uses within the PD shall comply with the Commercial Design Standards Ordinance. Industrial and Office uses shall comply with the lighting standards established in the Commercial Design Standards Ordinance.
 - d. Developer shall comply with Airport Noise Ordinance 2000-07.
 - e. Prior to platting any residential property adjacent to Park P-1, this tract shall be dedicated at no cost to Orange County.
 - f. Unless the property is vested and/or exempt, the applicant shall be subject to school concurrency and required to go through the review process prior to platting.
 - g. Prior to the mass grading of Parcel 5, a 6 foot high PVC fence shall be constructed along the south property line of Parcel 5. However, if the property to the south is rezoned to non-residential uses prior to that time, the fence is not required.

NOTE: THE FOLLOWING FOUR ITEMS WERE CONSIDERED TOGETHER.

Rezoning

- 5. Case # LUP-16-01-002: A-2 (Farmland Rural District), R-CE-5 (Rural Country Estate Residential District), and PD (Planned Development District) (Walker Cove PD) to The GROW PD-RP (Planned Development-Regulating Plan) (Continued from July 12, 2016)

Applicant: Dwight Saathoff
Consideration: Request to rezone A-2 (Farmland Rural District), R-CE-5 (Rural Country Estate Residential District), and PD (Planned Development District) (Walker Cove PD) to The GROW PD-RP (Planned Development-Regulating Plan). The rezoning request is to allow for the consideration of a mix-use project consisting of up to 2,078 residential dwelling units and 172,000 non-residential square feet; and featuring an elementary school, community park, community gardens, working farm and equestrian facility.)
Location: Generally described as located south of Lake Pickett Rd., north of E. Colonial Dr., east of S. Tanner Rd., and west of Chuluota Rd; Parcel ID#'s 08-22-32-0000-00-005 (portion of); 17-22-32-0000-00-002; 18-22-32-0000-001/025; 19-22-32-0000-00-001; 20-22-32-0000-00-002; 1,187.50 gross ac. The acreage includes a 182.60-acre portion of parcel 08-22-32-0000-00-005 that is being removed from the existing Walker Cove PD and added to the proposed project.

and

Planning and Zoning Commission Appeal

5. Larry Frankel, Bryrdley Realty Co., LLC
Dwight Saathoff, Project Finance and Development, Case # LUP-16-01-002, April 21, 2016; District 5 (Continued from July 12, 2016)

Appellant: Larry Frankel, Bryrdley Realty Co., LLC
Applicant: Dwight Saathoff, Project Finance & Development, The Grow Planned Development (PD)
Case: Planning and Zoning Commission Case # LUP-16-01-002; April 21, 2016
Consideration: This request is to consider an appeal of the April 21, 2016 Planning and Zoning Commission (PZC) Recommendation of Approval for Case # LUP-16-01-002 (The Grow PD), in the name of Dwight Saathoff, to rezone 1,187.5 gross acres from A-2 (Farmland Rural District), R-CE-5 (Rural Country Estate Residential District), and PD (Walker Cove - Planned Development District) to PD (The Grow - Planned Development District), in order to develop up to 2,078 residential units, 172,000 square feet of non-residential uses, various agricultural uses, recreational amenities; and adequate public facilities (school, community park, and utility tract).
Location: District 5; property generally located South of Lake Pickett Road, north of E. Colonial Drive, east of S. Tanner Road, and west of Chuluota Road; Orange County, Florida (legal property description on file at Planning Division)

County staff provided a brief history and background information regarding The Grow PD Rezoning, Case # LUP-16-01-002, the Planning and Zoning Appeal of Larry Frankel, Privately-Initiated Comprehensive Plan Text Amendment 2015-2-P-FLUE-1, and Privately-Initiated Comprehensive Plan Map Amendment 2015-2-A-5-1.

County staff indicated the original regulating plan was presented and considered by the Board during the Comprehensive Plan public hearing on July 12, 2016, but has been revised by the applicant subsequent to the Comprehensive Plan public hearing as well as leading up to today's Board meeting. County staff outlined the changes to the regulating plan.

Commissioner Clarke proposed a motion for continuance, to allow for a full Board to be present to consider the public hearing.

The following person addressed the Board: Dwight Saathoff.

Board discussion ensued.

Motion/Second: Commissioners Clarke/Thompson

Absent: County Mayor Jacobs

AYE (voice vote): Commissioners Clarke, Thompson

NO (voice vote): Vice Mayor Nelson; Commissioners Boyd, Edwards, Siplin

Action: The motion was denied to continue the rezoning public hearing, the Planning and Zoning Commission Appeal, Consent Item D1 (Adequate Facilities Agreement) and Consent Item D4 (Road Network and Mitigation Agreement) until October 4, 2016, at 2 p.m.

The following persons addressed the Board:

- Larry Frankel
- Dwight Saathoff
- Jim Hall
- Deborah Schafer
- Tom Narut
- David Mitchell
- Andre Vidrine
- Marc Zipper
- Emily Bonilla
- Maria Bolton-Joubert
- Kelly Semrad
- Josephine Balzac
- Phillip Arroyo
- Frank Vassell
- Eric Cress
- Thomas Hawkins
- Debbie Parrish

- Bill Lutz
- Jimmy McKnight
- RJ Mueller
- Gary Capuano
- Marj Holt
- Richard Nopelman
- Maria Martinez
- Orlando Evora

The following materials were presented to the Board prior to the close of the public hearing:

- Exhibit 1, from Jim Hall
- Exhibit 2, from Tom Narut
- Exhibit 3, from Kelly Semrad
- Exhibit 4, from Kelly Semrad
- Exhibit 5, from Thomas Hawkins
- Exhibit 6, from Bill Lutz
- Exhibit 7, from RJ Mueller

The following material was received by the Clerk prior to the close of the public hearing. The material referenced by the speaker was not presented to the Board: Submittal 1, from Marj Holt.

By consensus, the Board adjourned as the Orange County Board of County Commissioners and convened as the Orange County Library District Governing Board.

• SECOND ORANGE COUNTY LIBRARY DISTRICT GOVERNING BOARD BUDGET PUBLIC HEARING

Consideration: A RESOLUTION ADOPTING THE FINAL MILLAGE RATE FOR ORANGE COUNTY LIBRARY DISTRICT; STATING THE PERCENTAGE BY WHICH THE FINAL MILLAGE RATE AS ADOPTED HEREIN EXCEEDS THE ROLLED-BACK MILLAGE RATE; STATING THE PERCENTAGE INCREASE OF PROPERTY TAXES FOR ORANGE COUNTY LIBRARY DISTRICT; PROVIDING AN EFFECTIVE DATE

and

Consideration: A RESOLUTION ADOPTING FINAL BUDGETS FOR ORANGE COUNTY LIBRARY DISTRICT; STATING THE AMOUNT ADOPTED FOR EACH FUND; PROVIDING AN EFFECTIVE DATE

By consensus, the Board adjourned as the Orange County Library District Governing Board and reconvened as the Orange County Board of County Commissioners.

Rezoning

5. Case # LUP-16-01-002: A-2 (Farmland Rural District), R-CE-5 (Rural Country Estate Residential District), and PD (Planned Development District) (Walker Cove PD) to The GROW PD-RP (Planned Development-Regulating Plan) (Continued from July 12, 2016)

and

Planning and Zoning Commission Appeal

5. Larry Frankel, Bryrdley Realty Co., LLC
Dwight Saathoff, Project Finance and Development, Case # LUP-16-01-002, April 21, 2016; District 5 (Continued from July 12, 2016)

Appellant: Larry Frankel, Bryrdley Realty Co., LLC
Applicant: Dwight Saathoff, Project Finance & Development, The Grow Planned Development (PD)
Case: Planning and Zoning Commission Case # LUP-16-01-002; April 21, 2016
Consideration: This request is to consider an appeal of the April 21, 2016 Planning and Zoning Commission (PZC) Recommendation of Approval for Case # LUP-16-01-002 (The Grow PD), in the name of Dwight Saathoff, to rezone 1,187.5 gross acres from A-2 (Farmland Rural District), R-CE-5 (Rural Country Estate Residential District), and PD (Walker Cove - Planned Development District) to PD (The Grow - Planned Development District), in order to develop up to 2,078 residential units, 172,000 square feet of non-residential uses, various agricultural uses, recreational amenities; and adequate public facilities (school, community park, and utility tract).
Location: District 5; property generally located South of Lake Pickett Road, north of E. Colonial Drive, east of S. Tanner Road, and west of Chuluota Road; Orange County, Florida (legal property description on file at Planning Division)

Board discussion ensued. Assistant County Administrator Chris Testerman, Public Works Department Deputy Director Joe Kunkel and Community, Environmental and Development Services Department Director Jon Weiss contributed to the discussion.

Motion/Second: Commissioners Edwards/Boyd
Absent: County Mayor Jacobs
AYE (voice vote): Vice Mayor Nelson; Commissioners Boyd, Edwards, Siplin
NO (voice vote): Commissioners Clarke, Thompson
Action: The Board upheld the decision of the Orange County Planning and Zoning Commission Case # LUP-16-01-002 and denied the appeal request by Larry Frankel, Bryrdley Realty Co., LLC, on the described property.

County staff outlined proposed modifications to conditions of approval for the rezoning public hearing as follows:

1. Development shall conform to The Grow Planned Development / Regulating Plan (PD/RP) dated "Received April 14, ~~September 19,~~ 2016;" (hereinafter, "Regulating Plan", "Planned Development / Regulating Plan", or "PD/RP") ~~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/RP ~~may~~shall be developed in accordance with the uses, densities, and intensities described in such ~~Regulating Plan~~PD/RP, 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 ~~Planned Development / Regulating Plan~~ (PD/RP) dated "Received April 14, 2016," the condition of approval shall control to the extent of such conflict or inconsistency
4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this ~~regulating~~Regulating planPlan to promptly disclose...
5. ...Any encumbrances that are discovered after approval of ~~at the PD/RP Land Use Plan~~ shall be the responsibility of Owner / Developer to release and relocate, at no cost to County,...
19. As proof of satisfaction of the project's transportation concurrency obligations, the project must comply with that certain ROAD NETWORK AND MITIGATION AGREEMENT (The Grow (a/k/a Lake Pickett South) regarding S.R. 50 (FDOT Project No. 239203-7) and Chuluota Road, which Agreement was approved by the Board of County Commissioners on September 20, 2016, and recorded at O.R. Book _____, Page _____, Public Records of Orange County, Florida. The developer must provide a valid Assignment of Vested Trips document together with the applicable Confirmation Letter issued by Orange County, concurrently with or prior to plat approval. In addition, any Development Plan must show a legend with trip allocations by parcel identification number and phase of the development.

County staff outlined proposed new conditions of approval for the rezoning public hearing as follows:

25. Any park impact fee credits granted for the dedication of the APF Park shall be available for use as credits against park impact fees assessed for development within The Grow only.
26. A public access roadway to the APF Park from SR 50, including appurtenances and county utility facilities, must be (i) constructed, (ii) inspected and approved by the county, and (iii) opened to traffic, all at no cost to the county, no later than 18 months after notice from the County regarding its commitment to construct the APF Park. Such notice shall not be sent from the County prior to satisfaction of the "Owner's Initial Payment" as defined in the Road Network and Mitigation Agreement, as may be amended. Failure to timely provide such public access roadway will result in the County's refusal to issue certificates of occupancy for any projects within The Grow until this condition has been fully satisfied.
27. With the exception of lots within the area identified on the Regulating Plan as T2-1 and lots having direct access to SR 50, no residential certificates of occupancy shall be issued for units which do not have vehicular access through the development to SR 50.
28. Roundabouts shown along Lake Pickett Road are only preliminary in design and are not the responsibility of The Grow. The design and engineering for these roundabouts will be determined at such time that improvements to Lake Pickett Road or Lake Pickett Road access are being permitted. Design work shall include rural design features where appropriate consistent with applicable safety requirements.
29. The roundabout along South Tanner Road shall be constructed by The Grow as part of the first construction plan for The Grow. If for some reason the roundabout cannot be located within the existing right-of-way or does not meet engineering standards, alternative traffic calming measures of generally equivalent value may be provided, subject to County approval.
30. Construction traffic shall not utilize North Tanner Road.
31. Any HOA covenants, conditions and restrictions must be compliant with F.S. Ch. 373.185 which establishes that that an HOA cannot prohibit homeowners from using Florida friendly landscaping.
32. The project shall incorporate design templates using UF/IFAS manuals and plant lists for residential, commercial and common areas that incorporate the following Florida Friendly Landscaping principles including right plant, right place, water efficiently, fertilize appropriately, mulch, attract wildlife, manage yard pests responsibly, recycle, reduce stormwater runoff, and protect the waterfront (UF/IFAS 2009).

33. The project shall meet the standards of or achieve Florida Water Star certification, including but not limited to the use of reclaimed water for irrigation (after reclaimed water is extended to, and ready for use at, the project), smart water sensors, and central control systems for common areas.
34. Sod will be limited to the 'drought tolerant' grasses such as bahia or zoysia; no more than 60% of yards shall be sodded; and in common areas (e.g. retention ponds, buffers, etc.), sod may be limited to bahia.
35. Approval of The Grow PD-RP is contingent upon the amendments to the Orange County Comprehensive Plan adopted by 2015-2-P-FLUE-1 and 2015-2-A-5-1 becoming effective in accordance with Sections 163.3184(3)(c)4. and (12), Florida Statutes.

Board discussion ensued.

Based upon input from Commissioner Boyd, new Condition of Approval #29 for the rezoning public hearing, as proposed earlier by County staff, was modified as follows:

29. The roundabout along South Tanner Road shall be constructed by The Grow as part of the first construction plan for The Grow. ~~If for some reason the roundabout cannot be located within the existing right of way or does not meet engineering standards, alternative traffic calming measures of generally equivalent value may be provided, subject to County approval.~~

Based upon input from Commissioner Boyd, new Condition of Approval #36, for the rezoning public hearing, was proposed by County staff as follows:

36. No access to South Tanner Road in Transect T4-1 shall be permitted until after State Road 50 improvements are completed.

Based upon input from the District Commissioner, new Condition of Approval #30 for the rezoning public hearing, as proposed earlier by County staff, was modified as follows:

30. Construction traffic shall not utilize North and South Tanner Road.

Board discussion ensued.

Motion/Second: Commissioners Edwards/Boyd

Absent: County Mayor Jacobs

AYE (voice vote): Vice Mayor Nelson; Commissioners Boyd, Edwards, Sipplin

NO (voice vote): Commissioners Clarke, Thompson

Action: The Board made a finding of consistency with the Comprehensive Plan; further, approved the request by Dwight Saathoff to rezone A-2 (Farmland Rural District), R-CE-5 (Rural Country Estate Residential District), and PD (Planned Development District)

(Walker Cove PD) to The GROW PD-RP (Planned Development-Regulating Plan); further, allowed the consideration of a mix-use project consisting of up to 2,078 residential dwelling units and 172,000 non-residential square feet; further, featured an elementary school, community park, community gardens, working farm and equestrian facility), on the described property; and further, allowed staff to correct scriveners and grammatical errors; subject to the following conditions:

1. Development shall conform to The Grow Planned Development / Regulating Plan (PD/RP) dated "Received September 19, 2016," (hereinafter, "Regulating Plan", "Planned Development / Regulating Plan", or "PD/RP"). Accordingly, the PD/RP shall be developed in accordance with the uses, densities, and intensities described in such PD/RP, 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 PD/RP 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 Regulating 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 the PD/RP 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 (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 regulating plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a CEL or a CRC.
7. The applicant must provide documentation confirming payments for improvements to SR 50 and Chuluota Road as outlined in the road network and mitigation agreement. Documentation required prior to plat approval.
8. Unless a Conservation Area Impact (CAI) permit is approved by Orange County consistent with Orange County Code Chapter 15, Article X, "Wetland Conservation Areas", prior to Construction Plan approval, no conservation area or buffer encroachments shall be permitted. Approval of this plan does not authorize any direct or indirect conservation area impacts.

9. All acreages identified as 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.
10. 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).
11. The Developer shall obtain water, wastewater and reclaimed water service from Orange County Utilities.
12. A Lake Pickett Study Area Transmission Systems Master Utility Plan (MUP) shall be submitted to Orange County Utilities prior to approval of the first PSP/DP within the Lake Pickett Study Area. The Transmission Systems MUP shall include demands for the entire Lake Pickett Study Area, and shall include water, wastewater and reclaimed water transmission systems layouts, sizing, and supporting hydraulic calculations.
13. At least thirty (30) days prior to construction plan submittal, the applicant shall submit a Master Utility Plan (MUP) for the PSP, including hydraulically dependent parcels outside PSP boundaries; such MUP shall include supporting calculations showing that the PSP-level MUP is consistent with the approved Lake Pickett Study Area Transmission Systems MUP, or shall include an update to the Transmission Systems MUP to incorporate any revisions. The MUP(s) must be approved prior to construction plan approval.
14. The Developer shall be responsible for building master utilities transmission and collection infrastructure adequate to serve the project to accommodate the ultimate flows for the entire Lake Pickett Study Area. Utilities infrastructure shall be built connecting to the build-out points of connection approved in the Lake Pickett Study Area Transmission Systems MUP.
15. Prior to any construction plan approval within The Grow PD, all property owners within The Grow PD, excluding public entities, shall be required to enter into an agreement between the parties addressing their proportionate share of funds for the costs of the off-site and on-site master utilities sized to serve the Lake Pickett Study Area. Property owners may elect to use alternate financing in lieu of the private proportionate cost share agreement, provided master utilities sized to serve the Lake Pickett Study Area are constructed.
16. Payment of 500 ERUs (wastewater) and 500 ERCs (water) are due prior to construction plan approval for the first construction plan set within the Lake Pickett Study Area.

17. 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.
18. An APF tract for a reclaimed water facility within The Grow PD shall be dedicated to the County prior to approval of the first construction plan set within The Grow PD. The dimensions and location of the tract shall be finalized prior to approval of the first PSP or DP within The Grow PD. The tract shall have a net developable size of at least three acres and a minimum width of 300 feet. The tract shall be located no more than 1,000 feet from a public road with a 30-foot minimum width utility access easement or tract connection to public right-of-way. The access and developable tract area shall be located outside of wetlands, buffers, and easements, and shall have an elevation above the 100-year flood plain.
19. As proof of satisfaction of the project's transportation concurrency obligations, the project must comply with that certain ROAD NETWORK AND MITIGATION AGREEMENT (The Grow (a/k/a Lake Pickett South) regarding S.R. 50 (FDOT Project No. 239203-7) and Chuluota Road, which was approved by the Board of County Commissioners on September 20, 2016, and recorded at O.R. Book _____, Page _____, Public Records of Orange County, Florida. The developer must provide a valid Assignment of Vested Trips document together with the applicable Confirmation Letter issued by Orange County, concurrently with or prior to plat approval. In addition, any Development Plan must show a legend with trip allocations by parcel identification number and phase of the development.
20. Development within each PD/RP Transect Zone shall be consistent with the prescribed residential density and non-residential intensity (Floor Area Ratio) criterion outlined in Policy FLU6.8.2.
21. 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 05/24/2016.
 - 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 36 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.
22. The School Site requirement can only be satisfied by provision of a site for an Orange County public school. Charter schools, while not prohibited, may not be used to satisfy such requirements.
23. Development Rights, other than for farming and directly related recreation uses, shall be dedicated to Orange County.
24. Lake Pickett Road rights-of-way shall be conveyed to County prior to or concurrently with County's approval of the plat or no later than 60 days after County's written demand for conveyance, whichever comes first.
25. Any park impact fee credits granted for the dedication of the APF Park shall be available for use as credits against park impact fees assessed for development within The Grow only.
26. A public access roadway to the APF Park from SR 50, including appurtenances and county utility facilities, must be (i) constructed, (ii) inspected and approved by the county, and (iii) opened to traffic, all at no cost to the county, no later than 18 months after notice from the County regarding its commitment to construct the APF Park. Such notice shall not be sent from the County prior to satisfaction of the "Owner's Initial Payment" as defined in the Road Network and Mitigation Agreement, as may be amended. Failure to timely provide such public access roadway will result in the County's refusal to issue certificates of occupancy for any projects within The Grow until this condition has been fully satisfied.
27. With the exception of lots within the area identified on the Regulating Plan as T2-1 and lots having direct access to SR 50, no residential certificates of occupancy shall be issued for units which do not have vehicular access through the development to SR 50.

28. Roundabouts shown along Lake Pickett Road are only preliminary in design and are not the responsibility of The Grow. The design and engineering for these roundabouts will be determined at such time that improvements to Lake Pickett Road or Lake Pickett Road access are being permitted. Design work shall include rural design features where appropriate consistent with applicable safety requirements.
29. The roundabout along South Tanner Road shall be constructed by The Grow as part of the first construction plan for The Grow.
30. Construction traffic shall not utilize North and South Tanner Road.
31. Any HOA covenants, conditions and restrictions must be compliant with F.S. Ch. 373.185 which establishes that that an HOA cannot prohibit homeowners from using Florida friendly landscaping.
32. The project shall incorporate design templates using UF/IFAS manuals and plant lists for residential, commercial and common areas that incorporate the following Florida Friendly Landscaping principles including right plant, right place, water efficiently, fertilize appropriately, mulch, attract wildlife, manage yard pests responsibly, recycle, reduce stormwater runoff, and protect the waterfront (UF/IFAS 2009).
33. The project shall meet the standards of or achieve Florida Water Star certification, including but not limited to the use of reclaimed water for irrigation (after reclaimed water is extended to, and ready for use at, the project), smart water sensors, and central control systems for common areas.
34. Sod will be limited to the 'drought tolerant' grasses such as bahia or zoysia; no more than 60% of yards shall be sodded; and in common areas (e.g. retention ponds, buffers, etc.), sod may be limited to bahia.
35. Approval of The Grow PD-RP is contingent upon the amendments to the Orange County Comprehensive Plan adopted by 2015-2-P-FLUE-1 and 2015-2-A-5-1 becoming effective in accordance with Sections 163.3184(3)(c)4. and (12), Florida Statutes.
36. No access to South Tanner Road in Transect T4-1 shall be permitted until after State Road 50 improvements are completed.

and

- COUNTY CONSENT AGENDA (CONTINUED)

Community, Environmental and Development Services Department (Deferred)

1. Approval and execution of Adequate Public Facilities Agreement for The Grow PD (a/k/a Lake Pickett South) by and among Banksville of Florida, Inc., Nivesa of Florida, Inc., New Ideas Incorporated, Margot H. Lopez; and Orange County. District 5. (Development Review Committee)

Motion/Second: Commissioners Edwards/Siplin

Absent: County Mayor Jacobs

AYE (voice vote): Vice Mayor Nelson; Commissioners Boyd, Edwards, Siplin

NO (voice vote): Commissioners Clarke, Thompson

Action: The Board approved and executed the Adequate Public Facilities Agreement for The Grow PD (a/k/a Lake Pickett South) by and among Banksville of Florida, Inc., Nivesa of Florida, Inc., New Ideas Incorporated, Margot H. Lopez; and Orange County.

and

- COUNTY CONSENT AGENDA (CONTINUED)

Community, Environmental and Development Services Department (Deferred)

4. Approval and execution of Road Network and Mitigation Agreement (The Grow (a/k/a Lake Pickett South) S.R. 50 (FDOT Project No. 239203-7) and Chuluota Road by and among American Land Investments of Orange County, LLC, Banksville of Florida, Inc., Nivesa of Florida, Inc., New Ideas Incorporated, Margot H. Lopez, and Orange County to fund transportation improvements and provide for a road network to mitigate the traffic effects from The Grow Development. District 5. (Roadway Agreement Committee)

County staff outlined proposed changes to the Road Network and Mitigation Agreement as follows:

- Page 10 of 39:

- b) *Chuluota Road*. In addition to the S.R. 50 Funding, Owners shall also contribute ~~\$42~~ 10 Million, less a credit in the amount of the Overages, if any (said contribution herein referred to as the "**Owners Contribution to Chuluota Road Costs**") towards the County's anticipated cost of widening the segment of Chuluota Road from between S.R. 50 and Lake Pickett Road ("**Chuluota Road Costs**"); provided, however, in the event the County has reimbursed the Overages to the Owners prior to the time Owners make the Owners' Contribution to Chuluota Road Costs, then the amount of such...

- Page 11 of 39:

...payment shall be ~~\$42~~ 10 Million without further credit. Payment of the Owners' Contribution to Chuluota Road Costs shall be made no later than six (6) months after

the County notifies Owners that County has completed the preliminary design study, right-of-way and easement acquisition, and design, engineering, and permitting of the Chuluota Road improvements; provided, however, notwithstanding the foregoing, in no event shall Owners' payment be required earlier than forty-two (42) months after FDOT sends County notice of the Initial Contract Amount pursuant to Section 2 (a) above, except that in all events such payment must be made by Owners to County no later than September 1, 2021. If the Chuluota Road Costs are less than \$42 10 Million, Owners will nevertheless fund the entire amount of the Owners' Contribution to Chuluota Road Costs but with a credit for any remaining unpaid Overages if Owners have not yet recovered same from County out of the FDOT Refund. Owners may elect to pay Owners' Contribution to Chuluota Road Costs to County prior to the time otherwise required above.

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1. S.R. 50: The three S.R. 50 performance thresholds are as follows:
 - a. All ~~863~~ 622 non-residential use trips (i.e. the retail/commercial and office uses and trips as identified on Exhibit "C") and 250 residential use trips (i.e. either or both the single family detached or attached uses and trips as identified on Exhibit "C") shall be immediately available for use upon Owners' full payment of the Initial Contract Amount (the "**First S.R. 50 Threshold**");
 - b. 250 residential use trips (i.e. either or both the single family detached or attached uses and trips as identified on Exhibit "C") shall be immediately available for use upon FDOT confirmation of its completion of 50% of construction of the FDOT Project 239203-7 improvements;
 - c. ~~674~~ 667 residential use trips shall be immediately available for use upon FDOT's "final acceptance" notice to its contractor and confirmation of its completion of 100% of construction of the FDOT Project 239203-7 improvements.
2. Chuluota Road: The one performance threshold for Chuluota Road is for Owners to make full payment to County of the Owners' Contribution to Chuluota Road Costs, whereupon all of the remaining project trips (i.e. ~~893~~ 767 residential trips) shall be immediately available for use.

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Section 8. Notice. Any notice delivered with respect to this Agreement shall be in writing and shall be deemed to be delivered (whether or not actually received) (i) when hand delivered to the person(s) hereinafter designated, or (ii) upon deposit of such notice in the United States mail, postage prepaid, certified mail, return receipt

requested, addressed to the person at the address set forth opposite the Party's name below, or to such other address or to such other person as the Party shall have specified by written notice to the other Party delivered in accordance herewith.

As to Am Land: American Land Investments of Orange County, LLC
7575 Dr. Phillips Blvd., Suite 265
Orlando, Florida 32819
Attention: Dwight Saathoff

As to Banksville and Nivesa: Banksville of Florida, Inc./Nivesa of Florida, Inc.
~~5094 East 10th Court~~
~~Hialeah, FL 33013~~
2665 South Bayshore Drive, Suite 220-81
Miami Florida 33133
Attention: David Martinez

As to New Ideas
and Lopez Trust New Ideas, Inc./Chris-Anna Trust
1512 S. Roosevelt Blvd
Key West, Florida 33040
Attention: Margot Lopez

As to County: Orange County Administrator
P.O. Box 1393
201 S. Rosalind Ave
Orlando, FL 32802-1393

Exhibit "C"

LPS development program, trips, and trip generation rates (note: the public school, barn and other ancillary facilities and corresponding trips are not necessarily subject to transportation concurrency consistent with the Concurrency Management Ordinance)

1. LPS Trip Generation Rates

| <u>Land Use</u> | <u>Trip Generation Rate</u> |
|---------------------|-----------------------------|
| Single Family | 1.00 / d.u. |
| Townhome | 0.52 / d.u. |
| Retail / Commercial | 3.71 / 1,000 s.f. |
| Office | 1.49 / 1,000 s.f. |

2. LPS Development Program and Trips

| <u>Development Program</u> | <u>Size</u> | <u>Unit</u> | <u>Total Trips at Build-Out</u> |
|----------------------------|-----------------|-------------|---------------------------------|
| Single Family Detached | 4,856 1,778 | d.u. | 4,856 1,778 |
| Single Family Attached | 400 300 | d.u. | 208 156 |
| Retail / Commercial | 230,000 165,000 | s.f. | 853 612 |
| Office | 7,000 | s.f. | 10 |
| Total | | | 2,972 2,556 |

EXHIBIT "E" **LAKE PICKETT SOUTH** **OWNERS' TRIP ALLOCATION**

1. LPS Improvements

| <u>Improvements</u> | |
|---------------------|---|
| SR 50 | Segment between East of Old Cheney Highway to Chuluota Road (i.e. FDOT project #239203-7); expand from 4 lanes to 6 lanes |
| Chuluota Road | Segment between SR 50 to Lake Pickett Road; expand from 2 lanes to 4 lanes |

2. LPS Performance Thresholds

| <u>Threshold</u> | <u>LPS Performance Threshold</u> | <u>Total Trips Available for Use</u> | | <u>Banksville/ Nivesa Share of Total Trips</u> | | <u>New Ideas/ Lopez Trust Share of Total Trips</u> | |
|------------------|----------------------------------|--------------------------------------|-------------|--|-------------|--|-------------|
| | | Non-residential | residential | Non-residential | Residential | Non-residential | residential |
| A | SR 50 - fund construction | 863 622 | 250 | 723 482 | 125 | 140 | 125 |
| B | SR 50 - 50% completion | 0 | 250 | 0 | 125 | 0 | 125 |
| C | SR 50 - 100% completion | 0 | 674 667 | 0 | 336 422 | 0 | 335 245 |
| D | Chuluota Road - contribution | 0 | 893 767 | 0 | 446 467 | 0 | 447 300 |

3. LPS Trip Generation Rates

| <u>Land Use</u> | <u>Trip Generation Rate</u> |
|---------------------|-----------------------------|
| Single Family | 1.00 / d.u. |
| Townhome | 0.52 / d.u. |
| Retail / Commercial | 3.71 / 1,000 s.f. |
| Office | 1.49 / 1,000 s.f. |

4. LPS Development Program and Trips

| <u>Total Dev Program</u> | <u>Size</u> | <u>Unit</u> | <u>Total Trips at Build-Out</u> |
|--------------------------|------------------------|-------------|---------------------------------|
| Single Family Detached | 4,856 <u>1,778</u> | d.u. | 4,856 <u>1,778</u> |
| Single Family Attached | 400 <u>300</u> | d.u. | 208 <u>156</u> |
| Retail / Commercial | 230,000 <u>165,000</u> | s.f. | 853 <u>612</u> |
| Office | 7,000 | s.f. | 10 |
| TOTAL | | | 2,927 <u>2,556</u> |

| <u>Banksville/Nivesa Dev Program</u> | <u>Size</u> | <u>Unit</u> | <u>Total Trips at Build-Out</u> |
|--------------------------------------|------------------------|-------------|---------------------------------|
| Single Family Detached | 4,074 <u>1,070</u> | d.u. | 4,074 <u>1,070</u> |
| Single Family Attached | 230 <u>133</u> | d.u. | 420 <u>69</u> |
| Retail / Commercial | 495,000 <u>130,000</u> | s.f. | 723 <u>482</u> |
| Office | 0 | s.f. | 0 |
| TOTAL | | | 4,914 <u>1,621</u> |

| <u>New Ideas/Lopez Trust Dev Program</u> | <u>Size</u> | <u>Unit</u> | <u>Total Trips at Build-Out</u> |
|--|----------------|-------------|---------------------------------|
| Single Family Detached | 785 <u>708</u> | d.u. | 785 <u>708</u> |
| Single Family Attached | 470 <u>167</u> | d.u. | 88 <u>87</u> |
| Retail / Commercial | 35,000 | s.f. | 130 |
| Office | 7,000 | s.f. | 10 |
| TOTAL | | | 4013 <u>935</u> |

Motion/Second: Commissioners Edwards/Boyd

Absent: County Mayor Jacobs

AYE (voice vote): Vice Mayor Nelson; Commissioners Boyd, Edwards, Siplin

NO (voice vote): Commissioners Clarke, Thompson

Action: The Board approved and executed the Road Network and Mitigation Agreement (The Grow (a/k/a Lake Picket South) S.R. 50 (FDOT Project No. 239203-7) and Chuluota Road by and among American Land Investments of Orange County, LLC, Banksville of Florida, Inc., Nivesa of Florida, Inc., New Ideas Incorporated, Margot H. Lopez, and Orange County to fund transportation improvements and provide for a road network to mitigate the traffic effects from The Grow Development, with the following changes to the agreement:

- Page 10 of 39:

- b) *Chuluota Road*. In addition to the S.R. 50 Funding, Owners shall also contribute \$42 10 Million, less a credit in the amount of the Overages, if any (said contribution

herein referred to as the "**Owners Contribution to Chuluota Road Costs**") towards the County's anticipated cost of widening the segment of Chuluota Road from between S.R. 50 and Lake Pickett Road ("**Chuluota Road Costs**"); provided, however, in the event the County has reimbursed the Overages to the Owners prior to the time Owners make the Owners' Contribution to Chuluota Road Costs, then the amount of such...

- Page 11 of 39:

...payment shall be \$42 10 Million without further credit. Payment of the Owners' Contribution to Chuluota Road Costs shall be made no later than six (6) months after the County notifies Owners that County has completed the preliminary design study, right-of-way and easement acquisition, and design, engineering, and permitting of the Chuluota Road improvements; provided, however, notwithstanding the foregoing, in no event shall Owners' payment be required earlier than forty-two (42) months after FDOT sends County notice of the Initial Contract Amount pursuant to Section 2 (a) above, except that in all events such payment must be made by Owners to County no later than September 1, 2021. If the Chuluota Road Costs are less than \$42 10 Million, Owners will nevertheless fund the entire amount of the Owners' Contribution to Chuluota Road Costs but with a credit for any remaining unpaid Overages if Owners have not yet recovered same from County out of the FDOT Refund. Owners may elect to pay Owners' Contribution to Chuluota Road Costs to County prior to the time otherwise required above.

- Page 12 of 39:

1. S.R. 50: The three S.R. 50 performance thresholds are as follows:
 - a. All ~~863~~ 622 non-residential use trips (i.e. the retail/commercial and office uses and trips as identified on Exhibit "C") and 250 residential use trips (i.e. either or both the single family detached or attached uses and trips as identified on Exhibit "C") shall be immediately available for use upon Owners' full payment of the Initial Contract Amount (the "**First S.R. 50 Threshold**");
 - b. 250 residential use trips (i.e. either or both the single family detached or attached uses and trips as identified on Exhibit "C") shall be immediately available for use upon FDOT confirmation of its completion of 50% of construction of the FDOT Project 239203-7 improvements;
 - c. ~~674~~ 667 residential use trips shall be immediately available for use upon FDOT's "final acceptance" notice to its contractor and confirmation of its completion of 100% of construction of the FDOT Project 239203-7 improvements.

2. Chuluota Road: The one performance threshold for Chuluota Road is for Owners to make full payment to County of the Owners' Contribution to Chuluota Road Costs, whereupon all of the remaining project trips (i.e. ~~893~~ 767 residential trips) shall be immediately available for use.

- Page 17 of 39:

Section 8. Notice. Any notice delivered with respect to this Agreement shall be in writing and shall be deemed to be delivered (whether or not actually received) (i) when hand delivered to the person(s) hereinafter designated, or (ii) upon deposit of such notice in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the person at the address set forth opposite the Party's name below, or to such other address or to such other person as the Party shall have specified by written notice to the other Party delivered in accordance herewith.

As to Am Land: American Land Investments of Orange County, LLC
7575 Dr. Phillips Blvd., Suite 265
Orlando, Florida 32819
Attention: Dwight Saathoff

As to Banksville and Nivesa: Banksville of Florida, Inc./Nivesa of Florida, Inc.
~~5094 East 10th Court~~
~~Hialeah, FL 33013~~
2665 South Bayshore Drive, Suite 220-81
Miami Florida 33133
Attention: David Martinez

As to New Ideas
and Lopez Trust New Ideas, Inc./Chris-Anna Trust
1512 S. Roosevelt Blvd
Key West, Florida 33040
Attention: Margot Lopez

As to County: Orange County Administrator
P.O. Box 1393
201 S. Rosalind Ave
Orlando, FL 32802-1393

Exhibit "C"

LPS development program, trips, and trip generation rates (note: the public school, barn and other ancillary facilities and corresponding trips are not necessarily subject to transportation concurrency consistent with the Concurrency Management Ordinance)

1. LPS Trip Generation Rates

| <u>Land Use</u> | <u>Trip Generation Rate</u> |
|---------------------|-----------------------------|
| Single Family | 1.00 / d.u. |
| Townhome | 0.52 / d.u. |
| Retail / Commercial | 3.71 / 1,000 s.f. |
| Office | 1.49 / 1,000 s.f. |

2. LPS Development Program and Trips

| <u>Development Program</u> | <u>Size</u> | <u>Unit</u> | <u>Total Trips at Build-Out</u> |
|----------------------------|----------------------------|-------------|---------------------------------|
| Single Family Detached | 1,856 1,778 | d.u. | 1,856 1,778 |
| Single Family Attached | 400 300 | d.u. | 208 156 |
| Retail / Commercial | 230,000 165,000 | s.f. | 853 612 |
| Office | 7,000 | s.f. | 10 |
| Total | | | 2,972 2,556 |

EXHIBIT "E"
LAKE PICKETT SOUTH
OWNERS' TRIP ALLOCATION

1. LPS Improvements

| <u>Improvements</u> | |
|---------------------|---|
| SR 50 | Segment between East of Old Cheney Highway to Chuluota Road (i.e. FDOT project #239203-7); expand from 4 lanes to 6 lanes |
| Chuluota Road | Segment between SR 50 to Lake Pickett Road; expand from 2 lanes to 4 lanes |

2. LPS Performance Thresholds

| Threshold | LPS Performance Threshold | Total Trips Available for Use | | Banksville/ Nivesa Share of Total Trips | | New Ideas/ Lopez Trust Share of Total Trips | |
|-----------|------------------------------|-------------------------------|----------------|---|----------------|---|----------------|
| | | Non-residential | residential | Non-residential | Residential | Non-residential | residential |
| A | SR 50 - fund construction | 863 <u>622</u> | 250 | 723 <u>482</u> | 125 | 140 | 125 |
| B | SR 50 - 50% completion | 0 | 250 | 0 | 125 | 0 | 125 |
| C | SR 50 - 100% completion | 0 | 671 <u>667</u> | 0 | 336 <u>422</u> | 0 | 335 <u>245</u> |
| D | Chuluota Road - contribution | 0 | 893 <u>767</u> | 0 | 446 <u>467</u> | 0 | 447 <u>300</u> |

3. LPS Trip Generation Rates

| Land Use | Trip Generation Rate |
|---------------------|----------------------|
| Single Family | 1.00 / d.u. |
| Townhome | 0.52 / d.u. |
| Retail / Commercial | 3.71 / 1,000 s.f. |
| Office | 1.49 / 1,000 s.f. |

4. LPS Development Program and Trips

| Total Dev Program | Size | Unit | Total Trips at Build-Out |
|------------------------|------------------------|------|--------------------------|
| Single Family Detached | 4,856 <u>1,778</u> | d.u. | 4,856 <u>1,778</u> |
| Single Family Attached | 400 <u>300</u> | d.u. | 208 <u>156</u> |
| Retail / Commercial | 230,000 <u>165,000</u> | s.f. | 853 <u>612</u> |
| Office | 7,000 | s.f. | 10 |
| TOTAL | | | 2,927 <u>2,556</u> |

| Banksville/Nivesa Dev Program | Size | Unit | Total Trips at Build-Out |
|-------------------------------|------------------------|------|--------------------------|
| Single Family Detached | 4,074 <u>1,070</u> | d.u. | 4,074 <u>1,070</u> |
| Single Family Attached | 230 <u>133</u> | d.u. | 420 <u>69</u> |
| Retail / Commercial | 495,000 <u>130,000</u> | s.f. | 723 <u>482</u> |
| Office | 0 | s.f. | 0 |
| TOTAL | | | 4,914 <u>1,621</u> |

| <u>New Ideas/Lopez Trust Dev Program</u> | <u>Size</u> | <u>Unit</u> | <u>Total Trips at Build-Out</u> |
|--|-------------|-------------|---------------------------------|
| Single Family Detached | 785 708 | d.u. | 785 708 |
| Single Family Attached | 470 167 | d.u. | 88 87 |
| Retail / Commercial | 35,000 | s.f. | 130 |
| Office | 7,000 | s.f. | 10 |
| TOTAL | | | 4043 935 |

• ADJOURNMENT

There being no further business, the Board adjourned the meeting at 6:18 p.m.

ATTEST:

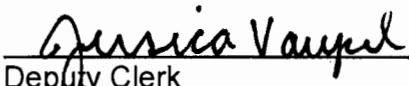

County Mayor Teresa Jacobs

Date: NOV 15 2016



ATTEST SIGNATURE:

Martha O. Haynie
County Comptroller as Clerk


Deputy Clerk
for