

FEB 12 2013 *SM/BS*

ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS' MEETING

Date: Tuesday, January 8, 2013
Location: Commission Chambers, Orange County Administration Center,
First Floor, 201 S. Rosalind Avenue, Orlando, Florida
Members Present: County Mayor Teresa Jacobs; Commissioners S. Scott Boyd, Fred
Brummer, Pete Clarke, Jennifer Thompson, Ted Edwards, Tiffany
Russell
Others Present: County Comptroller Martha Haynie as Clerk, County Administrator
Ajit Lalchandani, County Attorney Jeffrey J. Newton, Deputy County
Attorney Joel Prinsell, Senior Minutes Coordinator Noelia Perez

- CALL TO ORDER, 1:37 p.m.
- INVOCATION - Pastor Coleman Pratt, First Baptist Church Union Park
- PLEDGE OF ALLEGIANCE
- PUBLIC COMMENT

No one addressed the Board for public comment.

- COUNTY CONSENT AGENDA

Motion/Second: Commissioners Edwards/Russell

AYE (voice vote): All members

Action: The Board deleted Administrative Services Department Item 11; and further,
approved the balance of the County Consent Agenda items as follows:

County Comptroller

1. Approval of the minutes of the October 30 and November 13, 2012, meetings of
the Board of County Commissioners. (Clerk's Office)
2. Approval of the check register authorizing the most recently disbursed County
funds, having been certified that same had not been drawn on overexpended
accounts. Periods are as follows:
 - December 14, 2012, to December 20, 2012; total of \$30,329,986.58
 - December 21, 2012, to December 27, 2012; total of \$19,811,929.34
 - December 28, 2012, to January 3, 2013; total of \$49,753,370.91.

(Finance/Accounting)

3. Board authorization to pay the Property Appraiser's second quarter billing for the Orange County Property Appraiser's Service from October 1, 2012 through September 30, 2013 in the amount of \$904,570.03. (Finance/Accounting)

County Administrator

1. Board approval to sell the St. Johns River painting to Tom Ackert for the original purchase price of \$850.
2. Confirmation of Commissioner Clarke's appointment of Nicole V. McLaren as the District 3 representative on the Membership and Mission Review Board with a term expiring December 31, 2014. (Agenda Development Office)
3. Confirmation of Commissioner Clarke's appointment of Severo Santamaria as the District 3 representative on the Orange County Citizen Corps Council with a term expiring December 31, 2014. (Agenda Development Office)
4. Confirmation of Commissioner Clarke's reappointment to the Lake Holden Advisory Board of Michael Powell with a term expiring December 31, 2014. (Agenda Development Office)
5. Approval of a resolution 2013-M-01 of the Orange County Board of County Commissioners regarding a resolution pertaining to financing; authorizing transfer of surplus funds in the County Water Utilities System Reserve Revenue account to the County's General Fund; specifically revising and superseding any resolution in conflict with this resolution; providing an effective date. (Office of Management and Budget)
6. Approval of budget amendments #13-18, #13-19, #13-20, and #13-21. (Office of Management and Budget)
7. Approval of CIP amendment #13C-0060. (Office of Management and Budget)
8. Approval of payment of Intergovernmental claims of October 18, 2012, November 1, 2012, November 15, 2012, and November 29, 2012 in the total amount of \$1,309,841.71. (Risk Management Division)
9. Approval of the renewal and sufficiency of the public officials' bonds provided by Travelers Casualty and Surety Company for all public officials currently holding office in Orange County. (Risk Management Division)

Administrative Services Department

1. Approval to award Invitation for Bids Y13-104-PD, Floating Lift Station Degreaser, to the low responsive and responsible bidder, Hill Manufacturing Company, Inc. for a 1-year term contract in the estimated contract award amount of \$816,725.

Further, authorized the Purchasing and Contracts Division to renew the contract for an additional four years. ([Utilities Department Field Services Division] Purchasing and Contracts Division)

2. Approval to award Invitation for Bids Y13-134-LC, Laboratory Services, to the low responsive and responsible bidder, Clinical Pathology Laboratories Southeast, Inc. in the estimated annual contract award amount of \$761,853.30 for a 1-year period. Further, authorized the Purchasing and Contracts Division to renew the contract for one additional 1-year periods.([Health Services Department Medical Clinic Division] Purchasing and Contracts Division)
3. Approval to award Invitation for Bids Y13-142-JS, Temporary Labor – Inmate Records Management, to the low responsive and responsible bidder, RealTime Staffing, LLC dba TopTalent Staffing in the estimated contract award of \$792,141.60 for an initial 3-year contract term. Further, authorized the Purchasing and Contracts Division to renew the contract for two additional 1-year terms. ([Corrections Department Fiscal and Operational Support Division] Purchasing and Contracts Division)
4. Approval to award Invitation for Bids Y13-708-RM, Mabel Butler Building Roof Replacement and Mechanical Equipment Alterations, to the low responsive and responsible bidder, Air Mechanical & Service Corp. (AMSCO), in the total contract amount of \$468,420. ([Administrative Services Department Capital Projects Division] Purchasing and Contracts Division)
5. Approval of Purchase Order M61301 Renewal of Site Subscription and Software Support for IBM Tivoli Maximo Asset Management, for the period January 1, 2013 through December 31, 2013 with IBM Corporation in the amount of \$101,086.53. ([Utilities Department Fiscal and Operational Support Division] Purchasing and Contracts Division)
6. Approval of Amendment 6, Contract Y10-122-EZ, Construction Term Contract for County Wide Demolitions, with Sunrise Systems of Brevard, Inc., in the estimated amount of \$75,000. This amendment will increase the estimated contract amount to \$520,756. ([Administrative Services Department Real Estate Management Division] Purchasing and Contracts Division)
7. Approval and execution of Sub-Lease Agreement between Orange County, Florida and Orange County Health Department and delegation of authority to the Real Estate Management Division to exercise renewal options, if needed for OCHD – Emergency Storage Facility 8026 Sunport Drive Units 307-311, Orlando, Florida. District 4. (Real Estate Management Division)
8. 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 Jessica L. Salerno, approval and execution

of County Deed from Orange County to Jessica L. Salerno and authorization to perform all actions necessary and incidental to closing for NSP Resale – 13406 Long Stem Court, Orlando, FL 32824. District 4. (Real Estate Management Division)

9. Approval of Temporary Utility Easement between Lennar Homes, LLC, successor by merger to Lennar BC, LLC and Orange County and authorization to record instrument for Wyndham Lakes Estates Unit 6 – Utility File #55025. District 4. (Real Estate Management Division)
10. Approval of Utility Easement between Orchid Bay Development, LLC and Orange County, Subordination of Encumbrances to Property Rights to Orange County from Fifth Third Bank, successor by merger to Fifth Third Bank, successor by merger to R-G Crown Bank and authorization to record instruments for Orangewood N2 PD / PSP Parcel 15A Orchid Bay Ph 1 – UF #67185. District 1. (Real Estate Management Division)
11. Approval and execution of Memorandum of Understanding between Orange County and Convention Hotel Partners, Ltd. for Pedestrian Bridge at the West Concourse of the Convention Center. District 6. (Real Estate Management Division)

(This item was deleted.)

Community, Environmental and Development Services Department

1. Approval of Application for Impact Fee Grants for Qualified Non-profit Organization in the amount of \$10,000 to be used for the Law Enforcement, Fire Rescue and Road Impact Fees for Back to Nature Wildlife Inc. – modular buildings. District 4. (Fiscal and Operational Support Division)

Family Services Department

1. Approval of Florida Department of Children and Families Application for a License to Operate a Child Care Facility at the Hal Marston Head Start Center. This application is only executed by Orange County. (Head Start Division)
2. Approval of Florida Department of Children and Families Application for a License to Operate a Child Care Facility at the Pine Hills Head Start Center. This application is only executed by Orange County. (Head Start Division)

Fire Rescue Department

1. Approval of 2011 Memorandum of Agreement (MOA) for Participating Orlando/Orange Urban Area Security Initiative (UASI) Agencies between the Orange County Sheriff's Office (OCSO) and Orlando/Orange Urban Area (O/OUA)

participants (Orange County, Seminole County, Brevard County, Lake County, Osceola County, Volusia County) for Fiscal Year 2011 UASI Grant Project in the amount of \$3,585,774. (Office of Emergency Management)

Health Services Department

1. Approval of the renewal Certificate of Public Convenience and Necessity for Maitland Fire Rescue to provide Advanced Life Support Transport Service. The term of this certificate is from January 31, 2013 through January 31, 2015. There is no cost to the County. (EMS Office of the Medical Director)
2. Approval of the renewal Certificate of Public Convenience and Necessity for Florida Flight 1 to provide Advanced Life Support Air Transport Service. The term of this certificate is from March 1, 2013 through March 1, 2015. There is no cost to the County. (EMS Office of the Medical Director)

• INFORMATIONAL ITEMS FILED FOR THE RECORD IN THE ORANGE COUNTY COMPTROLLER CLERK'S OFFICE*

County Comptroller

1. Receipt of the following items to file for the record: (Clerk's Office)
 - a. City of Apopka Public Hearing Notice, Annexation Ordinances and Reference Map as follows:

A public hearing to consider the future adoption of Ordinance numbers 2274 - 2278 will be held by the City of Apopka City Council at its regularly scheduled meetings in the City Council Chambers of the Apopka City Hall on Wednesday, November 28, 2012, beginning at 8:00 p.m. and Wednesday, December 19, 2012 beginning at 8:00 p.m.

 - Ordinance No. 2274, An ordinance of the City of Apopka, Florida, to extend its territorial and municipal limits to annex pursuant to Florida Statute 171.044 the hereinafter described lands situated and being in Orange County, Florida, owned by City of Apopka, located north of West McCormick Road and east of State Road 429; providing for directions to the City Clerk, severability, conflicts, and an effective date.
 - Ordinance No. 2275, An ordinance of the City of Apopka, Florida, to extend its territorial and municipal limits to annex pursuant to Florida Statute 171.044 the hereinafter described lands situated and being in Orange County, Florida, owned by City of Apopka, located south of Orange Blossom Trail and west of North Hiawassee Road; providing for directions to the City Clerk, severability, conflicts, and an effective date.
 - Ordinance No. 2276, An ordinance of the City of Apopka, Florida, to extend its territorial and municipal limits to annex pursuant to Florida Statute 171.044 the hereinafter described lands situated and being in Orange County, Florida, owned by Adams Brothers Construction Company, Inc., located south of East

- 13th Street and west of Apopka Boulevard; providing for directions to the City Clerk, severability, conflicts, and an effective date.
- Ordinance No. 2277, An ordinance of the City of Apopka, Florida, to extend its territorial and municipal limits to annex pursuant to Florida Statute 171.044 the hereinafter described lands situated and being in Orange County, Florida, owned by Rock Springs Estates, LLC., located north of West Lester Road and east of Vick Road; providing for directions to the City Clerk, severability, conflicts, and an effective date.
 - Ordinance No. 2278, An ordinance of the City of Apopka, Florida, to extend its territorial and municipal limits to annex pursuant to Florida Statute 171.044 the hereinafter described lands situated and being in Orange County, Florida, owned by Rock Springs Estates, LLC., located south of West Lester Road and east of Vick Road; providing for directions to the City Clerk, severability, conflicts, and an effective date.
- b. City of Winter Park Ordinance 2867-12, An Ordinance of the City of Winter Park, annexing the property at 600 Lee Road, more particularly described herein; providing for the amendment of the City of Winter Park's Charter, Article I, Section 1.02, corporate boundaries to provide for the incorporation of the real property described herein; providing for the filing of the revised charter with the Department of State; providing for repeal of prior inconsistent ordinances and resolutions; providing for severability; and providing for an effective date.
- c. City of Orlando Voluntary Annexation Requests as follows:
- Good Shepherd Catholic Church (5744 Oleander Drive-PID: 27-22-30-3504-01-080) – ANX2012-00010. Notice of Proposed Enactment. On December 19, 2012, the Orlando City Council will consider proposed Ordinance #2012-50, entitled an Ordinance of the City Council of the City of Orlando, Florida, annexing to the corporate limits of the City of Orlando, Florida, certain real property generally located north of Hibiscus Rd., south of Oleander Dr., east of N. Semoran Blvd., and west of Willowwyld Pl., comprised of 0.285 acres, more or less; amending the city's adopted Growth Management Plan to designate the property as residential low intensity on the city's official Future Land Use Map; and designating the property as R-1A/AN District on the city's official Zoning Maps; providing for severability, correction of scrivener's errors, and an effective date. A public hearing on this Ordinance will be held during the Council's regular meeting beginning at 2:00 p.m., in Council Chambers, 2nd floor, Orlando City Hall, 400 S. Orange Ave., Orlando, Florida.
 - Greenbelt Properties (7048 Narcoossee Road- PID: 25-23-30-0000-00-071) – ANX2012-00008. Notice of Proposed Enactment. On December 19, 2012, the Orlando City Council will consider proposed Ordinance #2012-49, entitled an Ordinance of the City Council of the City of Orlando, Florida, annexing to the corporate limits of the City of Orlando, Florida, certain real property generally located north of State Road 528, south of Lee Vista Blvd., east of S. Goldenrod Rd., and west of Narcoossee Rd., comprised of 1.79 acres, more or less; amending the city's adopted Growth Management Plan to designate the property as industrial on the city's official Future Land Use Map; and designating the property as Industrial-Commercial District with the aircraft

noise overlay district on the city's official Zoning Maps; providing for severability, correction of scrivener's errors, and an effective date. A public hearing on this Ordinance will be held during the Council's regular meeting beginning at 2:00 p.m., in Council Chambers, 2nd floor, Orlando City Hall, 400 S. Orange Ave., Orlando, Florida.

*With respect to informational items, Board action is neither required nor necessary, and Board approval (or disapproval) is not to be implied.

- COUNTY ADMINISTRATOR DISCUSSION AGENDA ITEM 1

Appointment of a Commissioner as the alternate on the 2012 Value Adjustment Board.

Action: None

- OFFICE OF REGIONAL MOBILITY DISCUSSION AGENDA ITEM 1

MetroPlan Orlando Board Meeting Briefing.

Action: None

- UTILITIES DEPARTMENT DISCUSSION AGENDA ITEM 1

Bithlo Community Water Presentation. (Administration)

Action: None

- FAMILY SERVICES DEPARTMENT DISCUSSION AGENDA ITEM 1

After School Program Presentation.

Action: None

- PETITION TO VACATE PUBLIC HEARING

Applicant: Christopher W. Hayes, Esq., on behalf of Taft Vineland Properties, Inc.
Consideration: Resolution granting Petition to Vacate 12-07-011, vacating an open and improved portion of a 40' wide unnamed right of way
Location: District 4; property generally located at multiple addresses; Multiple Parcel ID numbers; S11/T24/R29; Orange County, Florida (legal property description on file)

The following person addressed the Board: Christopher Hayes.

Motion/Second: Commissioners Thompson/Edwards
Absent: Commissioner Brummer

AYE (voice vote): All present members

Action: The Board adopted a resolution granting Petition to Vacate 12-07-011 vacating an open and improved portion of a 40' wide unnamed right of way, on the described property; and further, approval of this Petition to Vacate shall not be interpreted or read by anyone including/especially the applicant to mean that this Board might look more favorably on any future application to use a portion of the vacated right of way for a drag strip or any other use that is not already allowed by the existing special exception.

- PETITION TO VACATE PUBLIC HEARING

Applicant: David M. Painter

Consideration: Resolution granting Petition to Vacate 12-10-016, vacating a portion of a drainage easement

Location: District 1; property located at 4236 Willow Bay Drive; Parcel ID 10-23-27-9450-00-250; S10/T23/R27; Orange County, Florida (legal property description on file)

The County Mayor noted the applicant present and in concurrence with the recommendation.

Motion/Second: Commissioners Boyd/Clarke

Absent: Commissioner Brummer

AYE (voice vote): All present members

Action: The Board adopted a resolution granting Petition to Vacate 12-10-016 vacating a portion of a drainage easement, on the described property.

- SUBSTANTIAL CHANGE PUBLIC HEARING CONTINUED FROM NOVEMBER 27, 2012

Applicant: Bob Ziegenfuss, Z Development Services, Waterford Commons Planned Development (PD) Land Use Plan (LUP), (Case #CDR-12-10-209)

Consideration: Substantial change request to:

- 1) Grant a waiver from Section 38-1287(2) to reduce the minimum side building setback from the east property line (for the existing convenience store only) to five (5) feet, in lieu of a minimum side building setback of thirty (30) feet;
- 2) Grant a waiver from Section 38-1287(2) to reduce the minimum side building setback from the west property line (for the Helipad sales office only) to five (5) feet, in lieu of a minimum side building setback of thirty (30) feet;
- 3) Grant a waiver from Section 38-1287(4) to reduce the minimum paving setback from the east property line (for the existing convenience store parking area only) to zero (0) feet, in lieu of a minimum paving setback of seven and one-half (7.5) feet;

- 4) Grant an extension of the temporary sales trailer with a new expiration date of February 13, 2014; pursuant to Orange County Code, Chapter 30, Section 38-1207

Location: District 1; property generally located south of International Drive South, East of Vineland Avenue; Parcel IDs 23-24-28-0000-00-014, 23-24-28-0000-00-017, 23-24-28-0000-00-018; S/T/R: 23/24/28; Orange County, Florida (legal property description on file)

The following persons addressed the Board:

- Bob Ziegenfuss
- H. Scott Gold
- Tom Shoriak
- Bob Carnes

The following exhibit was received by the Clerk prior to the close of the public hearing: Exhibit 1, from H. Scott Gold.

Motion/Second: Commissioners Boyd/Edwards

AYE (voice vote): All members

Action: The Board made a finding of consistency with the Comprehensive Plan; and further, approved the substantial change request by Bob Ziegenfuss, Z Development Services, Waterford Commons Planned Development (PD) Land Use Plan (LUP), (Case #CDR-12-10-209), to:

- 1) Grant a waiver from Section 38-1287(2) to reduce the minimum side building setback from the east property line (for the existing convenience store only) to five (5) feet, in lieu of a minimum side building setback of thirty (30) feet;
- 2) Grant a waiver from Section 38-1287(2) to reduce the minimum side building setback from the west property line (for the existing temporary Helipad sales office only) to five (5) feet, in lieu of a minimum side building setback of thirty (30) feet;
- 3) Grant a waiver from Section 38-1287(4) to reduce the minimum paving setback from the east property line (for the existing convenience store parking area only) to zero (0) feet, in lieu of a minimum paving setback of seven and one-half (7.5) feet.
- 4) Grant an extension of the temporary sales trailer with a new expiration date of February 13, 2014.

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

1. Development shall conform to the PD Land Use Plan dated " October 4, 2012" 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, ordinance 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 of this zoning and the land use plan dated "October 4, 2012", the condition of approval shall control to the extent of such conflict or inconsistency.

2. A waiver from Section 38-1287(2) to reduce the minimum side building setback from the east property line (for the existing convenience store only) to five (5) feet, in lieu of a minimum side building setback of thirty (30) feet
3. A waiver from Section 38-1287(2) to reduce the minimum side building setback from the west property line (for the Helipad sales office only) to five (5) feet, in lieu of a minimum side building setback of thirty (30) feet.
4. A waiver from Section 38-1287(4) to reduce the minimum paving setback from the east property line (for the existing convenience store parking area only) to zero (0) feet, in lieu of a minimum paving setback of seven and one-half (7.5) feet.
5. All previous applicable BCC Conditions of Approval dated September 22, 2009 shall apply:
 - a. 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 at the public hearing where this development was approved, 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. 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 or approved.
 - b. This project shall enter into the Convention Center Hotel Agreement.
6. All previous applicable Conditions of Approval dated July 8, 2008, shall apply, as modified:
 - a. Federal Aviation Authority (FAA) approval shall be obtained prior to construction plan approval.

- b. The helicopter shall be limited to five (5) passengers on the aircraft and piston-driven / turbine engine; to exceed that will trigger a substantial change and require another public hearing before the Board of County Commissioners.
- c. The Helipad shall be used only during daylight hours.
- d. The helicopter operating from this Helipad shall not use any flight pattern that crosses the air space above the Williamsburg community east of International Drive.

Violations of Condition 6 may result in the revocation of the ability to use the helipad.

- 7. All previous applicable Conditions of Approval dated June 30, 1998, shall apply:
 - a. Billboards and pole signs shall be prohibited.
 - b. The following International Drive Strategic Plan Conditions shall apply:
 - 1) Permitted and prohibited uses shall be those specified in Policies 1.1.3 and 1.1.6 of the International Drive Activity Center Plan.
 - 2) If the housing linkage program is in place prior to development plan approval, the development of nonresidential development shall be conditioned upon the development of residential units within the area designated activity center residential on the future land use map.
 - 3) The development guidelines of the International Drive activity center shall apply to the subject property if they are established prior to development plan submittal.
 - 4) The property owner shall be required to participate in a Property Owners' Association upon its creation.
 - 5) Stormwater management facilities shall be designed as an aesthetic feature except where determined by the County Engineer to be technically unfeasible.
 - 6) Twenty (20')-foot wide pedestrian/landscape/utility easement plus a 15-foot wide transit easement shall be provided along International Drive for a total of 35-feet (with the transit easement in front) shall be included.
 - 7) The development plan shall provide for the interconnection of adjacent development either by cross access easement or public right-of-way. This

shall include connection into and continuation of an area wide transportation plan for the International Drive activity Center.

- 8) Electrical distribution lines shall be underground.
- 9) Participation in a shuttle service connecting area attractions, major transportation centers, and on-site development shall be provided.

• AGREEMENT PUBLIC HEARING

Consideration: INTERLOCAL AGREEMENT FOR ANNEXATION OF ENCLAVES BETWEEN CITY OF WINTER PARK, FLORIDA AND ORANGE COUNTY, FLORIDA

Motion/Second: Commissioners Edwards/Russell

AYE (voice vote): All members

Action: The Board approved the Interlocal Agreement for Annexation of Enclaves between the City of Winter Park, Florida and Orange County, Florida.

• BOARD-CALLED BOARD OF ZONING ADJUSTMENT PUBLIC HEARING

Applicant: CBS Outdoor

Case No.: Board of Zoning Adjustment, VA-12-11-081; November 01, 2012

Consideration: Request for variances in C-1 zone to replace an existing legal nonconforming billboard as follows:

- 1) Billboard is 5 ft. from a residential property line (to the west) in lieu of 200 ft.; and
- 2) Billboard is 115 ft. from a residential property line (to the west) in lieu of 200 ft.

(NOTE: New billboard will have one static face and one LED face)

Location: District 1, property generally located North side of W. Sand Lake Rd., 1/3 mile west of Turkey Lake Rd.; Parcel ID 26-23-28-0000-00-145; S-T-R: 26-23-28; Orange County, Florida (legal property description on file)

The following person addressed the Board: Wayne Rich.

Motion/Second: Commissioners Boyd/Edwards

AYE (voice vote): All members

Action: The Board approved the request by CBS Outdoor, Board of Zoning Adjustment, VA-12-11-081, for variances in C-1 zone to replace an existing legal nonconforming billboard as follows:

- 1) Billboard is 5 ft. from a residential property line (to the west) in lieu of 200 ft.; and
 - 2) Billboard is 115 ft. from a residential property line (to the west) in lieu of 200 ft.
- (NOTE: New billboard will have one static face and one LED face)

- SUBSTANTIAL CHANGE PUBLIC HEARING

Applicant: Joe Kolb, VHB MillerSellen, Eagle Creek Planned Development (PD) Land Use Plan (LUP), (Case #CDR-12-07-144)

Consideration: Substantial change to the Eagle Creek Planned Development/Land Use Plan (PD/LUP) to incorporate the following modifications and updates:

- 1) To internally transfer nine (9) residential units from PD Parcel "K" to PD Parcel "L";
- 2) To convert 27,500 sq. ft. of retail land use within PD Parcel "N" to office land use;
- 3) To allow for a mix of front-loaded and rear-loaded townhomes within PD Parcel "L";
- 4) To allow one (1) additional Narcoossee Road access point;
- 5) To refine PD parcel acreages, residential densities and park, golf course and open space allocations.

The following waivers from Orange County Code are also requested:

- 1) A waiver from Section 38-1254(1) to allow a minimum twenty (20) foot setback from all boundaries of the PD for one-story and two-story residential units within PD Parcel "M" only, in lieu of a minimum twenty-five (25) foot setback;
- 2) A waiver from Section 38-1254(2) to allow a minimum twenty (20) foot setback from an arterial street (Narcoossee Road) within PD Parcel "M" only, in lieu of a minimum fifty (50) foot setback;
- 3) A waiver from Section 38-1258(b) to allow a maximum building height, including all architectural features, of three (3) stories and fifty (50) feet for buildings located between one-hundred (100) feet and one-hundred fifty (150) feet from single family zoned property within PD Parcel "M" only, in lieu of requiring that the buildings vary in height with a maximum of fifty percent (50%) of the buildings being three (3) stories, not exceeding forty (40) feet in height and the remaining buildings being one (1) story and two (2) stories in height;
- 4) A waiver from Section 38-1258(c) to allow a maximum building height, including architectural features, of three (3) stories and fifty (50) feet for buildings located one-hundred (100) feet or greater from single-family zoned property within PD Parcel "M" only, in lieu of three (3) stories or forty (40) feet in height for buildings located within one-hundred and fifty (150) feet of single family zoned property;
- 5) A waiver from Section 38-1258(d) to allow a maximum building height, including architectural features, of three (3) stories and fifty

- (50) feet within PD Parcel "M" only, in lieu of three (3) stories and thirty-five feet;
- 6) A waiver from Section 38-1272(3) to allow a twenty (20) foot setback along the perimeter of a PD that is adjacent to an arterial road for office buildings within PD Parcel "M" only, in lieu of a minimum setback for general commercial development of forty (40) feet along the perimeter of a PD that is adjacent to an arterial road;
- 7) A waiver from Section 38-79(5)(b)(2) to extend the permit for the temporary sales trailer located within PD Parcel "E" an additional three (3) years from the date of the BCC waiver approval or when ninety (90) percent of the subdivision is complete (whichever comes first), in lieu of only the two (2) year period allowed by Section 38-79(5)(b)(2); and
- 8) A waiver from Section 38-79(20)(j) to allow a minimum distance between buildings (rear-to-rear) of forty (40) feet with PD Parcel "L" only, in lieu of sixty (60) feet; pursuant to Orange County Code, Chapter 30, and Section 38-1207

Location: District 4; property generally located east of Narcoossee Road, north of Clapp Simms Duda Road and south of Tyson Rd; Parcel ID Multiple Parcels; S/T/R: 28, 29, 32 & 33/24/31; Orange County, Florida (legal property description on file)

The County Mayor noted the applicant present and in concurrence with the recommendation.

Motion/Second: Commissioners Thompson/Clarke

AYE (voice vote): All members

Action: The Board made a finding of consistency with the Comprehensive Plan; and further, approved the substantial change request by Joe Kolb, VHB MillerSellen, Eagle Creek Planned Development (PD) Land Use Plan (LUP), (Case #CDR-12-07-144), to incorporate the following modifications and updates:

- 1) To internally transfer nine (9) residential units from PD Parcel "K" to PD Parcel "L";
- 2) To convert 27,500 sq. ft. of retail land use within PD Parcel "N" to office land use;
- 3) To allow for a mix of front-loaded and rear-loaded townhomes within PD Parcel "L";
- 4) To allow one (1) additional Narcoossee Road access point;
- 5) To refine PD parcel acreages, residential densities and park, golf course and open space allocations.

The following waivers from Orange County Code are also requested:

- 1) A waiver from Section 38-1254(1) to allow a minimum twenty (20) foot setback from all boundaries of the PD for one-story and two-story residential units within PD Parcel "M" only, in lieu of a minimum twenty-five (25) foot setback;

- 2) A waiver from Section 38-1254(2)) to allow a minimum twenty (20) foot setback from an arterial street (Narcoossee Road) within PD Parcel "M" only, in lieu of a minimum fifty (50) foot setback;
- 3) A waiver from Section 38-1258(b) to allow a maximum building height, including all architectural features, of three (3) stories and fifty (50) feet for buildings located between one-hundred (100) feet and one-hundred fifty (150) feet from single family zoned property within PD Parcel "M" only, in lieu of requiring that the buildings vary in height with a maximum of fifty percent (50%) of the buildings being three (3) stories, not exceeding forty (40) feet in height and the remaining buildings being one (1) story and two (2) stories in height;
- 4) A waiver from Section 38-1258(c) to allow a maximum building height, including architectural features, of three (3) stories and fifty (50) feet for buildings located one-hundred (100) feet or greater from single-family zoned property within PD Parcel "M" only, in lieu of three (3) stories or forty (40) feet in height for buildings located within one-hundred and fifty (150) feet of single family zoned property;
- 5) A waiver from Section 38-1258(d) to allow a maximum building height, including architectural features, of three (3) stories and fifty (50) feet within PD Parcel "M" only, in lieu of three (3) stories and thirty-five feet;
- 6) A waiver from Section 38-1272(3) to allow a twenty (20) foot setback along the perimeter of a PD that is adjacent to an arterial road for office buildings within PD Parcel "M" only, in lieu of a minimum setback for general commercial development of forty (40) feet along the perimeter of a PD that is adjacent to an arterial road;
- 7) A waiver from Section 38-79(5)(b)(2) to extend the permit for the temporary sales trailer located within PD Parcel "E" an additional three (3) years from the date of the BCC waiver approval or when ninety (90) percent of the subdivision is complete (whichever comes first), in lieu of only the two (2) year period allowed by Section 38- 79(5)(b)(2); and
- 8) A waiver from Section 38-79(20)(j) to allow a minimum distance between buildings (rear-to-rear) of forty (40) feet with PD Parcel "L" only, in lieu of sixty (60) feet;

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

1. Development shall conform to the Eagle Creek PD Land Use Plan dated "Received October 22, 2012," 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, ordinance 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 of this zoning and the land use plan dated "Received October 22, 2012," 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 at the public hearing where this development was approved, 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. 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 or approved.
3. The additional access driveway into the PD at Village M shall be aligned with the existing median opening and existing left turn lane at Narcoossee Road. The PSP or DP for Village M shall verify this alignment.
4. All acreages regarding conservation areas and wetland buffers are considered approximate until finalized by a Conservation Area Determination (CAD) and a Conservation Area Impact (CAI) Permit. Approval of this plan does not authorize any direct or indirect conservation area impacts.
5. Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP).
6. The Developer shall obtain wastewater and reclaimed water service from Orange County Utilities.
7. Prior to the platting of Village L PSP, an agreement shall be executed providing for an adequate outfall from Eagle Creek to Lake Hart.
8. A waiver from Section 38-1254(1) is granted to allow a minimum twenty (20) foot setback from all boundaries of the PD for one-story and two-story residential units within PD Parcel "M" only, in lieu of a minimum twenty-five (25) foot setback.
9. A waiver from Section 38-1254(2) is granted to allow a minimum twenty (20) foot setback from an arterial street (Narcoossee Road) within PD Parcel "M" only, in lieu of a minimum fifty (50) foot setback.
10. A waiver from Section 38-1258(b) is granted to allow a maximum building height, including all architectural features, of three (3) stories and fifty (50) feet for buildings located between one-hundred (100) feet and one-hundred fifty (150) feet

from single family zoned property within PD Parcel "M" only, in lieu of requiring that the buildings vary in height with a maximum of fifty percent (50%) of the buildings being three (3) stories, not exceeding forty (40) feet in height and the remaining buildings being one (1) story and two (2) stories in height.

11. A waiver from Section 38-1258(c) is granted to allow a maximum building height, including architectural features, of three (3) stories and fifty (50) feet for buildings located one-hundred (100) feet or greater from single-family zoned property within PD Parcel "M" only, in lieu of three (3) stories or forty (40) feet in height for buildings located within one-hundred and fifty (150) feet of single family zoned property.
12. A waiver from Section 38-1258(d) is granted to allow a maximum building height, including architectural features, of three (3) stories and fifty (50) feet within PD Parcel "M" only, in lieu of three (3) stories and thirty-five feet.
13. A waiver from Section 38-1272(3) is granted to allow a twenty (20) foot setback along the perimeter of a PD that is adjacent to an arterial road for office buildings within PD Parcel "M" only, in lieu of a minimum setback for general commercial development of forty (40) feet along the perimeter of a PD that is adjacent to an arterial road.
14. A waiver from Section 38-79(5)(b)(2) is granted to extend the permit for the temporary sales trailer located within PD Parcel "E" an additional three (3) years from the date of the BCC waiver approval or when ninety (90) percent of the subdivision is complete (whichever comes first), in lieu of only the two (2) year period allowed by Section 38-79(5)(b)(2).
15. A waiver from Section 38-79(20)(j) is granted to allow a minimum distance between buildings (rear-to-rear) of forty (40) feet with PD Parcel "L" only, in lieu of sixty (60) feet.
16. All previous applicable BCC Conditions of Approval, dated November 23, 2010, shall apply:
 - a. At the time of platting, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.
 - b. All acreages regarding conservation areas and wetland buffers are considered approximate until finalized by a Conservation Area Determination (CAD) and a Conservation Area Impact (CAI) Permit. Approval of this plan does not authorize any direct or indirect conservation area impacts.
 - c. The Developer shall obtain water and wastewater service from Orange County Utilities.

- d. A Master Utility Plan (MUP) shall be approved prior to Construction Plan approval.
- e. A waiver is granted from Section 38-79(20)(k) to allow single-family attached structures to have a 5-foot side setback between structures in lieu of a 10-foot side setback (with a 20-foot building separation).
- f. A waiver is granted from Section 38-1254(2) to allow a 5-foot street front setback and 10-foot street side setback for single-family attached lots and a 10-foot street front and street side setback for multi-family units in lieu of the required 20 feet.
- g. A waiver is granted from Section 38-1254(l) to allow single-family height of 35 feet and 3 stories in lieu of 35 feet and 2 stories.
- h. A waiver from Section 38-1258(a) & (b) is granted to allow multi-family buildings of 3 stories and 40 feet within 25 feet of single-family in lieu of the required 100-foot / 150-foot building setback requirement.
- i. A waiver is granted from Section 38-1258(d) to allow multi-family buildings in Parcel M to be 45 feet in height (and to allow architectural features up to 65 feet in height) in lieu of 40 feet when the residential uses are located on top of commercial uses.
- j. A waiver is granted from Section 38-1258(e) to allow parking and other paved areas 5 feet from single-family zoned property in lieu of the required 25 feet.
- k. A waiver is granted from Section 38-1258(f) to eliminate the 6-foot wall requirement between single-family and multi-family development.
- l. A waiver from Section 38-1258(i) is granted to eliminate the fence requirement along the right-of-way when single-family is located across a right-of-way.
- m. A waiver is granted from Section 38-1258(j) to allow a 20-foot building separation between 3-story height multi-family buildings in lieu of the required 40 feet.
- n. A waiver is granted from Section 38-1272(a)(3) to allow commercial/office and mixed use buildings to have a 15-foot setback from non-major right-of-ways in lieu of the required 30 feet.
- o. A waiver from Section 38-1272(a)(5) is granted to allow architectural features, such as corner towers, on commercial buildings to extend to a maximum height of 65 feet (3-stories) in order to achieve design flexibility in the mixed use Village Center area.

- p. A waiver is granted from Section 38-1501 to allow a front porch setback of 15 feet for detached single-family and zero (0) feet for attached single-family in lieu of the required 20 feet.
 - q. A waiver is granted from Section 38-1501 to allow front building setbacks for attached single-family to be 5 feet in lieu of 20 feet.
 - r. A waiver is granted from Section 38-1501 to allow townhouses to have a second story porch balcony setback of zero (0) feet in lieu of 20 feet.
 - s. No development is permitted that will cause the cumulative external peak hour trips to exceed 1,805 until the mitigation required for Phase 2A is complete or agreed by binding agreement.
 - t. No development is permitted that will cause the cumulative external peak hour trips to exceed 2,166 until the mitigation required for Phase 2B is complete or agreed by binding agreement and until the M&M Study required for Phase 3 is completed.
 - u. The Eagle Creek DRI (Phase 2A & 2B) are vested from concurrency.
17. All applicable previously-approved Conditions of Approval, including those dated December 16, 2008, shall apply:
- a. Pole signs, billboards, and outside storage and displays are prohibited. The first Preliminary Subdivision Plan/Development Plan (PSP/DP) shall include a master sign plan for the development.
 - b. Architectural Review Committee. At the time of approval of a plat for a single-family residential unit project, the developer shall have prepared and submitted for review a document containing Covenants, Conditions, and Restrictions (CC&Rs) for the property being platted. Orange County Attorney's Office shall review and approve the proposed CC&Rs. The CC&Rs, which shall be recorded simultaneous with the recording of the plat, shall include a provision for an Architectural Review Committee and incorporating the design requirements found on the LUP and the Eagle Creek Design Guidelines Booklet and all its appendices as amended and incorporated into the revised Land Use Plan.
 - The provision of the CC&Rs incorporating the above-referenced requirements shall not be amended, removed, or superseded without the prior approval of the BCC, which approval may be withheld in the Board's sole discretion, and the CC&Rs shall contain a statement to that effect.

- Furthermore, the CC&Rs shall provide that the homeowners' association and any person owning property in the development have the right to enforce these requirements in the event they are violated.
 - Finally, the CC&Rs shall also state that Orange County shall have the right, but not the duty, to enforce these requirements in the same manner as it enforces other Orange County ordinances and regulations.
- c. This project shall be a gated community and shall comply with the minimum requirements of the Gated Community Ordinance, Orange County Code Sections 34-280, 34-290, and 34-291, as they may be amended from time to time. In addition to complying with those minimum requirements, the declaration of covenants, conditions and restrictions required to be recorded simultaneous with the recording of the plat shall include terms requiring the establishment and maintenance of a fifth HOA account for the cost of storm debris removal from the subdivision infrastructure, consistent with the terms relating to the other four HOA accounts set forth in Section 34-290(8)a-d; and with respect to such fifth HOA account, the declaration shall provide requirements, restrictions, terms, conditions, and limitations consistent with the terms relating to the other four HOA accounts set forth in Section 34-291. Furthermore, prior to turning over control of the infrastructure to the HOA, the developer shall pre-fund this fifth HOA account in an amount sufficient to cover the estimated cost of debris removal for a single hurricane, which amount shall be approved by the County Engineer.
 - d. Prior to construction plan approval, master water, stormwater, reclaimed water, and wastewater plans, including preliminary calculations, shall be approved.
 - e. The "Compatibility Plan," dated "Received December 4, 2002," and the clarifications introduced at the December 11, 2001, public hearing are approved by the BCC. (Note: The Compatibility Plan has been updated and integrated into the Land Use Plan dated "Received October 22, 2012.")

• SUBSTANTIAL CHANGE PUBLIC HEARING

Applicant: Trevor Bartley, Bartley Construction, Windermere Estates Planned Development (PD) Land Use Plan (LUP), (Case #CDR-12-12-253)

Consideration: Substantial change request to the Windermere Estates PD/LUP to allow for a minimum twenty (20) foot rear yard setback within Lot 43 only, in lieu of a minimum fifty (50) foot rear yard setback. The request also requires a waiver from Orange County Code Section 38-1254(1) to allow for a minimum twenty (20) foot setback from all boundaries of a PD, in lieu of a minimum twenty-five (25) foot setback; pursuant to Orange County Code, Chapter 30, and Section 38-1207.

Location: District 1; property generally located north of Ridgewind Way, West and north of McKinnon Road; Parcel ID 01-23-27-2519-00-430; S/T/R: 01/23/27; Orange County, Florida (legal property description on file)

Clerk's Note: After the Notice of Public Hearing published in the newspaper and landowners' notifications were distributed, the request was modified by County staff as follows:

To amend to allow the PD/LUP by reducing the rear yard building setback "for PD Lot 43 only" from fifty (50) feet to a minimum twenty (20) feet, foot rear yard setback within Lot 43 only, in lieu of a minimum fifty (50) foot rear yard setback. The request also requires and to grant a waiver from Orange County Code Section 38-1254(1) to allow for a minimum twenty (20) foot setback from all boundaries of a the PD perimeter, "for PD Lot 43 only", in lieu of a minimum twenty-five (25) feet-foot setback.

The County Mayor noted the applicant present and waived time to address the Board at this time.

The following persons addressed the Board:

- Brent Spain
- Kathie Glass
- Trevor Bartley

The following exhibit was received by the Clerk prior to the close of the public hearing: Exhibit 1, from Brent Spain.

Motion/Second: Commissioner Boyd/County Mayor Jacobs

AYE (voice vote): County Mayor Jacobs; Commissioners Boyd, Clarke, Thompson, Edwards, Russell

NO (voice vote): Commissioner Brummer

Action: The Board made a finding of consistency with the Comprehensive Plan; and further, approved the substantial change request by Trevor Bartley, Bartley Construction, Windermere Estates Planned Development (PD) Land Use Plan (LUP), (Case #CDR-12-12-253), to amend the PD/LUP by reducing the rear yard building setback "for PD Lot 43 only" from fifty (50) feet to twenty (20) feet, and to grant a waiver from Orange County Code Section 38-1254(1) to allow for a minimum twenty (20) foot setback from the PD perimeter "for PD Lot 43 only", in lieu of twenty-five (25) feet; which constitutes a substantial change to the development on the described property subject to the following conditions and as amended below:

1. Development shall conform to the PD Land Use Plan dated "Received December 3, 2012," 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, ordinance 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 of this zoning and the land use plan dated "Received December 3, 2012," 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 at the public hearing where this development was approved, 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. 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 or approved.
3. A waiver from Orange County Code Section 38-1254(1) is granted to allow a minimum 20' building setback from the PD perimeter within Lot 43 only, in lieu of a minimum 25' building setback from the PD perimeter.

Note: The previous BCC Conditions of Approval dated January 18, 2005, and December 6, 1994, have been replaced by new conditions 1 and 2 above, and are no longer applicable.

Motion/Second: Commissioners Boyd/Thompson

AYE (voice vote): All members

Action: The Board amended the main motion to approve a condition of approval as follows:

- Condition 4: Prior to the issuance of the Certificate of Occupancy for the addition on Lot 43, (A) a landscape plan shall be prepared by the owner of Lot 43 and shall be reviewed and approved by the Zoning Division showing the owner of Lot 43 continually maintaining a minimum 8' high vegetative buffer along the addition on the west side, up to the property line to the back of the north, across the north side and down to the back of the house to the pool area east side, and (B) the approved vegetation shall be planted.

- FAMILY SERVICES DEPARTMENT WORKSESSION AGENDA ITEM 1 DEFERRED

Citizens' Review Panel for Human Services Presentation.

Action: None


- COUNTY MAYOR DISCUSSION AGENDA ITEM 1

Open discussion on issues of interest to the board.

Action: None

- ADJOURNMENT, 5:28 p.m.

ATTEST:


County Mayor Teresa Jacobs

Date: FEB 12 2013

ATTEST SIGNATURE:

Martha O. Haynie
County Comptroller as Clerk


Assistant Deputy Clerk

