

**ORANGE COUNTY
PLANNING AND ZONING COMMISSION (PZC) / LOCAL PLANNING AGENCY
(LPA)
Meeting of September 19, 2019**

The Orange County Planning and Zoning Commission (PZC) / Local Planning Agency (LPA) met at 9:00 a.m. on September 15 2019, in the Orange County Commission Chambers, 201 South Rosalind Avenue, Orlando, Florida 32801.

PRESENT:	James Dunn	District 1
	Diane Velazquez	District 2
	Eddie Fernandez	District 3
	Gordon Spears (Vice – Chairperson)	District 5
	JaJa Wade	District 6
	Yog Melwani (Chairperson)	At Large
	Jose Cantero	At Large
	Mohammed Abdallah	At Large

ABSENT:	Carlos Nazario	District 4
---------	----------------	------------

ALSO

PRESENT: Orange County Staff: Eric Raasch, Planning Administrator; Steven Thorp, Planner; Nicolas Thalmueller, Planner; Nate Wicke, Planner; Whitney Evers, Assistant County Attorney; and Terri-Lyn Pontius, Administrative Assistant.

Chairperson Melwani called the meeting to order. Following the Pledge of Allegiance, the following agenda items were called:

APPROVAL OF MINUTES

A motion was made by Commissioner Cantero to approve the August 15, 2019 minutes. The motion was seconded by Commissioner Dunn and was then approved unanimously on an 8-0 vote with Commissioner Nazario absent.

OLD BUSINESS

No old business was discussed.

NEW BUSINESS

No new business was discussed.

CONVENTIONAL REZONING PUBLIC HEARINGS:

1. George E. Foote, Jr. RZ-19-09-033, District 6

- Applicant:** George E. Foote, Jr.
- Consideration:** A request to rezone 0.37 gross acres from R-3 (Multiple-Family Dwelling District) & C-1 (Retail Commercial District) to C-1 (Retail Commercial District) & C-2 (General Commercial District) for general C-1 & C-2 uses.
- Location:** 5829 Old Winter Garden Road, generally at the northwest corner of the intersection of Old Winter Garden Road and S. Normandale Avenue, east of S. Hudson Street, and south of W. Church Street.
- Tract Size:** 0.37 gross acre
- Speakers:** George E. Foote, Jr. (Applicant)
- Action:** Make a finding of consistency with the Comprehensive Plan and recommend **APPROVAL** of the requested C-2 (General Commercial District) zoning for parcel ID numbers: 25-22-28-6424-04-230 and 25-22-28-6424-04-220, and the requested C-1 (Retail Commercial District) zoning for parcel ID number: 25-22-28-6424-04-160 subject to the following variances and restrictions:

Variances:

1. A variance from Orange County Code Section 38-1501 for Parcel 25-22-28-6424-04-160, to allow for a minimum lot width of 50 feet, in lieu of the required 60 foot lot width in the C-1 zoning district; and

2. A variance from Orange County Code Section 38-1501 for Parcels 25-22-28-6424-04-230 and 25-22-28-6424-04-220, to allow for a minimum lot width of 80 feet, in lieu of the required 100 foot lot width in the C-2 zoning district.

Restrictions:

1. New billboards and pole signs shall be prohibited.
2. The applicant / developer shall submit a site plan to demonstrate compliance with all Orange County Code requirements (including landscaping and paved surfaces) prior to the accommodation of any non-residential uses.
3. Parcels 25-22-28-6424-04-230 and 25-22-28-6424-04-220 shall be aggregated into one (1) lot prior to the issuance of any permit; and
4. A six (6) foot masonry wall shall be constructed along the north property line adjacent to residential uses.

Motion /Second: JaJa Wade / Jose Cantero

AYE (voice vote): JaJa Wade, Jose Cantero, Eddie Fernandez, Diane Velazquez, Jimmy Dunn, Gordon Spears, Mohammed Abdallah, and Yog Melwani

NAY (voice vote): None

Absent: Carlos Nazario

2. Pablo Rodriguez, RZ-19-09-034, District 3

Applicant: Pablo Rodriguez

Consideration: A request to rezone 0.15 gross acres from A-2 (Farmland Rural District) to R-1 (Single-Family Dwelling District) for a one single family dwelling unit.

Location: 1504 Selma Avenue, generally located west of Selma Avenue, approximately 1,110 feet south of E. Colonial Drive.

Tract Size: 0.15 gross acres

Speakers: Pablo Rodriguez (Applicant)

Action: Make a finding of consistency with the Comprehensive Plan, and recommend **APPROVAL** of the requested R-1 (Single-Family Dwelling District) zoning.

Motion / Second: Eddie Fernandez / Gordon Spears

AYE (voice vote): Eddie Fernandez, Gordon Spears, Jimmy Dunn, Jose Cantero, Mohammed Abdallah, JaJa Wade, Diane Velazquez, and Yog Melwani

NAY (voice vote): None

Absent Carlos Nazario

3. **Debica Lachman, RZ-19-09-035, District 6**

Applicant: Debica Lachman

Consideration: A request to rezone 0.31 gross acres from R-1 (Single-Family Dwelling District) to I-2/I-3 (Industrial District) for truck parking.

Location: 310 and 302 Metcalf Avenue, generally west of Metcalf Avenue, east of Tremont Avenue, north of Huppel Avenue, approximately 783 feet south of Old Winter Garden Road.

Tract Size: 0.31 gross acres

Speakers: Debica Lachman (Applicant)

Action: Make a finding of consistency with the Comprehensive Plan and recommend **APPROVAL** of the requested I-2/I-3 (Industrial District) zoning, subject to the following restrictions:

1. New billboards and pole signs shall be prohibited; and,
2. The applicant / developer shall submit a site plan to demonstrate compliance with all Orange County Code

requirements (including landscaping and paved surfaces) prior to the accommodation of any non-residential uses on the property.

Motion / Second: JaJa Wade / Jose Cantero

AYE (voice vote): JaJa Wade, Jose Cantero, Diane Velazquez, Jimmy Dunn, Gordon Spears, Yog Melwani, and Mohammed Abdallah, Eddie Fernandez

NAY (voice vote): None

Absent Carlos Nazario

4. Aidil Victoria Estevez, RZ-19-09-036, District 5

Applicant: Aidil Victoria Estevez

Consideration: A request to rezone 0.92 gross acres from C-1 (Retail Commercial District) to C-2 (General Commercial District) for used automobile sales.

Location: 4455-4461 Edgewater Drive, or generally on the northeast side of Edgewater Drive, approximately 415 feet southeast of Goddard Avenue..

Tract Size: 0.92 gross acres

Speakers: Aidil Victor Estevez (Applicant)

Action: Make a finding of consistency with the Comprehensive Plan, and recommend **APPROVAL** of the requested C-2 (General Commercial District) zoning, subject to the following restrictions:

1. New billboards and pole signs shall be prohibited;
2. The applicant/ developer shall submit a site plan to demonstrate compliance with all Orange County Code requirements (including landscaping and paved surfaces) prior to the accommodation of any C-2 uses; and

3. The property shall be restricted to C-1 uses and the C-2 use of Automobile Sales only.

Motion / Second: Gordon Spears / Eddie Fernandez

AYE (voice vote): Gordon Spears, Eddie Fernandez, Jimmy Dunn, JaJa Wade, , Mohammed Abdallah, Yog Melwani, Jose Cantero, and Diane Velazquez

NAY (voice vote): None

Absent: Carlos Nazario

PLANNED DEVELOPMENT REZONING PUBLIC HEARINGS

5. Raymond Stangle, LUP-18-01-037, District 5

Project Name: Rouse Road Villas Planned Development (PD)

Consideration: A request to rezone 2.41 acres from R-1 (Single-Family Dwelling District) to PD (Planned Development District) in order to construct twenty-four (24) fee-simple duplex units. The request also includes the following waivers from Orange County Code:

1. A waiver from Section 38-1501 to allow for a minimum duplex lot area of 3,550 square feet, in lieu of 8,000 square feet.
2. A waiver from Section 38-1501 to allow for a minimum duplex lot width of 50 feet, in lieu of 80 feet.
3. A waiver from Section 38-1501 to allow for a minimum rear yard of 5 feet, in lieu of 30 feet.
4. A waiver from Section 38-79(2) to allow for a minimum front yard setback of 20 feet, a side yard setback of 5 feet and a rear yard setback of 5 feet, in lieu of a minimum front yard setback of 25 feet, a side yard setback of 6 feet and a rear yard setback of 25 feet.

Location: 2801 & 2116 Rouse Road, or generally on the west side of Rouse Road, north of East Colonial Drive and south of Eastwood Drive.

Tract Size: 2.41 gross acres

Action: Motion to continue this item to the October 17, 2019 Planning and Zoning Commission meeting at 9:00 a.m.

Motion / Second: Gordon Spears / Jimmy Dunn

AYE (voice vote): Gordon Spears, Jimmy Dunn, Jose Cantero, Diane Velazquez, Yog Melwani, JaJa Wade, Mohammed Abdallah, and Eddie Fernandez

NAY (voice vote): None

Absent: Carlos Nazario

6. Kathy Hattaway, LUP-18-10-355, District 1

Project Name: Withers Planned Development (PD)

Consideration: A request to rezone eight (8) parcels containing 320.75 acres from A-1 (Citrus Rural District) and A-2 (Farmland Rural District) to PD, in order to construct 814 residential units, 10,000 square feet of commercial uses, and dedication of an APF (Adequate Public Facility) park, a middle school ,and an elementary school.

The request also includes the following waivers from Orange County Code:

1. A waiver from Section 34-152(c) for parcels 4,5, 11,12,and 17 to allow lots to front a mews park, open space, etc. and have access via a tract or easement, in lieu of the requirement that each lot shall have a minimum access width of twenty (20) feet to a dedicated public paved street.
2. A waiver from Section 38-1382(h)(4), for PD Parcels 4,5,11,12 and 17 to allow alleys to be designed as a tract, in lieu of the requirement that they shall be designed as a private easement.

3. A waiver from Section 38-1384(g)(1) for PD parcels 4,5,11,12, and 17 to allow garage access to be setback from an alley tract, in lieu of an easement.
4. A waiver from Section 38-1384(g)(2), for PD Parcels 4, 5, 11, 12, and 17, to allow detached garages without access to a rear alley tract, including garages with an accessory dwelling unit, shall be located a minimum of five (5) feet from side and rear property lines, and shall be no closer than ten (10) feet to any other detached structure on the same lot, in lieu of detached garages without access to a rear alley easement, including garages with an accessory dwelling unit, shall be located a minimum of five (5) feet from side and rear property lines, and shall be no closer than ten (10) feet to any other detached structure on the same lot.
5. A waiver from Section 38-1384(i)(2), for PD Parcels 4, 5, 11, 12, and 17, to allow vehicular access to garages or other off-street parking to be from a rear alley tract, in lieu of an easement.
6. A waiver from Section 30-714(c) is requested to allow the project to proceed beyond 5% of the approved PD entitlements, which 5% threshold is identified in the APF Agreement as 40 dwelling units (attached or detached); provided, however, that prior to said 5% threshold being reached or exceeded: (A) the approximately 5.81 acres of Future APF Right-of-Way have been conveyed to the County or to an escrow agent who is obligated to release a deed conveying such right-of-way to the County, in accordance with that certain Hartzog Road Right-of-Way Agreement recorded at ORB 9712/4850, as amended, and as affected by that certain First Amendment to Agreement Concerning Hartzog Road Right-of-Way Agreement recorded at ORB 11021/4154, as amended; (B) the approximately 0.98 acres of APF ROW have been conveyed to the County or placed into escrow, pursuant to an escrow agreement acceptable to the County; and (C) the approximately 5.0 acre APF Park has been conveyed to the County or placed into escrow, pursuant to an escrow agreement acceptable to the County.

Location: Generally east of Avalon Road, north of Hartzog Road and south of Western Way

Tract Size: 320.75 gross acres

Speaker: Kathy Hattaway (Applicant)

Action: Make a finding of consistency with the Comprehensive Plan and recommend **APPROVAL** of the Withers Planned Development / Land Use Plan (PD/LUP) dated "Received June 5, 2019", subject to the following conditions:

1. Development shall conform to the Withers Land Use Plan (LUP) dated "Received June 5, 2019," 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 June 5, 2019," 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 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 MM DD, YYYY.
 - 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 ## residential units allowed under the zoning existing prior to the approval of the PD zoning. The County may again begin issuing building permits upon Orange County Public Schools' written notice to the County that the developer is no longer in breach or default of the Capacity Enhancement Agreement. The developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, shall indemnify and hold the County harmless from any third party claims, suits, or actions arising as a result of the act of ceasing the County's issuance of residential building permits.
 - c) Developer, and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, agrees that it shall not claim in any future litigation that the County's enforcement of

any of these conditions are illegal, improper, unconstitutional, or a violation of developer's rights.

- d) Orange County shall be held harmless by the developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Capacity Enhancement Agreement.

Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.

7. The Owner shall convey the school site(s) as required by the Adequate Public Facilities (APF) agreement and Capacity Enhancement Agreement (CEA), as may be amended; failure to comply shall authorize OCPS to request that Orange County discontinue the issuance of any building permits, certificates of occupancy, or any other approvals associated with this PD.
8. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a Capacity Encumbrance Letter (CEL) prior to construction plan submittal and must apply for and obtain a Capacity Reservation Certificate (CRC) prior to approval of the plat. Nothing in this condition, and nothing in the decision to approve this land use plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a CEL or a CRC.
9. The Applicant shall comply with the terms and conditions of the Hartzog Road Right-of-Way Agreement recorded at Official Records Book/Page 9712/4850, Public Records of Orange County, Florida, as may be amended.
10. This project will be subject to the terms and conditions of the pending Village I Road Network Agreement.
11. Approval of this plan does not constitute approval of a permit for the construction of a boat ramp. Any person desiring to construct a boat ramp shall apply to the Orange County Environmental Protection Division as specified in Orange

County Code Chapter 15 Environmental Control, Article XV Boat Ramps, prior to installation, for an Orange County Boat Ramp Facility Permit, as well as to any other Orange County Division(s) for any other applicable permits.

12. 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.
13. Approval of this plan does not constitute approval of a permit for the construction of a boat dock, boardwalk, observation pier, fishing pier, community pier or other similar permanently fixed or floating structures. Any person desiring to construct any of these structures shall apply to the Orange County Environmental Protection Division, as specified in Orange County Code Chapter 15 Environmental Control, Article IX Dock Construction, prior to installation, for an Orange County Dock Construction Permit, as well as to any other Orange County Division(s) for any other applicable permits.
14. 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).
15. No activity will be permitted on the site that may disturb, influence, or otherwise interfere with: areas of soil or groundwater contamination, or any remediation activities, or within the hydrological zone of influence of any contaminated area, unless prior approval has been obtained through the Florida Department of Environmental Protection (FDEP) and such approval has been provided to the Environmental Protection Division of Orange County. An owner/operator who exacerbates any existing contamination or does not properly dispose of any excavated contaminated media may become liable for some portion of the contamination pursuant to the provisions in section 376.308, F.S.

16. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
17. Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP) for Village I. 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.
18. 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 the PSP boundaries; such MUP shall include supporting calculations showing that the PSP-level MUP is consistent with the approved and up-to-date MUP for the Village, or shall include an update to the Village MUP to incorporate any revisions. The MUP(s) must be approved prior to construction plan approval.
19. 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 Village (SAP). Utilities infrastructure shall be built connecting to the build-out points of connection approved in the Master Utilities Plan (MUP).
20. Prior to construction plan approval, all property owners within the Village I, excluding public entities, shall be required to sign an agreement between the parties addressing their proportionate share of funds for the costs of the offsite and onsite master utilities sized to Village requirements. Property owners may elect to use alternate financing in lieu of the private proportionate cost share agreement provided master utilities sized for Village requirements are constructed.
21. A 5-year interim Master Utility Plan (MUP) for Village I must be approved prior to Construction Plan approval within this PD.
22. Pole signs and billboards shall be prohibited. Ground and Fascia signs shall comply per Chapter 31.5 and Section 38-1755(o) of the School Siting Regulations.

23. Tree removal/Earthwork shall not occur unless and until construction plans for the first Preliminary Subdivision and/or Development Plan with a tree removal and mitigation plan have been approved by Orange County.
24. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) submittal and must be approved prior to Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) approval for any streets and/or tracts anticipated to be dedicated to the County and/or to the perpetual use of the public.
25. The following waivers from Orange County Code are granted:
 - a. A waiver from Section 34-152(c), for PD Parcels 4, 5, 11, 12, and 17, to allow lots to front a mews, park, open space, etc. and have access via a tract or easement, in lieu of the requirement that each lot shall have a minimum access width of twenty (20) feet to a dedicated public paved street.
 - b. A waiver from Section 38-1382(h)(4), for PD Parcels 4, 5, 11, 12, and 17, to allow alleys to be designed as a tract, in lieu of the requirement that they shall be designed as a private easement.
 - c. A waiver from Section 38-1384(g)(1), for PD Parcels 4, 5, 11, 12, and 17, to allow garage access to be setback from an alley tract, in lieu of an easement
 - d. A waiver from Section 38-1384(i)(2), for PD Parcels 4, 5, 11, 12, and 17, to allow vehicular access to garages or other off-street parking to be from a rear alley tract, in lieu of an easement.
 - e. A waiver from Section 38-1384(g)(2), for PD Parcels 4, 5, 11, 12, and 17, to allow detached garages without access to a rear alley tract, including garages with an accessory dwelling unit, shall be located a minimum of five (5) feet from side and rear property lines, and shall be no closer than ten (10) feet to any other detached structure on the same lot, in lieu of detached

garages without access to a rear alley easement, including garages with an accessory dwelling unit, shall be located a minimum of five (5) feet from side and rear property lines, and shall be no closer than ten (10) feet to any other detached structure on the same lot.

- f. A waiver from Section 30-714(c) to allow the project to proceed beyond 5% of the approved PD entitlements, which 5% threshold is identified in the APF Agreement as 40 dwelling units (attached or detached); provided, however, that prior to said 5% threshold being reached or exceeded: (A) the approximately 5.81 acres of Future APF Right-of-Way have been conveyed to the County or to an escrow agent who is obligated to release a deed conveying such right-of-way to the County, in accordance with that certain Hartzog Road Right-of-Way Agreement recorded at ORB 9712/4850, as amended, and as affected by that certain First Amendment to Agreement Concerning Hartzog Road Right-of-Way Agreement recorded at ORB 11021/4154, as amended; (B) the approximately 0.98 acres of APF ROW have been conveyed to the County or placed into escrow, pursuant to an escrow agreement acceptable to the County; and (C) the approximately 5.0 acre APF Park has been conveyed to the County or placed into escrow, pursuant to an escrow agreement acceptable to the County.

Motion / Second: Diane Velazquez / Eddie Fernandez

AYE (voice vote): Diane Velazquez, Eddie Fernandez, and Yog Melwani,

NAY (voice vote): None

Absent: Carlos Nazario and JaJa Wade

Jimmy Dunn, Jose Cantero, Gordon Spears and Mohammed Abdallah declared conflicts of interest and recused themselves from the vote.

7. Kathy Hattaway, LUP-18-07-223, District 1

Project Name: KRPC Hartzog Planned Development (PD)

Consideration: A request to rezone two (2) parcels containing 19.90 gross acres from R-T-2 (Combination Mobile Home and Single-Family Dwelling District) to PD (Planned Development District) in order to construct 54 single-family dwelling units. No waivers from Orange County Code are proposed.

Location: 14080 Hartzog Road, or generally located on the north side of Hartzog Road, approximately 3,800 feet east of Avalon Road.

Tract Size: 19.90 gross acres

Speaker: Kathy Hattaway (Applicant)

Action: Make a finding of consistency with the Comprehensive Plan and recommend **APPROVAL** of the KRPC Hartzog Road Planned Development / Land Use Plan (PD/LUP) dated "Received June 20, 2019", subject to the following conditions:

1. Development shall conform to the KRPC Hartzog Road Land Use Plan (LUP) dated "Received June 20, 2019," 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 June 20, 2019," the

condition of approval shall control to the extent of such conflict or inconsistency.

2. This project shall comply with, adhere to, and not deviate from or otherwise conflict with any verbal or written promise or representation made by the applicant (or authorized agent) to the Board of County Commissioners ("Board") at the public hearing where this development received final approval, where such promise or representation, whether oral or written, was relied upon by the Board in approving the development, could have reasonably been expected to have been relied upon by the Board in approving the development, or could have reasonably induced or otherwise influenced the Board to approve the development. In the event any such promise or representation is not complied with or adhered to, or the project deviates from or otherwise conflicts with such promise or representation, the County may withhold (or postpone issuance of) development permits and / or postpone the recording of (or refuse to record) the plat for the project. For purposes of this condition, a "promise" or "representation" shall be deemed to have been made to the Board by the applicant (or authorized agent) if it was expressly made to the Board at a public hearing where the development was considered and approved.
3. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this land use plan to promptly disclose to the County any changes in ownership, encumbrances, or other matters of record affecting the property that is subject to the plan, and to resolve any issues that may be identified by the County as a result of any such

changes. Developer / Applicant acknowledges and understands that any such changes are solely the Developer's / Applicant's obligation and responsibility to disclose and resolve, and that the Developer's / Applicant's failure to disclose and resolve any such changes to the satisfaction of the County may result in the County not issuing (or delaying issuance of) development permits, not recording (or delaying recording of) a plat for the property, or both.

5. Property that is required to be dedicated or otherwise conveyed to Orange County (by plat or other means) shall be free and clear of all encumbrances, except as may be acceptable to County and consistent with the anticipated use. Owner / Developer shall provide, at no cost to County, any and all easements required for approval of a project or necessary for relocation of existing easements, including any existing facilities, and shall be responsible for the full costs of any such relocation prior to Orange County's acceptance of the conveyance. Any encumbrances that are discovered after approval of a PD Land Use Plan shall be the responsibility of Owner / Developer to release and relocate, at no cost to County, prior to County's acceptance of conveyance. As part of the review process for construction plan approval(s), any required off-site easements identified by County must be conveyed to County prior to any such approval, or at a later date as determined by County. Any failure to comply with this condition may result in the withholding of development permits and plat approval(s).
6. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a capacity encumbrance letter prior to construction plan submittal and must apply for and obtain a capacity reservation certificate prior to approval of the plat. Nothing in this condition, and nothing in the decision to approve this land use plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a capacity encumbrance letter or a capacity reservation certificate.
7. This project shall comply with the Comprehensive Plan Policy FLU4.3.10.
8. 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 May 28, 2019.
 - 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 six (6) 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.
9. 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).

10. 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.
11. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
12. At least thirty (30) days prior to construction plan submittal, the applicant shall submit a Master Utility Plan (MUP) or MUP update for the PD, including hydraulically dependent parcels outside the PD boundaries; such MUP shall include supporting calculations showing that the PD-level MUP is consistent with the approved MUP for the Village, or shall include an update to the Village MUP to incorporate any revisions. The MUP(s) must be approved prior to construction plan approval.
13. The developer shall be responsible for building master utilities transmission and collection infrastructure adequate to serve the PD and to accommodate the ultimate flows for the entire Village. Utilities infrastructure shall be built connecting to the build-out points of connection approved in the Village I Master Utility Plan (MUP).
14. Prior to construction plan approval, all property owners within Village I, excluding public entities, shall be required to sign an agreement between the parties addressing their proportionate share of funds for the costs of the offsite and onsite master utilities sized to Village requirements. Property owners may elect to use alternative financing in lieu of the private proportionate cost share agreement provided master utilities sized for Village requirements are constructed.
15. A 5-year interim Master Utility Plan (MUP) for Village I must be approved prior to Construction Plan approval within this PD.
16. Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP) for Village I. 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.

17. Tree removal/earthwork shall not occur unless and until construction plans for the first Preliminary Subdivision Plan and/or Development Plan with a tree removal and mitigation plan have been approved by Orange County.
18. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
19. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any Preliminary Subdivision Plan (PSP) and/or Development Plan (DP) submittal and must be approved prior to Preliminary Subdivision Plan (PSP) and/or Development Plan (DP) approval for any streets and/or tracts anticipated to be dedicated to the County and/or to the perpetual use of the public.

Motion / Second: Eddie Fernandez / Diane Velazquez

AYE (voice vote): Eddie Fernandez, Diane Velazquez, JaJa Wade, and Yog Melwani

NAY (voice vote): None

Absent: Carlos Nazario

Jimmy Dunn, Jose Cantero, Gordon Spears and Mohammed Abdallah declared conflicts of interest and recused themselves from the vote.

8. Kathy Hattaway, LUP-18-07-225, District 1

Project Name: Lake Mac Planned Development (PD)

Consideration: A request to rezone two (2) parcels containing 107.57 gross acres from A-1 (Citrus Rural District) and A-2 (Farmland Rural District) to PD (Planned Development District) in order to

construct 399 dwelling units and 196,000 square feet of commercial uses. The request also includes the following waivers from Orange County Code:

1. A waiver from Section 34-152(c) is requested, for Parcel 23, to allow lots to front a mews, park, open space, etc. and have access via a tract or easement in lieu of the requirement that each lot shall have a minimum access width of twenty (20) feet to a dedicated public paved street.
2. A waiver from Section 38-1382(h)(4) is requested, for Parcel 23, to allow alleys to be designed as a tract in lieu of the requirement that they shall be designed as a private easement.
3. A waiver from Section 38-1384(g)(1) is requested, for Parcel 23 to allow garage access to be setback from an alley tract in lieu of an easement.
4. A waiver from Section 38-1384(g)(2) is requested, for Parcel 23, to allow detached garages without access to a rear alley tract, including garages with an accessory dwelling unit, shall be located a minimum of five (5) feet from side and rear property lines, and shall be no closer than ten (10) feet to any other detached structure on the same lot in lieu of detached garages without access to a rear alley easement, including garages with an accessory dwelling unit, shall be located a minimum of five (5) feet from side and rear property lines, and shall be no closer than ten (10) feet to any other detached structure on the same lot.
5. A waiver from Section 38-1384(i)(2) is requested, for Parcel 23, to allow vehicular access to garages or other off-street parking to be from a rear alley tract in lieu of an easement.
6. A waiver from Section 38-1258(a) is requested, for Parcel 21, to allow multi-family residential buildings fifteen (15) feet from single-family zoned property and to be constructed up to five-stories and 75 feet in height in lieu of the requirement that multi-family buildings within one

hundred (100) feet of a single-family zoned property be restricted to a single-story height. This waiver is both internal and external to the Lake Mac PD.

7. A waiver from Section 38-1258(b) is requested, for Parcel 21, to allow multi-family residential buildings fifteen (15) feet from single-family zoned property and to be constructed up to five-stories and 75 feet in height in lieu of the requirement that multi-family buildings within one hundred and fifty (150) feet of a single-family zoned property vary in building height. This waiver is both internal and external to the Lake Mac PD.
8. A waiver from Section 38-1258(c) is requested, for Parcel 21, to allow multi-family buildings fifteen (15) feet from a single-family zoned property and to be constructed up to five-stories and 75 feet in height, in lieu of the requirement that multi-family buildings located within one hundred and fifty (150) feet of single-family zoned property shall not exceed three (3) stories (forty (40) feet) in height. This waiver is both internal and external to the Lake Mac PD.
9. A waiver from Section 38-1258(d) is requested, for Parcel 21, to allow multi-family buildings constructed up to five-stories and 75 feet in height, in lieu of the restriction that a multi-family development shall be limited to three (3) stories (forty (40) feet) in height. This waiver is both internal and external to the Lake Mac PD.
10. A waiver from Section 38-1258(e) is requested, for Parcel 21, to allow parking and paved areas for multi-family development fifteen (15) feet from single-family zoned property, in lieu of the restriction that a parking and paved areas shall be twenty-five (25) feet from single-family zoned property. This waiver is both internal and external to the Lake Mac PD.
11. A waiver from Section 38-1258(f) is requested, for Parcel 21, to not require a six (6) foot high masonry, brick, or block wall as part of the multi-family development since it is adjacent to single-family zoned property, in lieu of the a six

(6) foot high masonry, brick, or block wall requirement. This waiver is both internal and external to the Lake Mac PD.

12. A waiver from Section 38-1258(g) is requested, for Parcel 21, to allow shared access for multi-family and single-family residential and to allow multi-family residential to directly access a right-of-way serving platted single-family residential development, in lieu of the requirement that multi-family development shall not directly access any right-of-way serving platted single-family residential. This waiver is both internal and external to the Lake Mac PD.
13. A waiver from Section 38-1258(i) is requested, for Parcel 21, to not require fencing as part of the multi-family development simply because it is adjacent to right-of-way that has single family zoned property across the right-of-way, in lieu of the requirement that multi-family development shall have fencing as part of the development because it is adjacent to right-of-way that has single family zoned property across the right-of-way. This waiver is both internal and external to the Lake Mac PD.
14. A waiver from Section 38-1258(j) is requested, for Parcel 21, to require a minimum separation of twenty (20) feet between buildings, in lieu of the requirement where doors, windows, or other openings in the wall of a living unit back up to a wall of another building with doors, windows or other openings, there shall be a minimum separation of thirty (30) feet for two-story buildings, and forty (40) feet for building three (3) stories. This waiver is both internal and external to the Lake Mac PD.

<u>Location:</u>	Generally located on the west side of Avalon Road and south of Flemings Road
<u>Tract Size:</u>	105.57 gross acres
<u>Speaker:</u>	Kathy Hattaway (Applicant)
<u>Action:</u>	Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Lake Mac Planned

Development / Land Use Plan (PD/LUP) dated "Received June 12, 2019", subject to the following conditions:

1. Development shall conform to the Lake Mac Land Use Plan (LUP) dated "Received June 12, 2019," 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 June 12, 2019," 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 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 MM DD, YYYY.
 - 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 ## residential units allowed under the zoning existing prior to the approval of the PD zoning. The County may again begin issuing building permits upon Orange County Public Schools' written notice to the County that the developer is no longer in breach or default of the Capacity Enhancement Agreement. The developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, shall indemnify and hold the County harmless from any third party claims, suits, or actions arising as a result of the act of ceasing the County's issuance of residential building permits.
 - c. Developer, and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, agrees that it shall not claim in any future litigation that the County's enforcement of any of these conditions are illegal, improper, unconstitutional, or a violation of developer's rights.
 - d. Orange County shall be held harmless by the developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Capacity Enhancement Agreement.

Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.

7. This project shall comply with Comprehensive Plan Policy FLU4.3.10.
8. No activity will be permitted on the site that may disturb, influence, or otherwise interfere with: areas of soil or groundwater contamination, or any remediation activities, or within the hydrological zone of influence of any contaminated area, unless prior approval has been obtained through the Florida Department of Environmental Protection (FDEP) and such approval has been provided to the Environmental Protection Division of Orange County. An owner/operator who exacerbates any existing contamination or does not properly dispose of any excavated contaminated media may become liable for some portion of the contamination pursuant to the provisions in section 376.308, F.S.
9. 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).
10. 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.
11. Approval of this plan does not constitute approval of a permit for the construction of a boat dock, boardwalk, observation pier, fishing pier, community pier or other similar permanently fixed or floating structures. Any person desiring to construct any of these structures shall apply to the Orange County Environmental Protection Division, as specified in Orange County Code Chapter 15 Environmental Control, Article IX Dock Construction, prior to installation, for an Orange County

Dock Construction Permit, as well as to any other Orange County Division(s) for any other applicable permits.

12. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
13. At least thirty (30) days prior to construction plan submittal, the applicant shall submit a Master Utility Plan (MUP) or MUP update for the PD, including hydraulically dependent parcels outside the PD boundaries; such MUP shall include supporting calculations showing that the PD-level MUP is consistent with the approved MUP for the Village, or shall include an update to the Village MUP to incorporate any revisions. The MUP(s) must be approved prior to construction plan approval.
14. Prior to construction plan approval, all property owners within Village I, excluding public entities, shall be required to sign an agreement between the parties addressing their proportionate share of funds for the costs of the offsite and onsite master utilities sized to Village requirements. Property owners may elect to use alternative financing in lieu of the private proportionate cost share agreement provided master utilities sized for Village requirements are constructed.
15. The developer shall be responsible for building master utilities transmission and collection infrastructure adequate to serve the PD and to accommodate the ultimate flows for the entire Village. Utilities infrastructure shall be built connecting to the build-out points of connection approved in the Village I Master Utility Plan (MUP).
16. A 5-year interim Master Utility Plan (MUP) for Village I must be approved prior to Construction Plan approval within this PD.
17. Tree removal/earthwork shall not occur unless and until construction plans for the first Preliminary Subdivision Plan and/or Development Plan with a tree removal and mitigation plan have been approved by Orange County.
18. Short term rental within the residential portion of this PD shall be prohibited. Length of stay within the residential portion of the PD shall be for 180 consecutive days or greater. If a

hotel/motel/timeshare or the like is proposed within the commercial portion of this PD then the length of stay shall not exceed 179 consecutive days.

19. Outside sales, storage, and display shall be prohibited.
20. Billboards and pole signs shall be prohibited. Ground and fascia signs shall comply with Orange County Code Chapter 31.5 Village PD. Village Center District standards apply for signage within the Village Center and Chapter 31.5 for all other districts.
21. Prior to a Certificate of Completion for the first phase of any Preliminary Subdivision Plan, Flemings Road shall be improved to Orange County standards.
22. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) submittal and must be approved prior to Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) approval for any streets and/or tracts anticipated to be dedicated to the County and/or to the perpetual use of the public.
23. The following waivers from Orange County Code are granted:
 - a. A waiver from Section 34-152(c), for Parcel 23, to allow lots to front a mews, park, open space, etc. and have access via a tract or easement in lieu of the requirement that each lot shall have a minimum access width of twenty (20) feet to a dedicated public paved street.
 - b. A waiver from Section 38-1382(h)(4), for Parcel 23, to allow alleys to be designed as a tract in lieu of the requirement that they shall be designed as a private easement.
 - c. A waiver from Section 38-1384(g)(1), for Parcel 23 to allow garage access to be setback from an alley tract in lieu of an easement.

- d. A waiver from Section 38-1384(g)(2), for Parcel 23, to allow detached garages without access to a rear alley tract, including garages with an accessory dwelling unit, shall be located a minimum of five (5) feet from side and rear property lines, and shall be no closer than ten (10) feet to any other detached structure on the same lot in lieu of detached garages without access to a rear alley easement, including garages with an accessory dwelling unit, shall be located a minimum of five (5) feet from side and rear property lines, and shall be no closer than ten (10) feet to any other detached structure on the same lot.
- e. A waiver from Section 38-1384(i)(2), for Parcel 23, to allow vehicular access to garages or other off-street parking to be from a rear alley tract in lieu of an easement.
- f. A waiver from Section 38-1258(a), for Parcel 21, to allow multi-family residential buildings fifteen (15) feet from single-family zoned property and to be constructed up to five-stories and 75 feet in height in lieu of the requirement that multi-family buildings within one hundred (100) feet of a single-family zoned property be restricted to a single-story height. This waiver is both internal and external to the Lake Mac PD.
- g. A waiver from Section 38-1258(b), for Parcel 21, to allow multi-family residential buildings fifteen (15) feet from single-family zoned property and to be constructed up to five-stories and 75 feet in height in lieu of the requirement that multi-family buildings within one hundred and fifty (150) feet of a single-family zoned property vary in building height. This waiver is both internal and external to the Lake Mac PD.
- h. A waiver from Section 38-1258(c), for Parcel 21, to allow multi-family buildings fifteen (15) feet from a single-family zoned property and to be constructed up to five-stories and 75 feet in height, in lieu of the requirement that multi-family buildings located within one hundred and fifty (150) feet of single-family zoned property shall not exceed three (3)

stories (forty (40) feet) in height. This waiver is both internal and external to the Lake Mac PD.

- i. A waiver from Section 38-1258(d), for Parcel 21, to allow multi-family buildings constructed up to five-stories and 75 feet in height, in lieu of the restriction that a multi-family development shall be limited to three (3) stories (forty (40) feet) in height. This waiver is both internal and external to the Lake Mac PD.
- j. A waiver from Section 38-1258(e), for Parcel 21, to allow parking and paved areas for multi-family development fifteen (15) feet from single-family zoned property, in lieu of the restriction that a parking and paved areas shall be twenty-five (25) feet from single-family zoned property. This waiver is both internal and external to the Lake Mac PD.
- k. A waiver from Section 38-1258(f), for Parcel 21, to not require a six (6) foot high masonry, brick, or block wall as part of the multi-family development since it is adjacent to single-family zoned property, in lieu of the a six (6) foot high masonry, brick, or block wall requirement. This waiver is both internal and external to the Lake Mac PD.
- l. A waiver from Section 38-1258(g), for Parcel 21, to allow shared access for multi-family and single-family residential and to allow multi-family residential to directly access a right-of-way serving platted single-family residential development, in lieu of the requirement that multi-family development shall not directly access any right-of-way serving platted single-family residential. This waiver is both internal and external to the Lake Mac PD.
- m. A waiver from Section 38-1258(i), for Parcel 21, to not require fencing as part of the multi-family development simply because it is adjacent to right-of-way that has single family zoned property across the right-of-way, in lieu of the requirement that multi-family development shall have fencing as part of the development because it is adjacent to right-of-way that has single family zoned property across the

right-of-way. This waiver is both internal and external to the Lake Mac PD.

- n. A waiver from Section 38-1258(j), for Parcel 21, to require a minimum separation of twenty (20) feet between buildings, in lieu of the requirement where doors, windows, or other openings in the wall of a living unit back up to a wall of another building with doors, windows or other openings, there shall be a minimum separation of thirty (30) feet for two-story buildings, and forty (40) feet for building three (3) stories. This waiver is both internal and external to the Lake Mac PD.

Motion / Second: Jimmy Dunn / Gordon Spears

AYE (voice vote): Jimmy Dunn, Gordon Spears, JaJa Wade, Diane Velazquez, Yog Melwani, and Eddie Fernandez

NAY (voice vote): None

Absent: Carlos Nazario

Jose Cantero and Mohammed Abdallah declared conflicts of interest and recused themselves from voting on this case.

9. Bryan Potts, LUP-18-11-386, District 5

Project Name: Rouse Road Townhomes Planned Development (PD)

Consideration: A request to rezone two (2) parcels containing 8.58 gross acres from R-1 (Single-Family Dwelling District) to PD (Planned Development District) in order to construct fifty-four (54) attached residential dwelling units. The request also includes the following waivers from Orange County Code:

1. A waiver from Section 38-1254 is requested to allow a minimum PD perimeter setback of ten (10) feet along the north property lines for one-story and two-story buildings, in lieu of a minimum PD perimeter setback of twenty-five (25) from all boundaries of the PD.

Location: 2460 and 2484 Rouse Road; generally south of Jay Blanchard Trail and west of Rouse Road

Tract Size: 8.58 gross acres / 6.96 developable acres

Speakers: Bryan Potts (Applicant)
Bryan Miller (Opposed)
Michelle Strubb (Opposed)

Action: Make a finding of consistency with the Comprehensive Plan and recommend **APPROVAL** of the Rouse Road Townhomes Planned Development / Land Use Plan (PD/LUP) dated "July 19, 2019" subject to the following conditions:

1. Development shall conform to the Rouse Road Townhomes Land Use Plan (LUP) dated "Received July 19, 2019," 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, 2019," 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. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) submittal and must be approved prior to Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) approval for any streets and/or tracts anticipated to be dedicated to the County and/or to the perpetual use of the public.
7. 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 April, 9, 2019.
 - 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 four (4) residential

units allowed under the zoning existing prior to the approval of the PD zoning. The County may again begin issuing building permits upon Orange County Public Schools' written notice to the County that the developer is no longer in breach or default of the Capacity Enhancement Agreement. The developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, shall indemnify and hold the County harmless from any third party claims, suits, or actions arising as a result of the act of ceasing the County's issuance of residential building permits.

- c. Developer, and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, agrees that it shall not claim in any future litigation that the County's enforcement of any of these conditions are illegal, improper, unconstitutional, or a violation of developer's rights.
- d. Orange County shall be held harmless by the developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Capacity Enhancement Agreement.

Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.

- 8. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a capacity encumbrance letter prior to construction plan submittal and must apply for and obtain a Capacity Reservation Certificate prior to approval of the plat. Nothing in this condition, and nothing in the decision to approve this land use plan / preliminary subdivision plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a Capacity Encumbrance Letter or a Capacity Reservation Certificate.
- 9. 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).

10. 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.
11. The developer shall obtain water and wastewater service from Orange County Utilities, subject to County rate resolutions and ordinances.
12. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water and wastewater systems have been designed to support all development within the PD.
13. Tree removal/earthwork shall not occur unless and until construction plans for the first Preliminary Subdivision Plan and/or Development Plan with a tree removal and mitigation plan have been approved by Orange County.
14. Short term/transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater.
15. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
16. A waiver from Orange County Code Section 38-1254 is granted to allow a minimum PD perimeter setback of ten (10) feet along the north property lines for one-story and two-story buildings, in lieu of a minimum PD perimeter setback of twenty-five (25) from all boundaries of the PD.

Motion / Second: Gordon Spears / Jose Cantero

AYE (voice vote): Gordon Spears, Jose Cantero, JaJa Wade, Diane Velazquez, Yog Melwani, Jimmy Dunn, Eddie Fernandez, and Mohammed Abdallah

NAY (voice vote): None

Absent: Carlos Nazario

10. Chris Dougherty, LUP-19-03-088, District 5

Project Name: Wise Colonial Planned Development (PD)

Consideration: A request to rezone two (2) parcels containing 12.77 gross acres from C-3 (Wholesale Commercial District) to PD (Planned Development District) in order to develop 280 multi-family dwelling units and 19,600 square feet of C-1 (Retail Commercial) uses. The request also includes the following waivers from Orange County Code:

1. A waiver from Section 38-1258(c) is requested to allow 3-story buildings to be setback 90 feet, in lieu of 150 feet from single-family zoned property.
2. A waiver from Section 38-1258(d) is requested to allow a maximum building height of 55 feet, in lieu of 40 feet, provided that the building is setback 150 feet from single-family zoned property.

Location: 6525 and 6575 E Colonial Drive; or generally located on the north side of E Colonial Drive approximately 1,400 feet west of N. Forsyth Road.

Tract Size: 12.77 gross acres

Speakers: Chris Dougherty (Applicant)
Virginia Traver (In Favor)

Action: Make a finding of consistency with the Comprehensive Plan and recommend **APPROVAL** of the Wise Colonial Planned Development (PD/LUP) dated "Received July 16, 2019" subject to the following conditions:

1. Development shall conform to the Wise Colonial Land Use Plan (LUP) dated "Received July 16, 2019," 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 16, 2019," 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 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 April 23, 2019.
- 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 zero (0) residential units allowed under the zoning existing prior to the approval of the PD zoning. The County may again begin issuing building permits upon Orange County Public Schools' written notice to the County that the developer is no longer in breach or default of the Capacity Enhancement Agreement. The developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, shall indemnify and hold the County harmless from any third party claims, suits, or actions arising as a result of the act of ceasing the County's issuance of residential building permits.
- c) Developer, and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, agrees that it shall not claim in any future litigation that the County's enforcement of any of these conditions are illegal, improper, unconstitutional, or a violation of developer's rights.
- d) Orange County shall be held harmless by the developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Capacity Enhancement Agreement.

Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.

7. This project is located in the Alternative Mobility Area (AMA) and, therefore, shall be required to provide for alternative mobility strategies related to the development. The applicant must submit a Mobility Analysis to be reviewed and approved by the Transportation Planning Division prior to obtaining a building permit.
8. Site development activity shall comply with State recommended Best Management Practices to protect soils during clearing, earthwork and construction. Fugitive dust emissions shall not be allowed from any activity including: vehicular movement, transportation of materials, construction, alteration, loading, unloading, storing or handling; without taking reasonable precautions to prevent such emissions. Reasonable precautions include application of water, dust suppressants, and other measures defined in Orange County Code Chapter 15 Environmental Control, Article III Air Quality Control, Division 2 Rules, Section 15-89.1 Air Pollution Prohibited.
9. 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).
10. The applicant / owner has an affirmative obligation to expressly notify potential purchasers, builders, and/or tenants of this development, through an appropriate mechanism, including a conspicuous note on the plat and/or a recorded restrictive covenant, as applicable, that the property on the northeast boundary that is not residential currently has a permit for a concrete crushing facility which has the potential to be the source of offsite dust and noise to adjacent properties.
11. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing wastewater systems have been designed to support all development within the PD.
12. The developer shall obtain wastewater service from Orange County Utilities subject to County rate resolutions and ordinances.

13. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) submittal and must be approved prior to Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) approval for any streets and/or tracts anticipated to be dedicated to the County and/or to the perpetual use of the public.
14. Short term rental within the residential portion of this PD shall be prohibited. Length of stay within the residential portion of the PD shall be for 180 consecutive days or greater. If a hotel/motel/timeshare or the like is proposed within the commercial portion of this PD then the length of stay shall not exceed 179 consecutive days.
15. Tree removal/earthwork shall not occur unless and until construction plans for the first Preliminary Subdivision Plan and/or Development Plan with a tree removal and mitigation plan have been approved by Orange County.
16. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
17. This property is located within Airport Noise Zone "D". Development shall comply with Article XV, Chapter 9, Orange County Code (Airport Noise Impact Areas), as may be amended from time to time.
18. The following waivers from Orange County Code are granted:
 - a) A waiver from Section 38-1258(c) to allow 3-story buildings to be setback 90 feet, in lieu of 150 feet from single-family zoned property.
 - b) A waiver from Section 38-1258(d) allow a maximum building height of 55 feet, in lieu of 40 feet, provided that the building is setback 150 feet from single-family zoned property.

Motion / Second: Gordon Spears / Jimmy Dunn

AYE (voice vote): Gordon Spears, Jimmy Dunn, Jose Cantero, JaJa Wade, Diane Velazquez, Yog Melwani, Eddie Fernandez, and Mohammed Abdallah

NAY (voice vote): None

Absent: Carlos Nazario

2019-2 Out of Cycle Comprehensive Plan Transmittal Regular Staff Initiated Text Amendments

Amendment 2019-2-C-FLUE-1

Consideration: Text Amendment to the Future Land Use Element creating FLU4.1.12, FLU4.1.12.1, FLU4.1.12.2, FLU4.1.12.3, FLU4.1.12.4, FLU4.1.12.5, and revising FLU4.5.1, FLU4.5.3, OBJ FLU 4.6, FLU4.7.1, FLU4.7.2, FLU4.7.3, FLU4.7.4, FLU4.7.7.1, and FLU 4.7.9

Location: District 1

Action: Recommend **TRANSMITTAL** of Amendment 2019-2-C-FLUE-1, incorporating the proposed policy revisions.

Motion/ Second: Jimmy Dunn / Jose Cantero

AYE (voice vote): Jimmy Dunn, Jose Cantero, JaJa Wade, Diane Velazquez, Yog Melwani, Gordon Spears and Eddie Fernandez

NAY (voice vote): None

Absent: Carlos Nazario and Mohammed Abdallah

Amendment 2019-2-C-FLUE-2

Consideration: Text amendment to Future Land Use Element Policy FLU8.1.1 relieving the density requirements for certain parcels with the Low Density Residential (LDR) future land use designation

Location: Countywide

Action: Recommend **TRANSMITTAL** of Amendment 2019-2-FLUE-2

Motion /Second: Jose Cantero / Mohammed Abdallah

AYE (voice vote): Jose Cantero, Mohammed Abdallah, JaJa Wade, Diane Velazquez, Gordon Spears, Yog Melwani, Eddie Fernandez, and Jimmy Dunn

NAY (voice vote): None

Absent: Carlos Nazario

Amendment 2019-2-C-CP-2

Consideration: Administrative amendments to the International Drive Element, Neighborhood Element, and Fire Rescue Element as part of the Comprehensive Plan Clean-Up.

Location: Countywide

Action: Recommend **TRANSMITTAL** of Amendment 2019-2-C-CP-2

Motion / Second: Jose Cantero / Diane Velazquez

AYE (voice vote): Jose Cantero, Diane Velaquez, Yog Melwani, JaJa Wade, Eddie Fernandez, Jimmy Dunn, Gordon Spears, and Mohammed Abdallah

NAY (voice vote): None

Absent: Carlos Nazario

Ordinance Public Hearing

Consideration: An ordinance affecting the use of land in Orange County, Florida by amending the Orange County Code provisions related to Dynamic Art in the I-Drive District Overlay Zone, including Division 4.5 of Article VII of Chapter 38 regulating Dynamic Art and providing and effective date.

Action: Continue this item to the October 17, 2019 Planning and Zoning meeting at 9:00 a.m.

Motion / Second: Jimmy Dunn / Eddie Fernandez

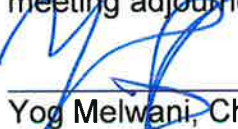
AYE (voice vote): Jimmy Dunn, Eddie Fernandez, Mohammed Abdallah, JaJa Wade, Jose Cantero, Gordon Spears, Diane Velazquez, and Yog Melwani,

NAY (voice vote): None

Absent: Carlos Nazario

MEETING ADJOURNED

With no further business, Commissioner Cantero made a motion to adjourn. The motion was seconded by Commissioner Dunn and passed with an 8-0 vote. The meeting adjourned at approximately 11:16 a.m.

 OCT 17, 2019
Yog Melwani, Chairperson

 10/17/19
Terri-Lyn Pontius, Recording Secretary