

FINAL

ZONING PETITION REVIEW REPORT

TO: Pasco County Planning Commission

FILE: ZN11-6920

FROM: 
Debra M. Zampatti
Zoning/Code Compliance
Administrator

PETITION #6920

Commission District #2

Development Review Committee
Hearing Date: 12/23/10, NPR

STAFF: Denise Hernandez
Planner I
Thru Dianne Naeyaert
Planner I

Planning Commission
Hearing Date: 1/12/11, DC

Board of County Commissioners
Hearing Date: 1/25/11, NPR

SUBJECT: Rezoning Request
West Central Pasco County
(Cont. from 3/18/10, DRC)
(Cont. from 4/29/10, DRC)
(Cont. from 7/15/10, DRC)
(Cont. from 10/7/10, DRC)
(Cont. from 11/1/10, PC)
(Cont. from 11/18/10, DRC)
(Cont. from 12/7/10, BCC)
(Cont. from 12/8/10, PC)

TAZ #149

APPLICANT: **FLORIDA CITRUS INVESTORS, INC./
FCI MPUD**

PETITION SUMMARY:

Petition No. 6920 in the name of Florida Citrus Investors, Inc./FCI MPUD has been filed for a change in zoning from an A-C Agricultural District to an MPUD Master Planned Unit Development District. The property is located on the west side of U.S. 41 at the terminus of Keene Road, which is approximately one-half mile south of the intersection of U.S. 41 and S.R. 52 (Parcel ID Nos. 16-25-18-0000-02000-0000, 16-25-18-0000-02200-0000, 17-25-18-0000-00200-0000, and 08-25-18-0000-00300-0010) and contains 159.5 acres, m.o.l.

Commission District:	The Honorable Pat Mulieri, Ed.D.
Project Name:	Florida Citrus Investors, Inc., MPUD Master Planned Unit Development
Applicant's Name:	Florida Citrus Investors, Inc.
Zoning District:	MPUD Master Planned Unit Development
Future Land Use Classification:	RES-3 (Residential - 3 du/ga)
Water/Sewage:	Pasco/Pasco
No. of Dwelling Units:	317
Type of Dwelling Units:	Single-Family Detached/Townhouses

The surrounding zoning districts and land uses are as follows:

	<u>Zoning District</u>	<u>Land Use</u>
North:	A-C Agricultural	Single-Family Dwellings
East:	A-C Agricultural; A-R Agricultural-Residential; R-1 Rural Density Residential	Single-Family Dwellings
South:	A-C Agricultural	Service Shop; Single-Family Dwellings; Undeveloped
West:	A-C Agricultural	Undeveloped

FINDINGS OF FACT:

1. Presently, the subject site contains 159.5 acres, m.o.l., which is undeveloped.
2. Access to the property is from Keene Road, a substandard, County-maintained road, which has 30 feet of right-of-way with 12 feet of pavement.
3. The subject property is located in Flood Zones "A" and "X." Development in the area designated Zone "A" is subject to the requirements of the Land Development Code, Article 700, Flood Damage Prevention.
4. Water and sewer are to be serviced by the Pasco County Utilities Services Branch.
5. On June 27, 2006, the Board of County Commissioners adopted the Corridor Preservation Tables in the Transportation Element of the Comprehensive Plan necessitating the preservation of right-of-way along certain roadways.
6. The applicant submitted a Traffic Impact Study (TIS) and Substandard Roadway Analysis that were reviewed and finalized by the County's consultant on January 14, 2009. A condition of the Substandard Roadway Analysis required the applicant to reconstruct Keene Road to County standards from the project's site-access connection to U.S. 41. Staff requested that the applicant demonstrate its ability to obtain adequate access to U.S. 41. The applicant has been unable to demonstrate a method by which Keene Road could be brought to County standards.
7. The applicant submitted its request to develop 364 units. Based on information provided by the Pasco County Geographic Information System (GIS) Section, the site contains 161.99 acres which are designated as RES-3 (Residential - 3 du/ga). Approximately 62.13 acres are jurisdictional. Therefore, the maximum number of units allowed on the site, based on a ten percent density credit for upland acreage, is 317 units (total acreage minus lakes and jurisdictional acreage, multiplied by 1.10, and multiplied by land use).

Due to the discrepancies between the County's GIS and the applicant's survey, staff requested that the applicant submit a survey which included jurisdictional boundaries approved by the Southwest Florida Water Management District (SWFWMD). This survey would enable staff to recalculate density and determine if the applicant's request for additional density would be allowable. The applicant declined to submit a SWFWMD approved survey.
8. On March 18, 2010, the Development Review Committee (DRC) continued this item to April 29, 2010, and directed the applicant to procure a signed contract for the purchase of land from the property owner(s) along Keene Road to obtain enough right-of-way to satisfy substandard road criteria
9. On April 23, 2010, the applicant requested an additional 60-day continuance to procure a signed contract for the purchase of land from the property owner(s) along Keene Road in accordance with the DRC's previous directive, which has not been completed. The applicant also chose to revise the traffic analysis to extend the build-out date from December 2010 to December 2015.
10. On June 15, 2010, the applicant requested another continuance to procure a signed contract for the purchase of land from property owners along Keene Road and continue discussions with the Florida Department of Transportation (FDOT) with regard to their proposed improvements to U.S. 41. The applicant also wanted to complete the revised traffic study to extend the build-out date.
11. On October 7, 2010, staff recommended the DRC deny the project. The applicant had not procured the right-of-way necessary to comply with the substandard road criteria as previously directed by the DRC on March 18, 2010, the revised traffic study to extend the project's build-out date had not been finalized and submitted and density had not been agreed upon by the applicant. The DRC approved a continuance to enable the applicant to complete and submit the revised traffic study to extend the build-out date. The DRC also determined that right-of-way for substandard road improvements could be incorporated as a condition of approval. The applicant agreed to accept staff's recommendation of 317 units.
12. The revised traffic study was submitted to the County on October 28, 2010. The study has been reviewed by the County's consultant and comments sent to the applicant. At the November 18, 2010 DRC, staff requested a continuance to allow the applicant to have adequate time to review and respond to staff's comments.

13. On November 29, 2010, staff received conditions of approval for the updated traffic study which are incorporated into the attached conditions of approval.
14. The proposed request is consistent with the Pasco County LDC, Article 300, Subsection 303.2.E.1, Criteria and Standards to be Considered in Review of Applications for Zoning Amendments, and with the applicable provisions of the Pasco County Comprehensive Plan as conditioned. The subject property is located in the Central Market Area which is envisioned as a suburban area and is in close proximity to activity nodes, employment centers and town centers.

RECOMMENDATION:

The Zoning and Site Development Department recommends approval of the MPUD Master Planned Unit Development subject to the attached rezoning conditions of approval, Petition No. 6920.

ATTACHMENTS:

1. Florida Citrus Investors, Inc., MPUD Master Planned Unit Development, Conditions of Approval, Rezoning Petition No. 6920
2. Location Maps
3. Master Plan
4. Concurrency

DEVELOPMENT REVIEW COMMITTEE ACTION:

Approval of Staff Recommendation with an Amended Condition

AMENDED CONDITION:

22. The developer has submitted a traffic study that was reviewed by the staff of the County. Prior to approval of the first record plat, or where platting is not required, prior to the issuance of the first Building Permit, the developer shall construct the following improvements:

Site-Access Related Improvements

- a. The applicant shall construct a site access connection to Keene Road in accordance with the project's site plan as approved by the Pasco County Zoning and Site Development Department.
- b. The applicant shall construct a 430-foot southbound to westbound right-turn lane on U.S. 41 at Keene Road (including 50-foot taper).
- c. The applicant shall construct a 480-foot northbound to westbound left-turn lane on U.S. 41 at Keene Road (including 50-foot taper).
- d. The applicant shall construct a 150-foot eastbound left-turn/through lane on Keene Road approaching U.S. 41 (including 50-foot taper). Upon completion of this improvement, the eastbound Keene Road approach to U.S. 41 shall consist of a shared left-turn/through lane and a right-turn lane.

Off-Site Improvements

- a. The applicant shall mitigate project impacts to the U.S. 41/S.R. 52 intersection through the construction of (a) a second northbound-to-westbound left-turn lane at a length of 760 feet with a 0.5 mile receiving lane, (b) lengthening of the westbound left-turn lane from 450 feet to 495 feet, (c) lengthening of the existing northbound left-turn lane from 535 feet to 760 feet, (d) roadway transitions in accordance with the latest edition of the Florida Department of Transportation Design Standards, and (e) traffic signal modifications as necessary.

In lieu of the above-mentioned off-site improvements, the applicant shall pay a proportionate share in the amount of \$651,410 for the improvements specified in the condition above. The total proportionate share amount for the above-mentioned off-site improvements is \$651,410 (2010 dollars) for the improvements specified in the condition above. This proportionate share shall be paid prior to the issuance of the first Building

Permit for any commercial and prior to record plat for residential. Such amount shall be adjusted at the time of payment by the most recent construction and right-of-way indices as adopted by the Transportation Impact Fee (TIF) Ordinance, as amended.

Payment of the proportionate-share amount shall be eligible for transportation impact fee credits as determined by the County's Capital Improvements Plan (CIP) and in accordance with the Impact Fee Ordinance, as amended.

Based on the land use assumptions proposed in the approved traffic study, the generally applicable Transportation Impact Fees (TIF) for the project, based on 2010 dollars, is estimated to total \$3,408,670, as adjusted pursuant to the TIF Ordinance. Since the total Traffic Impact Study (TIS) calculated proportionate-share amount of \$651,410 is less than the estimated Option 3 TIF amount, the applicant/developer shall pay its regular impact fees in accordance with the most recent impact fee schedule at the time impact fees are collected. However, if no Building Permit is issued within three years of this rezoning approval, the County reserves the right to adjust the proportionate-share amount by the most recent construction and right-of-way indices as adopted by the TIF Ordinance and may require payment of the adjusted proportionate-share amount if the same are greater than the project's projected total impact fees.

Substandard Road Improvements

- a. All necessary right-of-way for Keene Road shall be acquired prior to or concurrent with the submittal of the first preliminary plan.
- b. The applicant shall reconstruct Keene Road from the project site access connection to U.S. 41 to meet all applicable County standards; including but not limited to lane width, shoulder width, pavement design, side slopes, clear zone width, and approach grade to U.S. 41.

CONDITIONS:

See Attached

PLANNING COMMISSION ACTION:

Approval of Staff Recommendation

BOARD OF COUNTY COMMISSIONERS ACTION:

Approved

OWNER'S/APPLICANT'S ACKNOWLEDGMENT:

The owner/applicant acknowledges that it has read, understood, and accepted this Zoning Petition Review Report. **Do not sign until you receive a copy of this petition with the Board of County Commissioners results.**

(Date)

Printed Name

I hereby certify on this _____ day of _____, _____, A.D., before me personally appeared the owner/applicant, to me known to be the person described in and who executed the foregoing document and severally acknowledged the execution thereof to be their free act and deed for the uses and purposes therein expressed.

Witness my hand and seal at _____, _____ County, Florida, the day and year aforesaid.

My commission expires:

Notary Public, State of _____ at Large

**FLORIDA CITRUS INVESTORS, INC.
MASTER PLANNED UNIT DEVELOPMENT
CONDITIONS OF APPROVAL
REZONING PETITION NO. 6920**

Master Development Plans

1. Development shall be in accordance with the application, plans, and information submitted from August 21, 2006 thru November 29, 2010, unless otherwise stipulated or modified herein.

Instructions

2. The developer shall submit, within 45 days of the BCC approval, or prior to the first preliminary plan/preliminary site plan submittal, whichever occurs first, 20 sets of the revised MPUD Master Planned Unit Development Plan to the Zoning and Site Development Department, for review and approval, that addresses all applicable conditions set forth and the following specific instructions. Without the submittal and approval of revised MPUD Master Planned Unit Development plans, preliminary plans/preliminary site plans will not be accepted for review.
 - a. Revise all references to the total unit count from 385 to 317 units.
 - b. Correct the alignment for Bulloch Boulevard.
 - c. Show correct Engineer/Surveyor information in General Note number 4.
 - d. Revise the design standards for the Single-Family Attached product and the front setback note for the Single-Family Detached product to reflect the standards listed in these MPUD Conditions of Approval.

Open Space/Buffering

3. Wetlands (conservation/preservation areas) shall be as defined by the Pasco County Comprehensive Plan, Chapter 3, Conservation Element, Wetlands, Policy 1.3.1, and shown on all preliminary plans/preliminary site plans and construction plans/construction site plans. Lot lines shall not encroach into the wetlands and wetland buffers. Jurisdictional boundaries shall be delineated in accordance with the responsible regulatory agency. These boundaries may be adjusted following appropriate permit approval and shall be shown on each preliminary plan/preliminary site plan. Removal, encroachment, Comprehensive Plan, Chapter 3, Conservation Element, Wetlands, Policy Nos. 1.3.6, 1.3.8, and 1.3.11; however, no removal, encroachment, alteration, or development shall be permitted within any wetland used to obtain a Comprehensive Plan or Land Development Code (LDC) density credit. All permits for encroachments, alterations, or development within Category I wetlands shall be obtained and submitted to Pasco County prior to construction plan/construction site plan approval.
4. There shall be a buffer around all Category I wetlands of 25 feet, not inclusive of any lots. Wetland buffers around Category II and Category III wetlands shall be required in accordance with the Southwest Florida Water Management District (SWFWMD) or other regulatory agencies and shall not be inclusive of any lots. The proposed upland buffer area shall be shown on the construction plans/construction site plans. The final upland buffer area, as required by the SWFWMD or other regulatory agencies, shall be designated on the plat as "Wetland Conservation Areas." Permissible uses of the Wetland Conservation Areas shall be those uses allowed by the SWFWMD or other regulatory agencies.
5. All wetlands and wetland buffers shall be platted within tracts and designated on the plat as "Wetland Conservation Areas." All preserved wetlands and wetland buffers shall be platted outside lots. No activity requiring the issuance of a Building Permit shall be allowed within five feet of the wetlands' buffer line unless otherwise approved by the regulatory agencies and Pasco County. Concurrent with platting, all wetlands shall be deeded to the mandatory homeowners' association/Community Development District (CDD)/merchants' association. The homeowners' association/merchants' association documents shall provide that the homeowners' association/merchants' association shall be responsible for the payment of taxes, if any, on the Wetland Conservation Areas.

6. The developer has submitted an environmental/habitat study, a gopher tortoise study and a sand hill crane study which have been reviewed by County staff and the following conditions shall apply:
 - a. Prior to any clearing or grubbing associated with the preliminary plan/preliminary site plan approval of any unit or phase, the developer shall submit a copy of any required permit for gopher tortoises issued by the FFWCC to the Permits and Development Information Services Department.
 - b. Prior to construction plan/construction site plan approval, the developer shall submit to the Permits and Development Information Services Department a copy of the Environmental Resource Permit Application as submitted to the SWFWMD. Prior to the issuance of the Site Development Permit, the developer shall submit to the Permits and Development Information Services Department a copy of the Environmental Resource Permit.

7. The developer has submitted an Archaeological/Historical Survey on October 31, 2008 and correspondence from the Division of Historical Resources dated May 29, 2009. Although no archaeological sites eligible for the National Register of Historic Places were found, the following statement shall be placed on all future site plans:

"If, during construction activities, any evidence of historic resources including, but not limited to, aboriginal or historic pottery, prehistoric stone tools, bone or shell tools, historic trash pits, or historic building foundations are discovered, work shall come to an immediate stop, and Pasco County and the Florida Division of Historical Resources shall be notified within two working days."

8. The developer shall create a mandatory homeowners'/property owners'/condominium owners'/merchants' association in the form of a nonprofit corporation registered with the Secretary of State, State of Florida, or, if approved by the BCC, a CDD shall encompass the entire boundaries of the MPUD Master Planned Unit Development except for any real property to be conveyed to the County or the District School Board of Pasco County (School Board). The developer shall convey in fee simple to the association or the CDD, for ownership and maintenance, all open space, drainage areas, common areas, landscape areas, wetland areas, buffer areas, preservation/conservation areas, and other special purpose areas unless the said area(s) is/are required to be dedicated to another governmental entity. Recreation areas and neighborhood parks shall be conveyed to the association as well, but only to the CDD if such special power pursuant to Section 190.012(2), Florida Statutes, is consented to by the County. All such conveyances shall be for a value that does not exceed the fair market value of the land. Prior to platting the first unit or phase, homeowners'/property owners'/condominium owners'/merchants' association or CDD documents, including Articles of Incorporation with proof of being filed with the Secretary of State, State of Florida, restrictive covenants, and all exhibits, shall be submitted to the Engineering Services Department for review along with copies of instruments to be used to convey in fee simple the above-mentioned areas to the said association or the CDD. The deed restrictions shall prohibit parking across any sidewalk area on any driveway. Impact fee credits for improvements or dedications shall go to the association or the CDD that funded such improvements as applicable.

Ordinances

9. In addition to the MPUD Master Planned Unit Development conditions of approval, the developer shall comply with all Pasco County ordinances, including all impact fee ordinances.
10. In the event ordinances/resolutions are subsequently adopted by the BCC including, but not limited to, solid waste, public safety, or wildlife ordinances, the owner/developer shall be required to comply with such ordinances/resolutions.

Transportation/Circulation

Access Management

11. The developer shall provide a secondary functional access and emergency access to each increment in accordance with the LDC as amended. The emergency access may be barricaded in a manner found acceptable by the Permits and Development Information Services Department and the Emergency Services Department.
12. Prior to construction plan/construction site plan approval of any project accessing a State roadway, the owner/developer shall furnish to the Permits and Development Information Services Department a

Letter of Intent indicating approval and/or an approved Driveway Permit from the Florida Department of Transportation (FDOT). Prior to the issuance of the first Certificate of Occupancy (CO), the owner/developer shall provide a letter from the Florida Department of Transportation stating that the improvements within the State right-of-way have been inspected and completed to their satisfaction.

13. At each preliminary plan/preliminary site plan approval, the DRC may also require further site-specific intersection improvements. Intersection improvements shall be determined in accordance with the LDC and Access Management Standards as amended.
14. Any gates located within gated communities shall be setback sufficiently in order to provide vehicular stacking for a minimum of three vehicles, unless a greater distance is determined to be required at the time of each preliminary plan or preliminary site plan review. All entrances accessed by key or electronically coded systems shall be equipped with a system approved by the Emergency Services Director to allow fire or other emergency vehicles immediate access to the development. Upon replacement of any existing gated system, the replacement shall be equipped with a system acceptable to Pasco County. In addition, the access lane widths and clearance between fixed structures shall be a minimum of 15 feet in width.

Dedication of Right-of-Way

15. Public roadways shall be required unless otherwise approved by the DRC through an alternative standards request prior to or concurrent with the first preliminary plan/preliminary site plan approval.
16. In the case of private streets, dedication and maintenance shall be the responsibility of an appropriate entity other than Pasco County.
17. Vehicular-access rights along the rear of all double-frontage lots that abut roads within or adjoining the project shall be dedicated to Pasco County concurrent with final record platting for each phase of any increment or where no plat is required prior to final site plan approval.
18. Subject to the provisions of the Right-of-Way Preservation Ordinance, the developer shall convey at no cost to Pasco County 142 feet of right-of-way for the north-south public roadway depicted on the MPUD Plan as "Bulloch Boulevard", from the northern project boundary to the southern project boundary.

In addition, the developer shall, at no cost to Pasco County, design, construct, provide, and obtain any and all permits required by any local, State, or Federal agency for appropriate and sufficient drainage/retention, wetland, and floodplain mitigation facilities for a 4-lane facility on the developer's property or at another site acceptable to the County to mitigate all impacts associated with the initial and future planned; i.e., in the current County Comprehensive Plan Transportation Element or Metropolitan Planning Organization Long-Range Plan, improvements of Bulloch Boulevard within or adjacent to the boundaries of the developer's property including, but not limited to, mitigation for initial and future lanes of travel, shoulders, frontage roads, sidewalks, multimodal paths, medians, buffers and buffer walls, and other roadway appurtenances. The required drainage/retention, wetland, and floodplain mitigation facilities shall be determined at the time of stormwater-management plan review for the portion(s) of the project adjacent to Bulloch Boulevard and this paragraph of this condition shall expire after such stormwater-management plans have been approved, unless such facilities are required pursuant to a development agreement approved pursuant to the LDC, Section 403. All stormwater-management plans, reports, or calculations for the developer's project shall include a detailed scope of design and permitting parameters and a signed and sealed certification that such plans, reports, or calculations comply with this condition.

Design/Construction Specifications

19. Prior to preliminary plan/preliminary site plan submittal, the developer shall supply evidence that it has coordinated with the developers and engineers/surveyors of any affected, adjoining parcels to identify and provide the location of the required interconnecting roadway. The following information shall be shown on all preliminary plans/preliminary site plans and construction plans/construction site plans that include or abut the interconnecting roadway: location (by State plane coordinates), centerline, right-of-way width, cross section, elevation of centerline, grade, and centerline geometry (tangent bearing/curve geometry) to provide a seamless continuation of this road at property lines.
20. No excavation within the area of future lanes of multilane facilities will be allowed with the exception of excavation for drainage structures, permitted removal of wetlands, excavation to match existing grade, or as directed by the Engineering Services Director.

21. Alternative roadway-design standards may be considered and approved by the DRC at the time of each preliminary plan/preliminary site plan approval.
22. The developer has submitted a traffic study that was reviewed by the staff of the County. Prior to approval of the first record plat, or where platting is not required, prior to the issuance of the first Building Permit, the developer shall construct the following improvements:

Site-Access Related Improvements

- a. The applicant shall construct a site access connection to Keene Road in accordance with the project's site plan as approved by the Pasco County Zoning and Site Development Department.
- b. The applicant shall construct a 430-foot southbound to westbound right-turn lane on U.S. 41 at Keene Road (including 50-foot taper).
- c. The applicant shall construct a 480-foot northbound to westbound left-turn lane on U.S. 41 at Keene Road (including 50-foot taper).
- d. The applicant shall construct a 150-foot eastbound left-turn/through lane on Keene Road approaching U.S. 41 (including 50-foot taper). Upon completion of this improvement, the eastbound Keene Road approach to U.S. 41 shall consist of a shared left-turn/through lane and a right-turn lane.

Off-Site Improvements

- a. The applicant shall mitigate project impacts to the U.S. 41/S.R. 52 intersection through the construction of (a) a second northbound-to-westbound left-turn lane at a length of 760 feet with a 0.5 mile receiving lane, (b) lengthening of the westbound left-turn lane from 450 feet to 495 feet, (c) lengthening of the existing northbound left-turn lane from 535 feet to 760 feet, (d) roadway transitions in accordance with the latest edition of the Florida Department of Transportation Design Standards, and (e) traffic signal modifications as necessary.

In lieu of the above-mentioned off-site improvements, the applicant shall pay a proportionate share in the amount of \$651,410 for the improvements specified in the condition above. The total proportionate share amount for the above-mentioned off-site improvements is \$651,410 (2010 dollars) for the improvements specified in the condition above. This proportionate share shall be paid prior to the issuance of the first Building Permit for any commercial and prior to record plat for residential. Such amount shall be adjusted at the time of payment by the most recent construction and right-of-way indices as adopted by the Transportation Impact Fee (TIF) Ordinance, as amended.

Payment of the proportionate-share amount shall be eligible for transportation impact fee credits as determined by the County's Capital Improvements Plan (CIP) and in accordance with the Impact Fee Ordinance, as amended.

Based on the land use assumptions proposed in the approved traffic study, the generally applicable Transportation Impact Fees (TIF) for the project, based on 2010 dollars, is estimated to total \$3,408,670, as adjusted pursuant to the TIF Ordinance. Since the total Traffic Impact Study (TIS) calculated proportionate-share amount of \$651,410 is less than the estimated Option 3 TIF amount, the applicant/developer shall pay its regular impact fees in accordance with the most recent impact fee schedule at the time impact fees are collected. However, if no Building Permit is issued within three years of this rezoning approval, the County reserves the right to adjust the proportionate-share amount by the most recent construction and right-of-way indices as adopted by the TIF Ordinance and may require payment of the adjusted proportionate-share amount if the same are greater than the project's projected total impact fees.

Substandard Road Improvements

- a. All necessary right-of-way for Keene Road shall be acquired prior to or concurrent with the submittal of the first preliminary plan.
- b. The applicant shall reconstruct Keene Road from the project site access connection to U.S. 41 to meet all applicable County standards; including but not limited to lane width, shoulder width, pavement design, side slopes, clear zone width, and approach grade to U.S. 41.

23. Should a change/reduction in the proportionate-share payment be requested in the future, a revised traffic analysis shall be required in order to assess traffic impacts of the MPUD Master Planned Unit Development.
24. Prior to or concurrent with the approval of the first construction plan/construction site plan, if applicable, the developer shall obtain Right-of-Way Use Permits for the construction of the improvements identified above.
25. Prior to final plat approval for residential, or where platting is not required, prior to the issuance of any Building Permits occurring after December 31, 2015, the developer shall submit an updated traffic study utilizing a methodology approved by Pasco County. The DRC may impose additional conditions based upon the traffic study as approved by Pasco County.
26. The traffic study submitted by the applicant assumes the following land uses: 185 Single Family Residential and 200 Multi-Family Residential units. Any development of land use(s) that generate(s) greater traffic impacts than those assumed shall require an updated traffic study utilizing a methodology approved by Pasco County. In addition, where a traffic study assumes retirement, age restricted, 55 and older, or 62 and older housing, prior to approval of each plat, or where platting is not required, prior to approval of each construction plan, the developer shall provide to the County Attorney's office executed and recorded covenants or deed restrictions that restrict the said plat or construction plan to housing for persons 55 and older or 62 and older, as applicable. The said covenants, if satisfactory to the County Attorney's office, may also be used to satisfy the first tier of the School Impact Fee Waiver and Transportation Impact Fee reduction process. If the applicant or development fails to timely provide the required covenants or deed restrictions, or fail to comply with such covenants or deed restrictions, the applicant or development shall be required, in addition to any County remedies set forth in the County-approved covenants/deed restrictions, to submit an updated traffic study without any reduction in trip generation based on retirement, age restricted, 55 and older, or 62 and older housing; and additional approvals within the development shall be held in abeyance until the County approves the updated traffic study and determines the appropriate transportation mitigation. The DRC, BCC, or County Administrator or his designee, may impose additional conditions on the applicant or development based on the updated County approved traffic study.
27. The developer shall comply with the County and Pasco County Public Transportation requirements to accommodate mass transit service to and within the project. A detailed description of the overall transit-accommodations plan shall include, but is not limited to, a proposed ingress and egress route for buses and bus stops proposed to service the project including, but not limited to, benches, shelters, lighting, pedestrian walkways, landscaping, and placement as required by the County or Pasco County Public Transportation. The developer shall submit the detailed description of the overall transit-accommodations plan to the Zoning and Site Development Department for review and the DRC's approval prior to or concurrent with the preliminary plan/preliminary site plan submittal of the first unit or phase within the development. Approval of the detailed description of the overall transit-accommodations plan is subject to Pasco County Public Transportation review and approval in accordance with the Pasco County Public Transportation *Transit Infrastructure Guidelines* (June 2005), as may be amended from time to time, or any subsequent ordinance adopted by Pasco County. The developer shall include and show on any preliminary plan/preliminary site plan submittal the DRC approved transit-accommodation facilities, which shall be constructed with the infrastructure improvements of each affected preliminary plan/preliminary site plan unless an alternative phasing of transit-accommodation-facilities construction is approved with the overall transit-accommodations plan. The applicant/developer and their successors shall not refuse the Pasco County Public Transportation, or any other transit authority, or any of its users/patrons access to such facilities.
28. The developer may submit an overall pedestrian/bike path plan to the Zoning and Site Development Department for the DRC approval prior to approval of the first preliminary plan/preliminary site plan, which provides a path circulation in accordance with the Pasco County LDC as amended or an alternative method acceptable to the DRC and in compliance with the handicapped provisions of Chapter 336.045, Florida Statutes, or other applicable law. In the absence of an approved pedestrian/bike path plan, compliance with the LDC is required.

Utilities/Drainage/Water Service/Wastewater Disposal

29. The developer shall submit a Stormwater Management Plan and Report for each development phase or increment in accordance with the Pasco County LDC as amended. The plans shall be approved prior to or simultaneous with application for construction plan review for the development phase/increment in question. No design for an individual increment/phase or portion of an increment/

phase shall be dependent upon the ultimate construction of future increments/phases, unless an interim design for drainage is approved by the Permits and Development Information Services Department.

30. A Utilities Service Plan for the entire development shall be submitted to the Utilities Services Branch for review and approval prior to submittal of the first construction plan/construction site plan. This utility plan shall minimally show the following:
 - a. Trunk sewer lines and lift stations.
 - b. Main potable water lines and nonpotable water lines, if applicable.
 - c. Sewage treatment facility locations, including discussion of the proposed method of treatment and the feasibility of a nonpotable water system for irrigation.
 - d. Method of lighting all nonlocal roads shall be submitted at the time of record plat submittal for each unit or phase.
 - e. Master utility plans shall be presented in a written format in conformance with the Utilities Service Plan guidelines implemented by the Utilities Services Branch. Prior to the first construction plan/construction site plan approval, the developer and the County shall enter into a Utilities Service Agreement.
31. The developer shall construct all water and wastewater facilities within the development to current Pasco County standards. A complete set of instructions may be obtained from the Utilities Services Branch.
32. In consideration of Pasco County's agreement to provide potable water and/or reclaimed water to the subject property, the developer/owner and its successors and assigns, agree to the following:
 - a. In the event of production failure or shortfall by Tampa Bay Water (TBW), as set forth in Section 3.19 of the Interlocal Agreement creating TBW, and then only for so long as such a production failure or shortfall exists, the developer/owner shall transfer to Pasco County any and all Water Use Permits or water-use rights the developer/owner may have to use or consume surface or groundwater within the subject property, provided that the same are not needed to continue any existing agricultural uses on the subject property, in which case, such transfer shall not be required as long as such agricultural uses are active.
 - b. Prior to the developer/owner selling water, Water Use Permits, or water-use rights, the developer/owner shall notify Pasco County, and Pasco County shall have a right of first refusal to purchase such water, Water Use Permits, or water-use rights.

Water Quality and Drainage

33. Development of the project shall not result in Levels of Service for off-site drainage structures below acceptable standards as established in the adopted Pasco County Comprehensive Plan and LDC, as may be amended from time to time.
34. The project's stormwater-management system shall be designed, constructed, and maintained to meet or exceed the Florida Administrative Code, Chapters 62-25, and 40D-4, or 40D-40; and Pasco County stormwater-management requirements as may be amended from time to time. Treatment shall be provided by biological filtration wherever feasible. Best Management Practices for reducing adverse water quality impacts as required by the regulations of Pasco County and other appropriate regulatory bodies shall be implemented. In addition, the applicant/developer shall comply with the following design requirements:
 - a. All swales shall be fully vegetated and operational.
 - b. Dry stormwater retention/detention areas, including side slopes and bottoms, shall be vegetated as required.
 - c. The applicant/developer or other responsible entities shall ensure that the stormwater-management system is being properly maintained in keeping with its design and is providing the level of stormwater storage and treatment as established in the Environmental Resource Permit.
 - d. Should the applicant/developer discover that any portion of the stormwater system is not being adequately maintained or that the system is not functioning properly, the applicant/developer

shall, within seven days, report such fact to the County and shall promptly undertake any necessary repairs or modifications to the system. The developer report(s) shall include any such problems and the necessary repairs or modifications to remedy them, as well as what repairs or modifications to the system have been undertaken since the previous report(s).

- e. Landscape and irrigation shall be in conformance with the LDC in effect at the time of preliminary plan/site plan approval.
35. Stormwater design shall include low impact development techniques to reduce the discharge of pollutant loads into receiving water bodies and to facilitate all stormwater exiting the site in meeting all applicable State water quality standards.

Water Resource Protection

36. The applicant/developer shall comply with the Pasco County Wellhead Protection Ordinance.
37. Should any noticeable soil slumping or sinkhole formation become evident, the applicant/developer shall immediately notify the County, TBW, and the SWFWMD, and adopt one or more of the following procedures as determined to be appropriate by the County and the SWFWMD:
- a. If the slumping or sinkhole formation becomes evident before or during construction activities, stop all work (except for mitigation activities) in the affected area and remain stopped until the County and the SWFWMD approve resuming construction activities.
 - b. Take immediate measures to ensure that no surface water drains into the affected areas.
 - c. Visually inspect the affected area.
 - d. Excavate and backfill as required to fill the affected area and prevent further subsidence.
 - e. Use geotextile materials in the backfilling operation, when appropriate.
 - f. If the affected area is in the vicinity of a water retention area, maintain a minimum vertical distance of five feet from the bottom of the retention pond to the surface of the limerock clay or karst connection.
 - g. If the affected area is in the vicinity of a water retention area and the above methods do not stabilize the collapse, relocate the retention area.
38. Discharge of stormwater into depressions with direct or demonstrated hydrologic connection to the Floridan Aquifer is prohibited.
39. The historic, average rainfall volume discharged from the site shall be maintained in accordance with the LDC, Sections 604, 605, 606, as applicable, and the *Stormwater Management Practices Manual*.

Land Use

40. The residential design standards are as follows:
- a. Single Family Detached
 - (1) Minimum Lot Width of 50 Feet
 - (2) Minimum Lot Depth of 110 Feet
 - (3) Minimum Front-Yard Setback of 20 Feet* (25 feet from back of sidewalk to face of garage)
 - (4) Minimum Side-Yard Setback of 7.5 Feet
 - (5) Minimum Rear-Yard Setback of 15 Feet
 - (6) Minimum Lot Area of 5,500 Square Feet
 - (7) Maximum Lot Coverage of 65 Percent—Principal and Accessory Structure
 - (8) Land considered for the neighborhood park requirements or used for stormwater retention/detention shall be a minimum of 20 feet from the rear of the structure and a minimum of 15 feet from the side of the structure.

b. Single Family Detached

- (1) Minimum Lot Width of 60 Feet
- (2) Minimum Lot Depth of 110 Feet.
- (3) Minimum Front-Yard Setback of 20 Feet* (25 feet from back of sidewalk to face of garage)
- (4) Minimum Side-Yard Setback of 7.5 Feet
- (5) Minimum Rear-Yard Setback of 15 Feet
- (6) Minimum Lot Area of 6,600 Square Feet
- (7) Maximum Lot Coverage of 65 Percent - Principal and Accessory Structure

c. Single-Family Attached (Townhomes)

- (1) Minimum Lot Width of 16 Feet
- (2) Minimum Lot Depth of 66 Feet
- (3) Minimum Front-Yard Setback of 20 Feet to back of curb or sidewalk
- (4) Minimum Side-Yard Setback of 0 Feet for Interior Property Lines; 10 Feet for Exterior Property Lines (20 Feet Side Separation)**
- (5) Minimum Rear-Yard Setback of 15 Feet
- (6) Maximum Lot Coverage of 100 Percent
- (7) Maximum Building Height Shall Not Exceed 45 Feet

** The average distance between structures, for any building containing more than four units, shall be 30 feet, with no point closer than 20 feet.

- f. The above minimum setbacks are calculated based on minimum right-of-way widths in accordance with the LDC. Any reduction of the minimum right-of-way width may require an MPUD Master Planned Unit Development amendment to increase minimum setbacks.
- g. Recreation-center development standards shall be in accordance with the C-1 Neighborhood Commercial District.
- h. The total aggregate number of dwelling units for FCI MPUD shall not exceed 317.
- i. The maximum density or square footage set forth above is not a vested right and is subject to reduction based on, or as a result of, applicable Pasco County ordinances and resolutions.
- j. Parcels may be developed out of numerical sequence and in multiples as long as the parcels being developed do not rely upon infrastructure construction of future parcels.

46. Any proposed increase in density/intensity that results in an overall increase greater than or equal to five percent cumulatively, or a change in overall design and/or content occurs, a substantial amendment shall be presumed. Additionally, should the proposed amendment result in an increase in density/intensity that necessitates a revised traffic study, then the request shall be presumed to be substantial.

47. Residential use may not be intensified within any one increment following approval of the plat or final site plan for the first unit in that increment without review and approval by the BCC.

48. Any overall increase to density/intensity or decrease in open space shall be calculated cumulatively from the last substantial amendment.

49. The developer may designate, on the Master Development Plan, a site or sites which do not exceed a total of four acres to be used for recreational vehicle storage for the exclusive use of Livingston MPUD residents. Such site(s) shall have appropriate landscape buffering in compliance with Pasco County Landscaping and Irrigation Ordinance No. 02-04 as amended and shall be shown on the approved Master Development Plan. The site(s) must obtain preliminary site plan approval prior to development and be owned by the mandatory homeowners'/ property owners'/condominium owners'/merchants' association or CDD. FCI

Procedures

50. A disclosure statement regarding the construction of all future roadways abutting and through the MPUD Master Planned Unit Development shall be included in all sales contracts for residential and nonresidential sales with the MPUD Master Planned Unit Development. This disclosure shall include the future roadway's number of lanes and construction timing, if applicable.

51. Unless required elsewhere within the conditions of approval, all conveyances shall occur at record plat or construction plan approval where a record plat is not required or within 90 days of the County's request, whichever occurs first. All conveyances shall include access easements, be in a form acceptable to the Real Estate Division, and be free and clear of all liens and encumbrances, including exemption from all covenants and deed restrictions.
52. If the preliminary plans and/or preliminary site plans for the entire MPUD Master Planned Unit Development are not approved within six years of the original rezoning approval or from the last approved substantial modification, the conditions of approval shall expire for those portions of the MPUD Master Planned Unit Development that do not have (unexpired) preliminary plan or preliminary site plan approval. If the MPUD Master Planned Unit Development expires, a new MPUD Master Planned Unit Development must be applied for and approved by the BCC, and the conditions of approval shall be in accordance with the Comprehensive Plan and LDC in effect at that time.
53. Unless otherwise approved by the Emergency Services Director, the development shall be included into a Pasco County Municipal Fire Service Taxing Unit to provide fire protection. The developer shall submit a petition for inclusion into the Pasco County Municipal Fire Service Taxing Unit at the time of record plat submission, or when no plat is required, prior to the issuance of the first Building Permit. In no case shall a Building Permit be issued until the Emergency Services Director has received such a petition.
54. A preliminary plan/preliminary site plan must be approved for an entire increment (bubble) prior to any phased construction plan/construction site plan approval. The maximum density and intensity of each increment shall not exceed the limits shown on the approved MPUD Master Planned Unit Development Plan. A preliminary site plan must also be approved for each multifamily (nonfee simple), recreational vehicle, or commercial increment in its entirety prior to any phased construction site plan approval.

In the event the Route Studies alter proposed road alignments or the School Board releases the School site, the developer shall submit a revised MPUD Plan to reflect such events, for approval by the Zoning Administrator.

55. Preliminary plan/preliminary site plan submittals shall include a detailed breakdown of the individual plan approvals, including the plan name and increment or phase designation as it relates to the Master Development Plan, acreage of the site, total number of units, or gross floor area ratio of commercial space which have received preliminary plan/preliminary site plan approval, construction plan/construction site plan approval, and/or record plat approval.
56. Development shall occur in accordance with the LDC, Section 402, Concurrency Management System.
57. Rezoning of this property with conditions does not relieve any developer of responsibilities under state law, including, but not limited to, Development of Regional Impact requirements under Chapter 380, Florida Statutes.
58. All conditions of this MPUD Master Planned Unit Development approval are material to the BCC approval. Accordingly, the conditions are not severable. In the event any section, subsection, sentence, clause, or provision of these conditions or the rezoning resolution is challenged and declared illegal, invalid, or in violation of any statutory or constitutional requirement by a body with jurisdiction to make such determination, the remainder of the conditions and MPUD Master Planned Unit Development approval shall be suspended until such time that the BCC modifies the MPUD Master Planned Unit Development conditions of approval to address the illegal or invalid provision, provided that such suspension shall not exceed nine months in duration. However, such determination shall not affect the validity of 1) MPUD Master Planned Unit Development entitlements that have received plat, Building Permit, or CO approval; or 2) any MPUD Master Planned Unit Development mitigation committed to or performed as of the date the determination is made, unless such approvals or mitigation are specifically declared to be illegal, invalid, or unenforceable. Requests for BCC-approved modifications to the MPUD Master Planned Unit Development or the MPUD Master Planned Unit Development conditions of approval shall not be considered challenges and decisions by the BCC regarding any modification or the like shall not have the effect of suspending the conditions and the MPUD Master Planned Unit Development approval under any circumstances.

OWNER/DEVELOPER ACKNOWLEDGMENT:

The owner/developer acknowledges that they have read, understood, and accepted the above-listed conditions of approval. **Do not sign until you receive a copy of this petition with the BCC results.**

_____ (Date)

I hereby certify on this _____ day of _____, _____, A.D., before me personally appeared the owner/developer, to me known to be the person described in and who executed the foregoing document and severally acknowledged the execution thereof to be their free act and deed for the uses and purposes therein expressed.

Witness my hand and seal at _____, _____ County, Florida, the day and year aforesaid.

My commission expires:

_____ (Date) Notary Public, State of _____ at Large)

RESOLUTION CHANGING ZONING CLASSIFICATION OF PROPERTY DESCRIBED IN APPLICATION NO. 6920 FROM AN A-C AGRICULTURAL DISTRICT TO AN MPUD MASTER PLANNED UNIT DEVELOPMENT DISTRICT.

WHEREAS, the Board of County Commissioners of Pasco County, after due public notice, held a public hearing on January 25, 2011, on Rezoning Application No. 6920; and

WHEREAS, the Board of County Commissioners has heard the presentation and evidence of the applicant and individuals in opposition to and in favor of the application; and

WHEREAS, the Board of County Commissioners has reviewed the report and recommendations of the Planning Commission and the recommendation of the County staff and does hereby adopt the following findings of fact:

FINDINGS OF FACT

1. Presently, the subject site contains 159.5 acres, m.o.l., which is undeveloped.
2. Access to the property is from Keene Road, a substandard, County-maintained road, which has 30 feet of right-of-way with 12 feet of pavement.
3. The subject property is located in Flood Zones "A" and "X." Development in the area designated Zone "A" is subject to the requirements of the Land Development Code (LDC), Article 700, Flood Damage Prevention.
4. Water and sewer are to be serviced by the Pasco County Utilities Services Branch.
5. On June 27, 2006, the Board of County Commissioners adopted the Corridor Preservation Tables in the Transportation Element of the Comprehensive Plan necessitating the preservation of right-of-way along certain roadways.
6. The applicant submitted a Traffic Impact Study and Substandard Roadway Analysis that were reviewed and finalized by the County's consultant on January 14, 2009. A condition of the Substandard Roadway Analysis required the applicant to reconstruct Keene Road to County standards from the project's site-access connection to U.S. 41. Staff requested that the applicant demonstrate its ability to obtain adequate access to U.S. 41. The applicant has been unable to demonstrate a method by which Keene Road could be brought to County standards.
7. The applicant submitted its request to develop 364 units. Based on information provided by the Pasco County Geographic Information System (GIS) Section, the site contains 161.99 acres which are designated as RES-3 (Residential - 3 du/ga). Approximately 62.13 acres are jurisdictional. Therefore, the maximum number of units allowed on the site, based on a ten percent density credit for upland acreage, is 317 units (total acreage minus lakes and jurisdictional acreage, multiplied by 1.10, and multiplied by land use).

Due to the discrepancies between the County's GIS and the applicant's survey, staff requested that the applicant submit a survey which included jurisdictional boundaries approved by the Southwest Florida Water Management District (SWFWMD). This survey would enable staff to recalculate density and determine if the applicant's request for additional density would be allowable. The applicant declined to submit a SWFWMD approved survey.

8. On March 18, 2010, the Development Review Committee (DRC) continued this item to April 29, 2010, and directed the applicant to procure a signed contract for the purchase of land from the property owner(s) along Keene Road to obtain enough right-of-way to satisfy substandard road criteria.

9. On April 23, 2010, the applicant requested an additional 60-day continuance to procure a signed contract for the purchase of the land from the property owner(s) along Keene Road in accordance with the DRC's previous directive, which has not been completed. The applicant also chose to revise the traffic analysis to extend the build-out date from December 2010 to December 2015.

10. On June 15, 2010, the applicant requested another continuance to procure a signed contract for the purchase of land from property owners along Keene Road and continue discussions with the Florida Department of Transportation with regard to their proposed improvements to U.S. 41. The applicant also wanted to complete the revised traffic study to extend the build-out date.

11. On October 7, 2010, staff recommended the DRC deny the project. The applicant had not procured the right-of-way necessary to comply with the substandard road criteria as previously directed by the DRC on March 18, 2010; the revised traffic study to extend the project's build-out date had not been finalized and submitted and density had not been agreed upon by the applicant. The DRC approved a continuance to enable the applicant to complete and submit the revised traffic study to extend the build-out date. The DRC also determined that right-of-way for substandard road improvements could be incorporated as a condition of approval. The applicant agreed to accept staff's recommendation of 317 units.

12. The revised traffic study was submitted to the County on October 28, 2010. The study has been reviewed by the County's consultant and comments sent to the applicant. At the November 18, 2010, DRC meeting, staff requested a continuance to allow the applicant to have adequate time to review and respond to staff's comments.

13. On November 29, 2010, staff received conditions of approval for the updated traffic study which are incorporated into the attached conditions of approval.

14. The proposed request is consistent with the Pasco County LDC, Article 300, Subsection 303.2.E.1, Criteria and Standards to be Considered in Review of Applications for Zoning Amendments, and with the applicable provisions of the Pasco County Comprehensive Plan, as conditioned. The subject property is located in the Central Market Area which is envisioned as a suburban area and is in close proximity to activity nodes, employment centers, and town centers.

WHEREAS, the Board of County Commissioners has taken into consideration other factors relevant to the decision as to whether the zoning classification should be approved for the subject property.

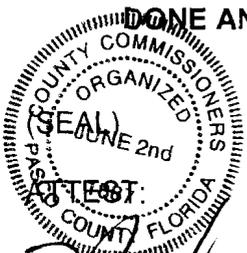
NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Pasco County, Florida, in regular session duly assembled, this 25th day of January, 2011, that the zoning classification of the following described real property is hereby changed from an A-C Agricultural District to an MPUD Master Planned Unit Development District, subject to the conditions set forth below:

CONDITIONS OF APPROVAL

See Attached

See Description on Exhibit A Attached

DONE AND RESOLVED this 25th day of January, 2011.



BOARD OF COUNTY COMMISSIONERS
OF PASCO COUNTY, FLORIDA



PAULA S. O'NEIL, Ph.D., CLERK AND COMPTROLLER



ANN HILDEBRAND, CHAIRMAN
3/11/2011

APPROVED AS TO LEGAL FORM AND SUFFICIENCY
Office of the Pasco County Attorney



ATTORNEY

EXHIBIT A

6920

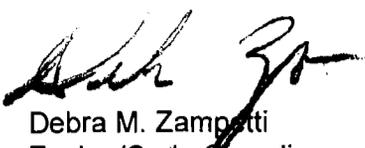
A tr of land lying in Secs 08, 16, & 17, T25S, R18E, Pasco Co, FL & desc as fol:

Com at the NW cor of said Sec 16, said cor also being the SE cor of said Sec 08, run th N89°57'07"E alg the N bdry of Sec 16, 2,618.13' to the NE cor of the NW¼ of said Sec 16; th S00°09'24"E alg the N-S¼ line of Sec 16, 1,316.70' to the SE cor of the NE¼ of the NW¼ of Sec 16; th S89°55'00"W alg the S bdry of the NE¼ of the NW¼ of said Sec 16, 96.65'; th S00°09'24"E alg the W bdry of the E 96.65' of the SE¼ of the NW¼ of Sec 16, 480.0'; th N89°55'00"E alg the S bdry of the N 480' of the said SE¼ of the NW¼ & the N 480' of the SW¼ of the NE, 290'; th N00°09'24"W, alg the E bdry of the W 193.35' of the said SW¼ of the NE¼, 450' to a pt on the S r/w line of Keene Rd; th N89°55'00"E, alg the S r/w line of said Keene Rd, 581.03'; th S00°12'00"W, 810.99' to the ctr of a drainage canal; th Wly alg ctr of said canal the fol bearg & dist: S68°19'35"W, 304.38'; th S74°31'23"W, 94.67'; th N56°44'27"W, 93.67'; th N52°02'31"W, 186.24'; th N27°20'42"W, 155.51' th N47°10'36"W, 160.18'; th N83°36'46"W, 35.15'; th S57°34'28"W, 86.17'; th S81°30'58"W, 177.37'; th S50°38'50"W, 63.67'; th S17°26'33"W, 54'; th S07°38'30"E, 114.69'; th S04°32'27"W, 68.71'; th S32°22'29"W, 80.20'; th S52°00'30"W, 104.36'; th N78°34'28"W, 630.61'; th S81°45'09"W, 325.04'; th S71°06'20"W, 107.63'; th N71°34'10"W, 262.28'; th N48°34'20"W, 134.58'; th N27°32'51"W, 199.30'; th N87°18'39"W, 263.02'; th N72°20'24"W, 296.99'; th N31°27'01"W, 194.52'; th N37°49'27"W, 104.53'; th S41°40'04"W, 40.98'; th S66°49'22"W, 88.0'; th N71°59'57"W, 94.77'; th S63°11'57"W, 59.57'; th S59°58'48"W, 87.45'; th S87°57'47"W, 162.22' to the inter of ctrline of said drainage canal & the Ely r/w of SAL RR said pt lying on the arc of a curv; th 1,691.37' alg the arc of said curv concave Ely having a rad of 5,679.65' (chord bearg N04°58'36"E, chord dist of 1,685.13') to the POT; th N10°30'35"E, 44.16' to the inter of the E r/w line of said RR w/th N bdry line of Sec 17, also being the S bdry of Sec 08; th N89°47'59"E, 126.35'; th N00°15'40"W alg a line 264'W of & parallel to the E bdry of said Sec 08, 153.30'; th S85°23'53"E, 234.84' to a pt lying 30' W of the E bdry of said Sec 08; th N00°15'40"W alg a line 30' W of & parallel to the E bdry of Sec 08, 196.47'; th N89°47'59"E, 30.0' to a pt on the E bdry of Sec 08, th S00°15'40"E alg said E bdry of Sec 08, 330' to the POB, Secs 08, 16, & 17, T25S, R18E, Pasco Co, FL.

ZONING PETITION REVIEW REPORT

TO: Pasco County Planning Commission

FILE: ZN11-6920

FROM: 
Debra M. Zampetti
Zoning/Code Compliance
Administrator

PETITION #6920

Commission District #2

Development Review Committee
Hearing Date: 12/23/10, NPR

STAFF: Denise Hernandez
Planner I
Thru Dianne Naeyaert
Planner I

Planning Commission
Hearing Date: 1/12/11, DC

Board of County Commissioners
Hearing Date: 1/25/11, NPR

SUBJECT: Rezoning Request
West Central Pasco County
(Cont. from 3/18/10, DRC)
(Cont. from 4/29/10, DRC)
(Cont. from 7/15/10, DRC)
(Cont. from 10/7/10, DRC)
(Cont. from 11/1/10, PC)
(Cont. from 11/18/10, DRC)
(Cont. from 12/7/10, BCC)
(Cont. from 12/8/10, PC)

TAZ #149

APPLICANT: **FLORIDA CITRUS INVESTORS, INC./
FCI MPUD**

PETITION SUMMARY:

Petition No. 6920 in the name of Florida Citrus Investors, Inc./FCI MPUD has been filed for a change in zoning from an A-C Agricultural District to an MPUD Master Planned Unit Development District. The property is located on the west side of U.S. 41 at the terminus of Keene Road, which is approximately one-half mile south of the intersection of U.S. 41 and S.R. 52 (Parcel ID Nos. 16-25-18-0000-02000-0000, 16-25-18-0000-02200-0000, 17-25-18-0000-00200-0000, and 08-25-18-0000-00300-0010) and contains 159.5 acres, m.o.l.

Commission District:	The Honorable Pat Mulieri, Ed.D.
Project Name:	Florida Citrus Investors, Inc., MPUD Master Planned Unit Development
Applicant's Name:	Florida Citrus Investors, Inc.
Zoning District:	MPUD Master Planned Unit Development
Future Land Use Classification:	RES-3 (Residential - 3 du/ga)
Water/Sewage:	Pasco/Pasco
No. of Dwelling Units:	317
Type of Dwelling Units:	Single-Family Detached/Townhouses

The surrounding zoning districts and land uses are as follows:

	<u>Zoning District</u>	<u>Land Use</u>
North:	A-C Agricultural	Single-Family Dwellings
East:	A-C Agricultural; A-R Agricultural-Residential; R-1 Rural Density Residential	Single-Family Dwellings
South:	A-C Agricultural	Service Shop; Single-Family Dwellings; Undeveloped
West:	A-C Agricultural	Undeveloped

FINDINGS OF FACT:

1. Presently, the subject site contains 159.5 acres, m.o.l., which is undeveloped.
2. Access to the property is from Keene Road, a substandard, County-maintained road, which has 30 feet of right-of-way with 12 feet of pavement.
3. The subject property is located in Flood Zones "A" and "X." Development in the area designated Zone "A" is subject to the requirements of the Land Development Code, Article 700, Flood Damage Prevention.
4. Water and sewer are to be serviced by the Pasco County Utilities Services Branch.
5. On June 27, 2006, the Board of County Commissioners adopted the Corridor Preservation Tables in the Transportation Element of the Comprehensive Plan necessitating the preservation of right-of-way along certain roadways.
6. The applicant submitted a Traffic Impact Study (TIS) and Substandard Roadway Analysis that were reviewed and finalized by the County's consultant on January 14, 2009. A condition of the Substandard Roadway Analysis required the applicant to reconstruct Keene Road to County standards from the project's site-access connection to U.S. 41. Staff requested that the applicant demonstrate its ability to obtain adequate access to U.S. 41. The applicant has been unable to demonstrate a method by which Keene Road could be brought to County standards.
7. The applicant submitted its request to develop 364 units. Based on information provided by the Pasco County Geographic Information System (GIS) Section, the site contains 161.99 acres which are designated as RES-3 (Residential - 3 du/ga). Approximately 62.13 acres are jurisdictional. Therefore, the maximum number of units allowed on the site, based on a ten percent density credit for upland acreage, is 317 units (total acreage minus lakes and jurisdictional acreage, multiplied by 1.10, and multiplied by land use).

Due to the discrepancies between the County's GIS and the applicant's survey, staff requested that the applicant submit a survey which included jurisdictional boundaries approved by the Southwest Florida Water Management District (SWFWMD). This survey would enable staff to recalculate density and determine if the applicant's request for additional density would be allowable. The applicant declined to submit a SWFWMD approved survey.
8. On March 18, 2010, the Development Review Committee (DRC) continued this item to April 29, 2010, and directed the applicant to procure a signed contract for the purchase of land from the property owner(s) along Keene Road to obtain enough right-of-way to satisfy substandard road criteria
9. On April 23, 2010, the applicant requested an additional 60-day continuance to procure a signed contract for the purchase of land from the property owner(s) along Keene Road in accordance with the DRC's previous directive, which has not been completed. The applicant also chose to revise the traffic analysis to extend the build-out date from December 2010 to December 2015.
10. On June 15, 2010, the applicant requested another continuance to procure a signed contract for the purchase of land from property owners along Keene Road and continue discussions with the Florida Department of Transportation (FDOT) with regard to their proposed improvements to U.S. 41. The applicant also wanted to complete the revised traffic study to extend the build-out date.
11. On October 7, 2010, staff recommended the DRC deny the project. The applicant had not procured the right-of-way necessary to comply with the substandard road criteria as previously directed by the DRC on March 18, 2010, the revised traffic study to extend the project's build-out date had not been finalized and submitted and density had not been agreed upon by the applicant. The DRC approved a continuance to enable the applicant to complete and submit the revised traffic study to extend the build-out date. The DRC also determined that right-of-way for substandard road improvements could be incorporated as a condition of approval. The applicant agreed to accept staff's recommendation of 317 units.
12. The revised traffic study was submitted to the County on October 28, 2010. The study has been reviewed by the County's consultant and comments sent to the applicant. At the November 18, 2010 DRC, staff requested a continuance to allow the applicant to have adequate time to review and respond to staff's comments.

13. On November 29, 2010, staff received conditions of approval for the updated traffic study which are incorporated into the attached conditions of approval.
14. The proposed request is consistent with the Pasco County LDC, Article 300, Subsection 303.2.E.1, Criteria and Standards to be Considered in Review of Applications for Zoning Amendments, and with the applicable provisions of the Pasco County Comprehensive Plan as conditioned. The subject property is located in the Central Market Area which is envisioned as a suburban area and is in close proximity to activity nodes, employment centers and town centers.

RECOMMENDATION:

The Zoning and Site Development Department recommends approval of the MPUD Master Planned Unit Development subject to the attached rezoning conditions of approval, Petition No. 6920.

ATTACHMENTS:

1. Florida Citrus Investors, Inc., MPUD Master Planned Unit Development, Conditions of Approval, Rezoning Petition No. 6920
2. Location Maps
3. Master Plan
4. Concurrency

DEVELOPMENT REVIEW COMMITTEE ACTION:

Approval of Staff Recommendation with an Amended Condition

AMENDED CONDITION:

22. The developer has submitted a traffic study that was reviewed by the staff of the County. Prior to approval of the first record plat, or where platting is not required, prior to the issuance of the first Building Permit, the developer shall construct the following improvements:

Site-Access Related Improvements

- a. The applicant shall construct a site access connection to Keene Road in accordance with the project's site plan as approved by the Pasco County Zoning and Site Development Department.
- b. The applicant shall construct a 430-foot southbound to westbound right-turn lane on U.S. 41 at Keene Road (including 50-foot taper).
- c. The applicant shall construct a 480-foot northbound to westbound left-turn lane on U.S. 41 at Keene Road (including 50-foot taper).
- d. The applicant shall construct a 150-foot eastbound left-turn/through lane on Keene Road approaching U.S. 41 (including 50-foot taper). Upon completion of this improvement, the eastbound Keene Road approach to U.S. 41 shall consist of a shared left-turn/through lane and a right-turn lane.

Off-Site Improvements

- a. The applicant shall mitigate project impacts to the U.S. 41/S.R. 52 intersection through the construction of (a) a second northbound-to-westbound left-turn lane at a length of 760 feet with a 0.5 mile receiving lane, (b) lengthening of the westbound left-turn lane from 450 feet to 495 feet, (c) lengthening of the existing northbound left-turn lane from 535 feet to 760 feet, (d) roadway transitions in accordance with the latest edition of the Florida Department of Transportation Design Standards, and (e) traffic signal modifications as necessary.

In lieu of the above-mentioned off-site improvements, the applicant shall pay a proportionate share in the amount of \$651,410 for the improvements specified in the condition above. The total proportionate share amount for the above-mentioned off-site improvements is \$651,410 (2010 dollars) for the improvements specified in the condition above. This proportionate share shall be paid prior to the issuance of the first Building

Permit for any commercial and prior to record plat for residential. Such amount shall be adjusted at the time of payment by the most recent construction and right-of-way indices as adopted by the Transportation Impact Fee (TIF) Ordinance, as amended.

Payment of the proportionate-share amount shall be eligible for transportation impact fee credits as determined by the County's Capital Improvements Plan (CIP) and in accordance with the Impact Fee Ordinance, as amended.

Based on the land use assumptions proposed in the approved traffic study, the generally applicable Transportation Impact Fees (TIF) for the project, based on 2010 dollars, is estimated to total \$3,408,670, as adjusted pursuant to the TIF Ordinance. Since the total Traffic Impact Study (TIS) calculated proportionate-share amount of \$651,410 is less than the estimated Option 3 TIF amount, the applicant/developer shall pay its regular impact fees in accordance with the most recent impact fee schedule at the time impact fees are collected. However, if no Building Permit is issued within three years of this rezoning approval, the County reserves the right to adjust the proportionate-share amount by the most recent construction and right-of-way indices as adopted by the TIF Ordinance and may require payment of the adjusted proportionate-share amount if the same are greater than the project's projected total impact fees.

Substandard Road Improvements

- a. All necessary right-of-way for Keene Road shall be acquired prior to or concurrent with the submittal of the first preliminary plan.
- b. The applicant shall reconstruct Keene Road from the project site access connection to U.S. 41 to meet all applicable County standards; including but not limited to lane width, shoulder width, pavement design, side slopes, clear zone width, and approach grade to U.S. 41.

CONDITIONS:

See Attached

PLANNING COMMISSION ACTION:

Approval of Staff Recommendation

BOARD OF COUNTY COMMISSIONERS ACTION:

Approved

OWNER'S/APPLICANT'S ACKNOWLEDGMENT:

The owner/applicant acknowledges that it has read, understood, and accepted this Zoning Petition Review Report. **Do not sign until you receive a copy of this petition with the Board of County Commissioners results.**

(Date)

Printed Name

I hereby certify on this _____ day of _____, _____, A.D., before me personally appeared the owner/applicant, to me known to be the person described in and who executed the foregoing document and severally acknowledged the execution thereof to be their free act and deed for the uses and purposes therein expressed.

Witness my hand and seal at _____, _____ County, Florida, the day and year aforesaid.

My commission expires:

Notary Public, State of _____ at Large

**FLORIDA CITRUS INVESTORS, INC.
MASTER PLANNED UNIT DEVELOPMENT
CONDITIONS OF APPROVAL
REZONING PETITION NO. 6920**

Master Development Plans

1. Development shall be in accordance with the application, plans, and information submitted from August 21, 2006 thru November 29, 2010, unless otherwise stipulated or modified herein.

Instructions

2. The developer shall submit, within 45 days of the BCC approval, or prior to the first preliminary plan/preliminary site plan submittal, whichever occurs first, 20 sets of the revised MPUD Master Planned Unit Development Plan to the Zoning and Site Development Department, for review and approval, that addresses all applicable conditions set forth and the following specific instructions. Without the submittal and approval of revised MPUD Master Planned Unit Development plans, preliminary plans/preliminary site plans will not be accepted for review.
 - a. Revise all references to the total unit count from 385 to 317 units.
 - b. Correct the alignment for Bulloch Boulevard.
 - c. Show correct Engineer/Surveyor information in General Note number 4.
 - d. Revise the design standards for the Single-Family Attached product and the front setback note for the Single-Family Detached product to reflect the standards listed in these MPUD Conditions of Approval.

Open Space/Buffering

3. Wetlands (conservation/preservation areas) shall be as defined by the Pasco County Comprehensive Plan, Chapter 3, Conservation Element, Wetlands, Policy 1.3.1, and shown on all preliminary plans/preliminary site plans and construction plans/construction site plans. Lot lines shall not encroach into the wetlands and wetland buffers. Jurisdictional boundaries shall be delineated in accordance with the responsible regulatory agency. These boundaries may be adjusted following appropriate permit approval and shall be shown on each preliminary plan/preliminary site plan. Removal, encroachment, Comprehensive Plan, Chapter 3, Conservation Element, Wetlands, Policy Nos. 1.3.6, 1.3.8, and 1.3.11; however, no removal, encroachment, alteration, or development shall be permitted within any wetland used to obtain a Comprehensive Plan or Land Development Code (LDC) density credit. All permits for encroachments, alterations, or development within Category I wetlands shall be obtained and submitted to Pasco County prior to construction plan/construction site plan approval.
4. There shall be a buffer around all Category I wetlands of 25 feet, not inclusive of any lots. Wetland buffers around Category II and Category III wetlands shall be required in accordance with the Southwest Florida Water Management District (SWFWMD) or other regulatory agencies and shall not be inclusive of any lots. The proposed upland buffer area shall be shown on the construction plans/construction site plans. The final upland buffer area, as required by the SWFWMD or other regulatory agencies, shall be designated on the plat as "Wetland Conservation Areas." Permissible uses of the Wetland Conservation Areas shall be those uses allowed by the SWFWMD or other regulatory agencies.
5. All wetlands and wetland buffers shall be platted within tracts and designated on the plat as "Wetland Conservation Areas." All preserved wetlands and wetland buffers shall be platted outside lots. No activity requiring the issuance of a Building Permit shall be allowed within five feet of the wetlands' buffer line unless otherwise approved by the regulatory agencies and Pasco County. Concurrent with platting, all wetlands shall be deeded to the mandatory homeowners' association/Community Development District (CDD)/merchants' association. The homeowners' association/merchants' association documents shall provide that the homeowners' association/merchants' association shall be responsible for the payment of taxes, if any, on the Wetland Conservation Areas.

6. The developer has submitted an environmental/habitat study, a gopher tortoise study and a sand hill crane study which have been reviewed by County staff and the following conditions shall apply:
 - a. Prior to any clearing or grubbing associated with the preliminary plan/preliminary site plan approval of any unit or phase, the developer shall submit a copy of any required permit for gopher tortoises issued by the FFWCC to the Permits and Development Information Services Department.
 - b. Prior to construction plan/construction site plan approval, the developer shall submit to the Permits and Development Information Services Department a copy of the Environmental Resource Permit Application as submitted to the SWFWMD. Prior to the issuance of the Site Development Permit, the developer shall submit to the Permits and Development Information Services Department a copy of the Environmental Resource Permit.

7. The developer has submitted an Archaeological/Historical Survey on October 31, 2008 and correspondence from the Division of Historical Resources dated May 29, 2009. Although no archaeological sites eligible for the National Register of Historic Places were found, the following statement shall be placed on all future site plans:

"If, during construction activities, any evidence of historic resources including, but not limited to, aboriginal or historic pottery, prehistoric stone tools, bone or shell tools, historic trash pits, or historic building foundations are discovered, work shall come to an immediate stop, and Pasco County and the Florida Division of Historical Resources shall be notified within two working days."

8. The developer shall create a mandatory homeowners'/property owners'/condominium owners'/merchants' association in the form of a nonprofit corporation registered with the Secretary of State, State of Florida, or, if approved by the BCC, a CDD shall encompass the entire boundaries of the MPUD Master Planned Unit Development except for any real property to be conveyed to the County or the District School Board of Pasco County (School Board). The developer shall convey in fee simple to the association or the CDD, for ownership and maintenance, all open space, drainage areas, common areas, landscape areas, wetland areas, buffer areas, preservation/conservation areas, and other special purpose areas unless the said area(s) is/are required to be dedicated to another governmental entity. Recreation areas and neighborhood parks shall be conveyed to the association as well, but only to the CDD if such special power pursuant to Section 190.012(2), Florida Statutes, is consented to by the County. All such conveyances shall be for a value that does not exceed the fair market value of the land. Prior to platting the first unit or phase, homeowners'/property owners'/condominium owners'/merchants' association or CDD documents, including Articles of Incorporation with proof of being filed with the Secretary of State, State of Florida, restrictive covenants, and all exhibits, shall be submitted to the Engineering Services Department for review along with copies of instruments to be used to convey in fee simple the above-mentioned areas to the said association or the CDD. The deed restrictions shall prohibit parking across any sidewalk area on any driveway. Impact fee credits for improvements or dedications shall go to the association or the CDD that funded such improvements as applicable.

Ordinances

9. In addition to the MPUD Master Planned Unit Development conditions of approval, the developer shall comply with all Pasco County ordinances, including all impact fee ordinances.
10. In the event ordinances/resolutions are subsequently adopted by the BCC including, but not limited to, solid waste, public safety, or wildlife ordinances, the owner/developer shall be required to comply with such ordinances/resolutions.

Transportation/Circulation

Access Management

11. The developer shall provide a secondary functional access and emergency access to each increment in accordance with the LDC as amended. The emergency access may be barricaded in a manner found acceptable by the Permits and Development Information Services Department and the Emergency Services Department.
12. Prior to construction plan/construction site plan approval of any project accessing a State roadway, the owner/developer shall furnish to the Permits and Development Information Services Department a

Letter of Intent indicating approval and/or an approved Driveway Permit from the Florida Department of Transportation (FDOT). Prior to the issuance of the first Certificate of Occupancy (CO), the owner/developer shall provide a letter from the Florida Department of Transportation stating that the improvements within the State right-of-way have been inspected and completed to their satisfaction.

13. At each preliminary plan/preliminary site plan approval, the DRC may also require further site-specific intersection improvements. Intersection improvements shall be determined in accordance with the LDC and Access Management Standards as amended.
14. Any gates located within gated communities shall be setback sufficiently in order to provide vehicular stacking for a minimum of three vehicles, unless a greater distance is determined to be required at the time of each preliminary plan or preliminary site plan review. All entrances accessed by key or electronically coded systems shall be equipped with a system approved by the Emergency Services Director to allow fire or other emergency vehicles immediate access to the development. Upon replacement of any existing gated system, the replacement shall be equipped with a system acceptable to Pasco County. In addition, the access lane widths and clearance between fixed structures shall be a minimum of 15 feet in width.

Dedication of Right-of-Way

15. Public roadways shall be required unless otherwise approved by the DRC through an alternative standards request prior to or concurrent with the first preliminary plan/preliminary site plan approval.
16. In the case of private streets, dedication and maintenance shall be the responsibility of an appropriate entity other than Pasco County.
17. Vehicular-access rights along the rear of all double-frontage lots that abut roads within or adjoining the project shall be dedicated to Pasco County concurrent with final record platting for each phase of any increment or where no plat is required prior to final site plan approval.
18. Subject to the provisions of the Right-of-Way Preservation Ordinance, the developer shall convey at no cost to Pasco County 142 feet of right-of-way for the north-south public roadway depicted on the MPUD Plan as "Bulloch Boulevard", from the northern project boundary to the southern project boundary.

In addition, the developer shall, at no cost to Pasco County, design, construct, provide, and obtain any and all permits required by any local, State, or Federal agency for appropriate and sufficient drainage/retention, wetland, and floodplain mitigation facilities for a 4-lane facility on the developer's property or at another site acceptable to the County to mitigate all impacts associated with the initial and future planned; i.e., in the current County Comprehensive Plan Transportation Element or Metropolitan Planning Organization Long-Range Plan, improvements of Bulloch Boulevard within or adjacent to the boundaries of the developer's property including, but not limited to, mitigation for initial and future lanes of travel, shoulders, frontage roads, sidewalks, multimodal paths, medians, buffers and buffer walls, and other roadway appurtenances. The required drainage/retention, wetland, and floodplain mitigation facilities shall be determined at the time of stormwater-management plan review for the portion(s) of the project adjacent to Bulloch Boulevard and this paragraph of this condition shall expire after such stormwater-management plans have been approved, unless such facilities are required pursuant to a development agreement approved pursuant to the LDC, Section 403. All stormwater-management plans, reports, or calculations for the developer's project shall include a detailed scope of design and permitting parameters and a signed and sealed certification that such plans, reports, or calculations comply with this condition.

Design/Construction Specifications

19. Prior to preliminary plan/preliminary site plan submittal, the developer shall supply evidence that it has coordinated with the developers and engineers/surveyors of any affected, adjoining parcels to identify and provide the location of the required interconnecting roadway. The following information shall be shown on all preliminary plans/preliminary site plans and construction plans/construction site plans that include or abut the interconnecting roadway: location (by State plane coordinates), centerline, right-of-way width, cross section, elevation of centerline, grade, and centerline geometry (tangent bearing/curve geometry) to provide a seamless continuation of this road at property lines.
20. No excavation within the area of future lanes of multilane facilities will be allowed with the exception of excavation for drainage structures, permitted removal of wetlands, excavation to match existing grade, or as directed by the Engineering Services Director.

21. Alternative roadway-design standards may be considered and approved by the DRC at the time of each preliminary plan/preliminary site plan approval.
22. The developer has submitted a traffic study that was reviewed by the staff of the County. Prior to approval of the first record plat, or where platting is not required, prior to the issuance of the first Building Permit, the developer shall construct the following improvements:

Site-Access Related Improvements

- a. The applicant shall construct a site access connection to Keene Road in accordance with the project's site plan as approved by the Pasco County Zoning and Site Development Department.
- b. The applicant shall construct a 430-foot southbound to westbound right-turn lane on U.S. 41 at Keene Road (including 50-foot taper).
- c. The applicant shall construct a 480-foot northbound to westbound left-turn lane on U.S. 41 at Keene Road (including 50-foot taper).
- d. The applicant shall construct a 150-foot eastbound left-turn/through lane on Keene Road approaching U.S. 41 (including 50-foot taper). Upon completion of this improvement, the eastbound Keene Road approach to U.S. 41 shall consist of a shared left-turn/through lane and a right-turn lane.

Off-Site Improvements

- a. The applicant shall mitigate project impacts to the U.S. 41/S.R. 52 intersection through the construction of (a) a second northbound-to-westbound left-turn lane at a length of 760 feet with a 0.5 mile receiving lane, (b) lengthening of the westbound left-turn lane from 450 feet to 495 feet, (c) lengthening of the existing northbound left-turn lane from 535 feet to 760 feet, (d) roadway transitions in accordance with the latest edition of the Florida Department of Transportation Design Standards, and (e) traffic signal modifications as necessary.

In lieu of the above-mentioned off-site improvements, the applicant shall pay a proportionate share in the amount of \$651,410 for the improvements specified in the condition above. The total proportionate share amount for the above-mentioned off-site improvements is \$651,410 (2010 dollars) for the improvements specified in the condition above. This proportionate share shall be paid prior to the issuance of the first Building Permit for any commercial and prior to record plat for residential. Such amount shall be adjusted at the time of payment by the most recent construction and right-of-way indices as adopted by the Transportation Impact Fee (TIF) Ordinance, as amended.

Payment of the proportionate-share amount shall be eligible for transportation impact fee credits as determined by the County's Capital Improvements Plan (CIP) and in accordance with the Impact Fee Ordinance, as amended.

Based on the land use assumptions proposed in the approved traffic study, the generally applicable Transportation Impact Fees (TIF) for the project, based on 2010 dollars, is estimated to total \$3,408,670, as adjusted pursuant to the TIF Ordinance. Since the total Traffic Impact Study (TIS) calculated proportionate-share amount of \$651,410 is less than the estimated Option 3 TIF amount, the applicant/developer shall pay its regular impact fees in accordance with the most recent impact fee schedule at the time impact fees are collected. However, if no Building Permit is issued within three years of this rezoning approval, the County reserves the right to adjust the proportionate-share amount by the most recent construction and right-of-way indices as adopted by the TIF Ordinance and may require payment of the adjusted proportionate-share amount if the same are greater than the project's projected total impact fees.

Substandard Road Improvements

- a. All necessary right-of-way for Keene Road shall be acquired prior to or concurrent with the submittal of the first preliminary plan.
- b. The applicant shall reconstruct Keene Road from the project site access connection to U.S. 41 to meet all applicable County standards; including but not limited to lane width, shoulder width, pavement design, side slopes, clear zone width, and approach grade to U.S. 41.

23. Should a change/reduction in the proportionate-share payment be requested in the future, a revised traffic analysis shall be required in order to assess traffic impacts of the MPUD Master Planned Unit Development.
24. Prior to or concurrent with the approval of the first construction plan/construction site plan, if applicable, the developer shall obtain Right-of-Way Use Permits for the construction of the improvements identified above.
25. Prior to final plat approval for residential, or where platting is not required, prior to the issuance of any Building Permits occurring after December 31, 2015, the developer shall submit an updated traffic study utilizing a methodology approved by Pasco County. The DRC may impose additional conditions based upon the traffic study as approved by Pasco County.
26. The traffic study submitted by the applicant assumes the following land uses: 185 Single Family Residential and 200 Multi-Family Residential units. Any development of land use(s) that generate(s) greater traffic impacts than those assumed shall require an updated traffic study utilizing a methodology approved by Pasco County. In addition, where a traffic study assumes retirement, age restricted, 55 and older, or 62 and older housing, prior to approval of each plat, or where platting is not required, prior to approval of each construction plan, the developer shall provide to the County Attorney's office executed and recorded covenants or deed restrictions that restrict the said plat or construction plan to housing for persons 55 and older or 62 and older, as applicable. The said covenants, if satisfactory to the County Attorney's office, may also be used to satisfy the first tier of the School Impact Fee Waiver and Transportation Impact Fee reduction process. If the applicant or development fails to timely provide the required covenants or deed restrictions, or fail to comply with such covenants or deed restrictions, the applicant or development shall be required, in addition to any County remedies set forth in the County-approved covenants/deed restrictions, to submit an updated traffic study without any reduction in trip generation based on retirement, age restricted, 55 and older, or 62 and older housing; and additional approvals within the development shall be held in abeyance until the County approves the updated traffic study and determines the appropriate transportation mitigation. The DRC, BCC, or County Administrator or his designee, may impose additional conditions on the applicant or development based on the updated County approved traffic study.
27. The developer shall comply with the County and Pasco County Public Transportation requirements to accommodate mass transit service to and within the project. A detailed description of the overall transit-accommodations plan shall include, but is not limited to, a proposed ingress and egress route for buses and bus stops proposed to service the project including, but not limited to, benches, shelters, lighting, pedestrian walkways, landscaping, and placement as required by the County or Pasco County Public Transportation. The developer shall submit the detailed description of the overall transit-accommodations plan to the Zoning and Site Development Department for review and the DRC's approval prior to or concurrent with the preliminary plan/preliminary site plan submittal of the first unit or phase within the development. Approval of the detailed description of the overall transit-accommodations plan is subject to Pasco County Public Transportation review and approval in accordance with the Pasco County Public Transportation *Transit Infrastructure Guidelines* (June 2005), as may be amended from time to time, or any subsequent ordinance adopted by Pasco County. The developer shall include and show on any preliminary plan/preliminary site plan submittal the DRC approved transit-accommodation facilities, which shall be constructed with the infrastructure improvements of each affected preliminary plan/preliminary site plan unless an alternative phasing of transit-accommodation-facilities construction is approved with the overall transit-accommodations plan. The applicant/developer and their successors shall not refuse the Pasco County Public Transportation, or any other transit authority, or any of its users/patrons access to such facilities.
28. The developer may submit an overall pedestrian/bike path plan to the Zoning and Site Development Department for the DRC approval prior to approval of the first preliminary plan/preliminary site plan, which provides a path circulation in accordance with the Pasco County LDC as amended or an alternative method acceptable to the DRC and in compliance with the handicapped provisions of Chapter 336.045, Florida Statutes, or other applicable law. In the absence of an approved pedestrian/ bike path plan, compliance with the LDC is required.

Utilities/Drainage/Water Service/Wastewater Disposal

29. The developer shall submit a Stormwater Management Plan and Report for each development phase or increment in accordance with the Pasco County LDC as amended. The plans shall be approved prior to or simultaneous with application for construction plan review for the development phase/increment in question. No design for an individual increment/phase or portion of an increment/

phase shall be dependent upon the ultimate construction of future increments/phases, unless an interim design for drainage is approved by the Permits and Development Information Services Department.

30. A Utilities Service Plan for the entire development shall be submitted to the Utilities Services Branch for review and approval prior to submittal of the first construction plan/construction site plan. This utility plan shall minimally show the following:
 - a. Trunk sewer lines and lift stations.
 - b. Main potable water lines and nonpotable water lines, if applicable.
 - c. Sewage treatment facility locations, including discussion of the proposed method of treatment and the feasibility of a nonpotable water system for irrigation.
 - d. Method of lighting all nonlocal roads shall be submitted at the time of record plat submittal for each unit or phase.
 - e. Master utility plans shall be presented in a written format in conformance with the Utilities Service Plan guidelines implemented by the Utilities Services Branch. Prior to the first construction plan/construction site plan approval, the developer and the County shall enter into a Utilities Service Agreement.
31. The developer shall construct all water and wastewater facilities within the development to current Pasco County standards. A complete set of instructions may be obtained from the Utilities Services Branch.
32. In consideration of Pasco County's agreement to provide potable water and/or reclaimed water to the subject property, the developer/owner and its successors and assigns, agree to the following:
 - a. In the event of production failure or shortfall by Tampa Bay Water (TBW), as set forth in Section 3.19 of the Interlocal Agreement creating TBW, and then only for so long as such a production failure or shortfall exists, the developer/owner shall transfer to Pasco County any and all Water Use Permits or water-use rights the developer/owner may have to use or consume surface or groundwater within the subject property, provided that the same are not needed to continue any existing agricultural uses on the subject property, in which case, such transfer shall not be required as long as such agricultural uses are active.
 - b. Prior to the developer/owner selling water, Water Use Permits, or water-use rights, the developer/owner shall notify Pasco County, and Pasco County shall have a right of first refusal to purchase such water, Water Use Permits, or water-use rights.

Water Quality and Drainage

33. Development of the project shall not result in Levels of Service for off-site drainage structures below acceptable standards as established in the adopted Pasco County Comprehensive Plan and LDC, as may be amended from time to time.
34. The project's stormwater-management system shall be designed, constructed, and maintained to meet or exceed the Florida Administrative Code, Chapters 62-25, and 40D-4, or 40D-40; and Pasco County stormwater-management requirements as may be amended from time to time. Treatment shall be provided by biological filtration wherever feasible. Best Management Practices for reducing adverse water quality impacts as required by the regulations of Pasco County and other appropriate regulatory bodies shall be implemented. In addition, the applicant/developer shall comply with the following design requirements:
 - a. All swales shall be fully vegetated and operational.
 - b. Dry stormwater retention/detention areas, including side slopes and bottoms, shall be vegetated as required.
 - c. The applicant/developer or other responsible entities shall ensure that the stormwater-management system is being properly maintained in keeping with its design and is providing the level of stormwater storage and treatment as established in the Environmental Resource Permit.
 - d. Should the applicant/developer discover that any portion of the stormwater system is not being adequately maintained or that the system is not functioning properly, the applicant/developer

shall, within seven days, report such fact to the County and shall promptly undertake any necessary repairs or modifications to the system. The developer report(s) shall include any such problems and the necessary repairs or modifications to remedy them, as well as what repairs or modifications to the system have been undertaken since the previous report(s).

- e. Landscape and irrigation shall be in conformance with the LDC in effect at the time of preliminary plan/site plan approval.

- 35. Stormwater design shall include low impact development techniques to reduce the discharge of pollutant loads into receiving water bodies and to facilitate all stormwater exiting the site in meeting all applicable State water quality standards.

Water Resource Protection

- 36. The applicant/developer shall comply with the Pasco County Wellhead Protection Ordinance.
- 37. Should any noticeable soil slumping or sinkhole formation become evident, the applicant/developer shall immediately notify the County, TBW, and the SWFWMD, and adopt one or more of the following procedures as determined to be appropriate by the County and the SWFWMD:
 - a. If the slumping or sinkhole formation becomes evident before or during construction activities, stop all work (except for mitigation activities) in the affected area and remain stopped until the County and the SWFWMD approve resuming construction activities.
 - b. Take immediate measures to ensure that no surface water drains into the affected areas.
 - c. Visually inspect the affected area.
 - d. Excavate and backfill as required to fill the affected area and prevent further subsidence.
 - e. Use geotextile materials in the backfilling operation, when appropriate.
 - f. If the affected area is in the vicinity of a water retention area, maintain a minimum vertical distance of five feet from the bottom of the retention pond to the surface of the limerock clay or karst connection.
 - g. If the affected area is in the vicinity of a water retention area and the above methods do not stabilize the collapse, relocate the retention area.
- 38. Discharge of stormwater into depressions with direct or demonstrated hydrologic connection to the Floridan Aquifer is prohibited.
- 39. The historic, average rainfall volume discharged from the site shall be maintained in accordance with the LDC, Sections 604, 605, 606, as applicable, and the *Stormwater Management Practices Manual*.

Land Use

- 40. The residential design standards are as follows:
 - a. Single Family Detached
 - (1) Minimum Lot Width of 50 Feet
 - (2) Minimum Lot Depth of 110 Feet
 - (3) Minimum Front-Yard Setback of 20 Feet* (25 feet from back of sidewalk to face of garage)
 - (4) Minimum Side-Yard Setback of 7.5 Feet
 - (5) Minimum Rear-Yard Setback of 15 Feet
 - (6) Minimum Lot Area of 5,500 Square Feet
 - (7) Maximum Lot Coverage of 65 Percent—Principal and Accessory Structure
 - (8) Land considered for the neighborhood park requirements or used for stormwater retention/detention shall be a minimum of 20 feet from the rear of the structure and a minimum of 15 feet from the side of the structure.

- b. Single Family Detached
 - (1) Minimum Lot Width of 60 Feet
 - (2) Minimum Lot Depth of 110 Feet.
 - (3) Minimum Front-Yard Setback of 20 Feet* (25 feet from back of sidewalk to face of garage)
 - (4) Minimum Side-Yard Setback of 7.5 Feet
 - (5) Minimum Rear-Yard Setback of 15 Feet
 - (6) Minimum Lot Area of 6,600 Square Feet
 - (7) Maximum Lot Coverage of 65 Percent - Principal and Accessory Structure

- c. Single-Family Attached (Townhomes)
 - (1) Minimum Lot Width of 16 Feet
 - (2) Minimum Lot Depth of 66 Feet
 - (3) Minimum Front-Yard Setback of 20 Feet to back of curb or sidewalk
 - (4) Minimum Side-Yard Setback of 0 Feet for Interior Property Lines; 10 Feet for Exterior Property Lines (20 Feet Side Separation)**
 - (5) Minimum Rear-Yard Setback of 15 Feet
 - (6) Maximum Lot Coverage of 100 Percent
 - (7) Maximum Building Height Shall Not Exceed 45 Feet

- ** The average distance between structures, for any building containing more than four units, shall be 30 feet, with no point closer than 20 feet.

- f. The above minimum setbacks are calculated based on minimum right-of-way widths in accordance with the LDC. Any reduction of the minimum right-of-way width may require an MPUD Master Planned Unit Development amendment to increase minimum setbacks.

- g. Recreation-center development standards shall be in accordance with the C-1 Neighborhood Commercial District.

- h. The total aggregate number of dwelling units for FCI MPUD shall not exceed 317.

- i. The maximum density or square footage set forth above is not a vested right and is subject to reduction based on, or as a result of, applicable Pasco County ordinances and resolutions.

- j. Parcels may be developed out of numerical sequence and in multiples as long as the parcels being developed do not rely upon infrastructure construction of future parcels.

- 46. Any proposed increase in density/intensity that results in an overall increase greater than or equal to five percent cumulatively, or a change in overall design and/or content occurs, a substantial amendment shall be presumed. Additionally, should the proposed amendment result in an increase in density/intensity that necessitates a revised traffic study, then the request shall be presumed to be substantial.

- 47. Residential use may not be intensified within any one increment following approval of the plat or final site plan for the first unit in that increment without review and approval by the BCC.

- 48. Any overall increase to density/intensity or decrease in open space shall be calculated cumulatively from the last substantial amendment.

- 49. The developer may designate, on the Master Development Plan, a site or sites which do not exceed a total of four acres to be used for recreational vehicle storage for the exclusive use of Livingston MPUD residents. Such site(s) shall have appropriate landscape buffering in compliance with Pasco County Landscaping and Irrigation Ordinance No. 02-04 as amended and shall be shown on the approved Master Development Plan. The site(s) must obtain preliminary site plan approval prior to development and be owned by the mandatory homeowners'/ property owners'/condominium owners'/merchants' association or CDD.

Procedures

- 50. A disclosure statement regarding the construction of all future roadways abutting and through the MPUD Master Planned Unit Development shall be included in all sales contracts for residential and nonresidential sales with the MPUD Master Planned Unit Development. This disclosure shall include the future roadway's number of lanes and construction timing, if applicable.

51. Unless required elsewhere within the conditions of approval, all conveyances shall occur at record plat or construction plan approval where a record plat is not required or within 90 days of the County's request, whichever occurs first. All conveyances shall include access easements, be in a form acceptable to the Real Estate Division, and be free and clear of all liens and encumbrances, including exemption from all covenants and deed restrictions.
52. If the preliminary plans and/or preliminary site plans for the entire MPUD Master Planned Unit Development are not approved within six years of the original rezoning approval or from the last approved substantial modification, the conditions of approval shall expire for those portions of the MPUD Master Planned Unit Development that do not have (unexpired) preliminary plan or preliminary site plan approval. If the MPUD Master Planned Unit Development expires, a new MPUD Master Planned Unit Development must be applied for and approved by the BCC, and the conditions of approval shall be in accordance with the Comprehensive Plan and LDC in effect at that time.
53. Unless otherwise approved by the Emergency Services Director, the development shall be included into a Pasco County Municipal Fire Service Taxing Unit to provide fire protection. The developer shall submit a petition for inclusion into the Pasco County Municipal Fire Service Taxing Unit at the time of record plat submission, or when no plat is required, prior to the issuance of the first Building Permit. In no case shall a Building Permit be issued until the Emergency Services Director has received such a petition.
54. A preliminary plan/preliminary site plan must be approved for an entire increment (bubble) prior to any phased construction plan/construction site plan approval. The maximum density and intensity of each increment shall not exceed the limits shown on the approved MPUD Master Planned Unit Development Plan. A preliminary site plan must also be approved for each multifamily (nonfee simple), recreational vehicle, or commercial increment in its entirety prior to any phased construction site plan approval.

In the event the Route Studies alter proposed road alignments or the School Board releases the School site, the developer shall submit a revised MPUD Plan to reflect such events, for approval by the Zoning Administrator.

55. Preliminary plan/preliminary site plan submittals shall include a detailed breakdown of the individual plan approvals, including the plan name and increment or phase designation as it relates to the Master Development Plan, acreage of the site, total number of units, or gross floor area ratio of commercial space which have received preliminary plan/preliminary site plan approval, construction plan/construction site plan approval, and/or record plat approval.
56. Development shall occur in accordance with the LDC, Section 402, Concurrency Management System.
57. Rezoning of this property with conditions does not relieve any developer of responsibilities under state law, including, but not limited to, Development of Regional Impact requirements under Chapter 380, Florida Statutes.
58. All conditions of this MPUD Master Planned Unit Development approval are material to the BCC approval. Accordingly, the conditions are not severable. In the event any section, subsection, sentence, clause, or provision of these conditions or the rezoning resolution is challenged and declared illegal, invalid, or in violation of any statutory or constitutional requirement by a body with jurisdiction to make such determination, the remainder of the conditions and MPUD Master Planned Unit Development approval shall be suspended until such time that the BCC modifies the MPUD Master Planned Unit Development conditions of approval to address the illegal or invalid provision, provided that such suspension shall not exceed nine months in duration. However, such determination shall not affect the validity of 1) MPUD Master Planned Unit Development entitlements that have received plat, Building Permit, or CO approval; or 2) any MPUD Master Planned Unit Development mitigation committed to or performed as of the date the determination is made, unless such approvals or mitigation are specifically declared to be illegal, invalid, or unenforceable. Requests for BCC-approved modifications to the MPUD Master Planned Unit Development or the MPUD Master Planned Unit Development conditions of approval shall not be considered challenges and decisions by the BCC regarding any modification or the like shall not have the effect of suspending the conditions and the MPUD Master Planned Unit Development approval under any circumstances.

OWNER/DEVELOPER ACKNOWLEDGMENT:

The owner/developer acknowledges that they have read, understood, and accepted the above-listed conditions of approval. **Do not sign until you receive a copy of this petition with the BCC results.**

(Date)

I hereby certify on this _____ day of _____, _____, A.D., before me personally appeared the owner/developer, to me known to be the person described in and who executed the foregoing document and severally acknowledged the execution thereof to be their free act and deed for the uses and purposes therein expressed.

Witness my hand and seal at _____,
County, Florida, the day and year aforesaid.

My commission expires:

(Date)

Notary Public, State of _____ at Large)