

STATE OF FLORIDA
LAND AND WATER ADJUDICATORY COMMISSION

County Attorney
RECEIVED
APR 10 2014

DEPARTMENT OF ECONOMIC OPPORTUNITY,

Petitioner,

v.

FLWAC CASE NO.: APP-14-001

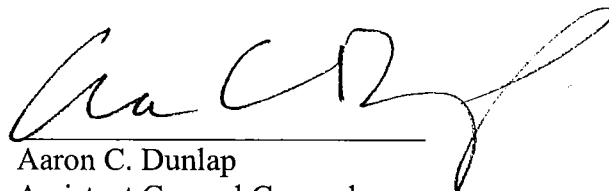
LAKE COUNTY, FLORIDA, and
RUBIN GROVES OF CLERMONT, LLC,

Respondents.

NOTICE OF SUBSTITUTION OF COUNSEL

The undersigned hereby files this Notice of Substitution of Counsel on behalf of the Petitioner as co-counsel on this matter in place of Sherry Spiers. Copies of all pleadings, notices, and correspondence regarding the above-styled cause are requested to be served on the undersigned.

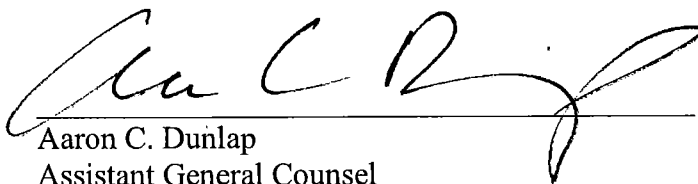
Respectfully submitted this 7th day of April, 2014.



Aaron C. Dunlap
Assistant General Counsel
Florida Bar No. 40946
Department of Economic Opportunity
107 East Madison Street, MSC 110
Tallahassee, FL 32399-4128
Telephone: 850-245-7150
Email: Aaron.Dunlap@deo.myflorida.com

CERTIFICATE OF FILING AND SERVICE

I certify that the above Notice of Substitution of Counsel was filed with the Clerk of the Florida Land and Water Adjudicatory Commission and served on the following persons by email or U.S. Mail, postage-prepaid, this 7th day of April, 2014.


Aaron C. Dunlap
Assistant General Counsel

Rubin Groves of Clermont, LLC
4600 Lyons Road
Lake Worth, FL 33467

Sherry A. Spiers
spierss@comcast.net

Keith Austin, Esq.
Registered Agent for
Rubin Groves of Clermont, LLC
223 Peruvian Avenue
Palm Beach, FL 33480

John "Jack" P. Heekin, Esq.
Governor's Legal Office
Room 209, The Capitol
Tallahassee, FL 32399

Jimmy Conner, Chairman
Lake County Board of County
Commissioners
315 West Main Street
Tavares, FL 32778

Honorable Rick Scott
Governor
The Capitol
Tallahassee, FL 32399

Sanford A. Minkoff, Esq.
Lake County Attorney
315 West Main Street
Tavares, FL 32778

Honorable Pam Bondi
Attorney General
The Capitol
Tallahassee, FL 32399

Jimmy D. Crawford, Esq.
Merideth Nagel, P.A.
450 E. Highway 50, Suite 4
Clermont, FL 34711

Honorable Adam H. Putnam
Commissioner of Agriculture
The Capitol
Tallahassee, FL 32399

East Central Florida Regional Planning
Council
309 Cranes Roost Blvd.
Suite 2000
Altamonte Springs, FL 32701

Honorable Jeff Atwater
Chief Financial Officer
The Capitol
Tallahassee, FL 32399

**STATE OF FLORIDA
LAND AND WATER ADJUDICATORY COMMISSION**

DEPARTMENT OF ECONOMIC OPPORTUNITY,

Petitioner,

v.

CASE NO. APP 14-001

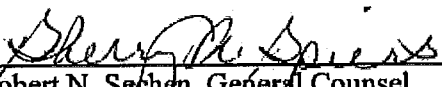
LAKE COUNTY, FLORIDA, and
RUBIN GROVES OF CLERMONT, LLC,

Respondents.

**NOTICE OF FILING
COPY OF LAKE COUNTY ORDINANCE NO. 2014-7**

The Department of Economic Opportunity, by counsel, hereby gives notice of filing a copy of Lake County Ordinance No. 2014-7 which was inadvertently omitted as Attachment A to the Petition filed on March 31, 2014.


RESPECTFULLY SUBMITTED this 3rd day of April, 2014.



Robert N. Sechen, General Counsel
Florida Bar No. 319287
Sherry A. Spiers
Assistant General Counsel
Florida Bar No. 0455490
T. Christopher Long
Assistant General Counsel
Florida Bar No. 86513
Department of Economic Opportunity
107 East Madison Street, MSC 110
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Email: Sherry.Spiers@deo.myflorida.com
Email: Chris.Long@deo.myflorida.com

CERTIFICATE OF FILING AND SERVICE

I certify that the above petition was filed with the Clerk of the Florida Land and Water Adjudicatory Commission and served on the following persons by the methods indicated this 3rd day of April, 2014.



Sherry A. Spiers
Assistant General Counsel

By U. S. Mail:

The Honorable Rick Scott
Governor, State of Florida
The Capitol
400 South Monroe Street
Tallahassee, FL 32399-0001

The Honorable Pam Bondi
Attorney General, State of Florida
The Capitol
400 South Monroe Street
Tallahassee, FL 32399-0001

The Honorable Adam H. Putnam
Commissioner of Agriculture and Consumer Services, State of Florida
The Capitol
400 South Monroe Street
Tallahassee, FL 32399-0001

The Honorable Jeff Atwater
Chief Financial Officer, State of Florida
The Capitol
400 South Monroe Street
Tallahassee, FL 32399-0001

Jimmy Conner, Chairman
Lake County Board of County Commissioners
315 West Main Street
Tavares, FL 32778

Rubin Groves of Clermont, LLC
4600 Lyons Road
Lake Worth, FL 33467

Keith Austin, Esq.
Registered Agent for
Rubin Groves of Clermont, LLC
223 Peruvian Avenue
Palm Beach, FL 33480

East Central Florida Regional Planning Council
309 Cranes Roost Blvd. Suite 2000
Altamonte Springs, FL 32701

With courtesy copies by electronic mail to:

Sanford A. Minkoff, County Attorney
Lake County
315 West Main Street
Tavares, FL 32778
Email: sminkoff@lakecountyfl.gov

Jimmy D. Crawford, Esq.
MERIDETH NAGEL, P.A.
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Clermont, FL 34711
Email: Jimmy.Crawford@MNagellaw.com

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ORDINANCE #2014-7
PH #21-13-1
Rubin Groves of Clermont, LLC / Sheldon Rubin
Rubin Groves of Clermont PUD

AN ORDINANCE OF THE LAKE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE LAKE COUNTY ZONING MAPS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Sheldon Rubin (the "Applicant") on behalf of Rubin Groves of Clermont, LLC – Sheldon Rubin (the "Owners") has submitted an application to amend the Planned Unit Development (PUD) Zoning District (Ordinance #2013-8) on 131 +/- acres to allow a Mixed-Use Planned Unit Development of single-family residential uses, limited commercial uses, and to include mass grading and overburden removal exceeding 200% of the stormwater volume requirement; and

WHEREAS, the property consists of approximately 131 +/- acres located south of Clermont– west and southwest of the intersection of Woodcrest Way and US 27, Section 26 & 27 – Township 24 South – Range 26 East, also described as Alternate Key #1595240, 2510480 and the western portions of Alternate Key #s 1071011, & 1595169, and more particularly described below:

LEGAL DESCRIPTION:
(Exhibit "A" Attached)

WHEREAS, the subject property is located within the Green Swamp Ridge Future Land Use Category; and

WHEREAS, the Board of County Commissioners of Lake County, Florida, on the 26th day of February, 2013 approved a Mixed Use PUD under Ordinance #2013-8; and

WHEREAS, the adoption of this new ordinance shall supersede and replace Ordinance #2013-8; and

WHEREAS, the Lake County Planning and Zoning Board, did review petition PH #21-13-1, on the 7th day of January, 2014, after giving Notice of Hearing on petition for a change in the use of land, including a notice that said petition would be presented to the Board of County Commissioners of Lake County, Florida, on the 28th day of January, 2014; and

WHEREAS, the Board of County Commissioners reviewed said petition, the recommendations of the Lake County Planning and Zoning Board, and any comments, favorable or unfavorable, from the Public and surrounding property owners at a duly advertised Public Hearing, and

WHEREAS, upon review, certain terms pertaining to the development of the above described property have been duly approved, and

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Lake County, Florida, that the Land Development Regulations of Lake County, Florida, be altered and amended as they pertain to the above tract of land, as specified above, subject to the following terms:

Section 1. Terms:

The County Manager or designee shall amend the Zoning Map in accordance with this Ordinance. The uses of the property shall be limited to the uses specified in this Ordinance and generally consistent with the Conceptual Plan attached hereto as Exhibit "B". To the extent where there are conflicts between Exhibit "B" and this Ordinance, this Ordinance



ORDINANCE #2014-7
PH #21-13-1 / Rubin Groves of Clermont, LLC -- Sheldon Rubin (Proj#2010060010 AR#2346)

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shall take precedence. This Ordinance shall supersede and replace any and all previous ordinances for this property, specifically Ordinance #2013-8.

A. Land Use and Design: (American Disabilities Act - ADA Compliant Mixed Use Community)

1. Residential:

Single-Family Residential at a density of up to four (4) dwelling units (du) to the net acre (490 dwelling units, maximum).

2. Commercial:

a. Commercial development area shall not exceed twenty-four (24.54) acres maximum and as limited by the maximum floor area ratio of 0.25.

b. Commercial uses shall be permitted in accordance with the Comprehensive Plan and Land Development Regulations (LDR), as amended.

Accessory uses directly associated with the above principal uses may be approved by the County Manager or designee. Any other use of the site not specified in this Ordinance shall require approval of an amendment to this Ordinance by the Board of County Commissioners.

B. Mass Grading and Overburden Removal:

1. The mass grading shall be consistent with Exhibit "C" – Mass Grading Conceptual Plan and is subject to the Principles for Guiding Development and Development Requirements within the Green Swamp Area of Critical State Concern contained in the Comprehensive Plan and Land Development Regulations, as amended.

2. The mass grading plan shall be subject to the mining regulations contained in the Land Development Regulations, as amended, and shall be submitted as Construction Plans for Phase 1 of the development.

3. The mass grading plan shall meet all submittal requirements for a Mining Conditional Use Permit and Operating Plan in accordance with the Land Development Regulations, as amended, but will not be required to go through the Mining Conditional Use Permit Public Hearing process.

4. Prior to the commencement of any development activity, including the mass grading of the site, a final plat shall be recorded in the Public Records of Lake County, Florida, for the entire project acreage, which shall include all lots and commercial development. In addition to complying with all provisions of this ordinance, and all provisions of the Lake County Land Development Regulations (LDR) pertaining to the development of the property more particularly described in Exhibit "A", attached hereto and incorporated herein, the Developer shall provide a fully executed Developer's Agreement between the Developer and the County together with a Surety Bond in the amount of one hundred and twenty (120) percent of the total construction cost for the project, prior to or in conjunction with the Board of County Commissioners' acceptance of the final plat, instead and in place of the one hundred and ten (110) percent security requirement stated in Section 14.08.00.E.2., Lake County LDR.

ORDINANCE #2014-7

PH #21-13-1 / Rubin Groves of Clermont, LLC -- Sheldon Rubin (Proj#2010060010 AR#2346)

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C. Environmental, Open Space and Conservation:

1. An environmental assessment consistent with the Comprehensive Plan and LDR, as amended shall be required with site plan, preliminary plat, and/or construction plans.
2. The development is providing 49.1 acres of open space, which meets the minimum required open space of 49.07 acres (40% of the net buildable area). The development shall maintain the minimum open space on the site, consistent with the Comprehensive Plan and LDR, as amended.
3. All wetlands within the property shall be placed into a conservation easement or similar recorded and legally binding instrument, as allowed by law, pursuant to Lake County Comprehensive Plan Policy, as amended. The conservation easement or similar instrument shall require that all wetlands and wetland buffers be maintained in their natural and unaltered state.

D. Development Requirements:

Impervious Surface Ratio (ISR)	45% of the development site
Floor Area Ratio (FAR)	25% of the non-residential development site
Building Square Footage	5,000 SF; may increase to max. ISR & FAR if building meets or exceeds sustainable building rating & certification system and retains the first 3 inches of stormwater runoff on the property.
Building Height	Forty (40) Feet

All development shall meet the development requirements within the Green Swamp Area of Critical State Concern in accordance with the Comprehensive Plan and LDR, as amended.

E. Stormwater:

Stormwater facilities shall be constructed utilizing the latest biodiversity design techniques and Best Management Practices (BMPs), such as but not limited to, bio-filtration, bio-swales, rain gardens, and bio-retention.

F. Utilities:

1. Central water and sewer shall be provided to the development prior to construction plan and/or site plan approval.
2. A copy of the Utility Service Agreement between the developer and utility service provider shall be provided to the County prior to the approval of a site plan and/or construction plans.
3. The Developer or Property Owner shall demonstrate that all access ways are designed to accommodate solid waste collection vehicles to Lake County standards, as amended.

G. Parking: All parking for the development shall be consistent with the Comprehensive Plan and LDR, as amended.

ORDINANCE #2014-7

PH #21-13-1 / Rubin Groves of Clermont, LLC – Sheldon Rubin (Proj#2010060010 AR#2346)

- 1 H. Buffers, Landscaping, and Setbacks:
- 2 1. Landscaping and screening shall be in accordance with the Comprehensive Plan
- 3 and LDR, as amended.
- 4 2. Landscape buffers, fences or walls, shall not be required between commercial or
- 5 mixed (residential/commercial) uses within this planned unit development except
- 6 to visually screen parking, loading or storage areas.
- 7 3. Best Management Practices for native landscaping and "right plant-right place"
- 8 landscaping techniques shall be used for the landscape design to minimize the
- 9 use of chemicals, pesticides, and water for irrigation. Invasive and exotic plant
- 10 species are prohibited.
- 11 4. A fifty (50) foot wide buffer shall be along the western perimeter property line,
- 12 adjacent to agricultural land areas and any agriculture zoned properties. The
- 13 buffer will be assessed during the review of the required preliminary plat and/or
- 14 site plan and may consist of existing non-invasive vegetation or Florida Friendly
- 15 vegetation.
- 16 I. Transportation:
- 17 1. Access management shall be consistent with the Comprehensive Plan, LDR, and
- 18 Florida Department of Transportation (FDOT) Regulations, as amended.
- 19 2. A full operational traffic impact analysis shall be submitted for review and approval
- 20 with a site plan and/or preliminary plat application.
- 21 J. Lighting: Exterior lighting shall not illuminate adjacent properties and rights-of-way.
- 22 Outdoor lighting shall be full-cutoff lighting. Lighting shall be designed so as to prevent
- 23 direct glare, light spillage, and hazardous interference consistent with Dark Sky
- 24 Principles and be in accordance with the Comprehensive Plan and Land Development
- 25 Regulations, as amended.
- 26 K. Noise: A noise assessment shall be required with the preliminary plat and/or site plan
- 27 submittal to demonstrate mitigation for any noise impacts the proposed project may
- 28 have on the neighboring uses pursuant to the LDR, as amended.
- 29 L. Signage: Signage shall be consistent with the Comprehensive Plan and LDR, as
- 30 amended.
- 31 M. Concurrency: The development shall be subject to all applicable Concurrency
- 32 Management requirements in accordance with the Comprehensive Plan and LDR, as
- 33 amended.
- 34 N. Future Amendments to Statutes, Code, Plan, and/or Regulations: The specific
- 35 references in this Ordinance to the Florida Statutes, Florida Administrative Code, Lake
- 36 County Comprehensive Plan, and Lake County Land Development Regulations,
- 37 include any future amendment to the Statutes, Code, Plan, and/or Regulations.
- 38 O. PUD Term Limits: Physical development shall commence within three (3) years
- 39 from the date of this Ordinance approval.
- 40 1. Failure to submit an application for a Mining Conditional Use Permit, a Mining
- 41 Operation Plan, Reclamation/Mass Grading Plan, and bonding or other security

ORDINANCE #2014-7

PH #21-13-1 / Rubin Groves of Clermont, LLC – Sheldon Rubin (Proj#2010060010 AR#2346)

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necessary to enforce the conditions of approval in accordance with Section 6.06.00, LDR, as amended, shall constitute failure to commence physical development and shall cause the revocation of this ordinance in accordance with the Comprehensive Plan or superseding documents amended.

2. Failure to construct either infrastructure for 100 dwelling units, infrastructure for 5,000 square feet of commercial use, or the necessary extension of Woodcrest Way to support the proposed development within three (3) years of approval of this Ordinance, shall constitute failure to commence physical development and shall cause the revocation of this ordinance in accordance with the Comprehensive Plan or superseding documents amended. Clearing and grading alone shall not be construed as sufficient to meet this requirement.

3. Prior to expiration of the three-year time frame, the Board of County Commissioners may grant, via a Public Hearing, a one (1) extension of the time frame for a maximum of two (2) years upon a showing that reasonable efforts have been made towards securing the required approvals and commencement of work.

F. After establishment of the facilities as provided herein, the aforementioned property shall only be used for the uses named in this Ordinance.

Q. This Ordinance shall inure to the benefit of, and shall constitute a covenant running with the land and the terms, conditions, and provisions hereof, and shall be binding upon the present owner and any successor, and shall be subject to each and every condition herein set out.

R. The transfer of ownership or lease of any or all of the property described in this Ordinance shall include in the transfer or lease agreement, a provision that the purchaser or lessee is made good and aware of the conditions pertaining to this Ordinance, and agrees to be bound by these conditions. The purchaser or lessee may request a change from the existing plans and conditions by following procedures contained in the Lake County Land Development Regulations, as amended.

S. Action by the Lake County Code Enforcement Special Master: The Lake County Code Enforcement Special Master shall have the authority to enforce the terms and conditions set forth in this ordinance and to recommend that the Ordinance be revoked.

Section 2. Development Review and Approval: Prior to the issuance of any permits, the Owner shall obtain development order approvals from Lake County. The applications for final orders shall meet all submittal requirements and comply with all County codes and ordinances, as amended.

Section 3. Severability: If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 4. Filing with the Department of State. The clerk shall be and is hereby directed forthwith to send a copy of this Ordinance to the Secretary of State for the State of Florida in accordance with Section 125.66, Florida Statutes.

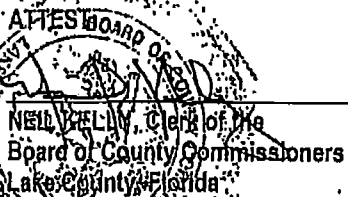
ORDINANCE #2014-7

PH #21-13-17 Rubln Groves of Clermont, LLC - Sheldon Rubin (Proj#2010060010 AR#2346)

1 Section 5. Effective Date. This Ordinance shall become effective as provided by law.
 2
 3 ENACTED this 28th day of January, 2014.
 4
 5 FILED with the Secretary of State February 10, 2014.
 6
 7 EFFECTIVE February 10, 2014.

8 BOARD OF COUNTY COMMISSIONERS
9 LAKE COUNTY, FLORIDA

10
 11 
 12 _____
 13 JIMMY CONNER, Chairman



21 APPROVED AS TO FORM AND LEGALITY

22 
 23 _____
 SANFORD A. MINKOFF, County Attorney

ORDINANCE #2014-7

PH #21-13-1/Rubin Groves of Clermont, LLC -- Sheldon Rubln (Proj#2010060010 AR#2346)

1 EXHIBIT "A" - LEGAL DESCRIPTION

2 Parcel No.1:3 The North 661 feet of the South 1485 feet of the East 1/2 of the Southeast 1/4 of Section 27,
4 Township 24 South, Range 26 East, Lake County, Florida.5 Parcel No.2:6 The North 661 feet of the South 1485 feet of Section 26, Township 24 South, Range 26 East,
7 Lake County, Florida, lying West of the right of way of U.S. Highway No. 27.

8 LESS and EXCEPT the following described parcels:

9 From the Southwest corner of Section 26, Township 24 South, Range 26 East, Lake County,
10 Florida, run South 89°41'50" East, along the South line of said Section 26, 3386.26 feet to a
11 point on the centerline of U.S. Highway #27, run thence along said centerline, North 20°05'20"
12 West, 1384.28 feet; run thence North 89°41'50" West, 119.49 feet to the Point of Beginning; said
13 Point of Beginning being on the Westerly right-of-way line of U.S. Highway # 27; continue
14 thence North 89°41'50" West, 269.69 feet; run thence North 00°18'10" East, 187.47 feet; run
15 thence South 89°41'50" East, 200.0 feet to the aforesaid Westerly right-of-way line of U.S.
16 Highway #27; run thence South 20°05'20" East, 200.0 feet to the Point of Beginning.

17 AND

18 From the Southwest corner of Section 26, Township 24 South, Range 26 East, Lake County,
19 Florida, run South 89°41'50" East, along the South line of said Section 26, 3386.26 feet to a
20 point on the centerline of U.S. Highway #27, run thence along the said centerline of U.S.
21 Highway # 27, North 20°05'20" West 1384.28 feet; thence North 89°41'50" West 119.49 feet for
22 a Point of Beginning, said Point of Beginning being on the Westerly right-of-way line of the
23 aforesaid U.S. Highway #27; run thence along said Westerly right-of-way line South 20°05'20"
24 East 200.0 feet; thence North 89°41'50" West 439.38 feet; thence North 00°18'10" East 374.93
25 feet; thence South 89°41'50" East 100.00 feet; thence South 00°18'10" West 187.47 feet;
26 thence South 89°41'50" East 269.69 feet to the Point of Beginning.27 Parcel No.3:28 That part of the South 1/4 of the Southwest 1/4 of the Southeast 1/4 lying West of the right of
29 way of U.S. Highway No. 27; The South 1/4 of the Southeast 1/4 of the Southwest 1/4; and the
30 South 1/4 of the Southwest 1/4 of the Southwest 1/4; Section 26, Township 24 South, Range 26
31 East, Lake County, Florida;32 The South 1/4 of the Southeast 1/4 of the Southeast 1/4 of Section 27, Township 24 South,
33 Range 26 East, Lake County, Florida.34 Parcel No. 4:35 The North 494 feet of the South 824 feet of Section 26, Township 24 South, Range 26 East,
36 Lake County, Florida, lying West of the right of way of U.S. Highway No. 27, and the North 494
37 feet of the South 824 feet of the Southeast 1/4 of the Southeast 1/4 of Section 27, Township 24
38 South, Range 26 East, Lake County, Florida.

39 ALSO LESS THE FOLLOWING DESCRIBED PARCEL (Racetrac)

40 LEGAL DESCRIPTION: (Racetrac Parcel)

41 A part of Section 28, Township 24 South, Range 26 East, Lake County, Florida, being more
42 particularly described as follows:43 Commence at the Southeast corner of said Section 26; thence along the South line of said
44 Section 26, North 89°59'11" West, a distance of 2034.49 feet, to the westerly right-of-way line of

ORDINANCE #2014-7

PH #21-13-1 / Rubin Groves of Clermont, LLC - Sheldon Rubin (Proj#2010060010 AR#2346)

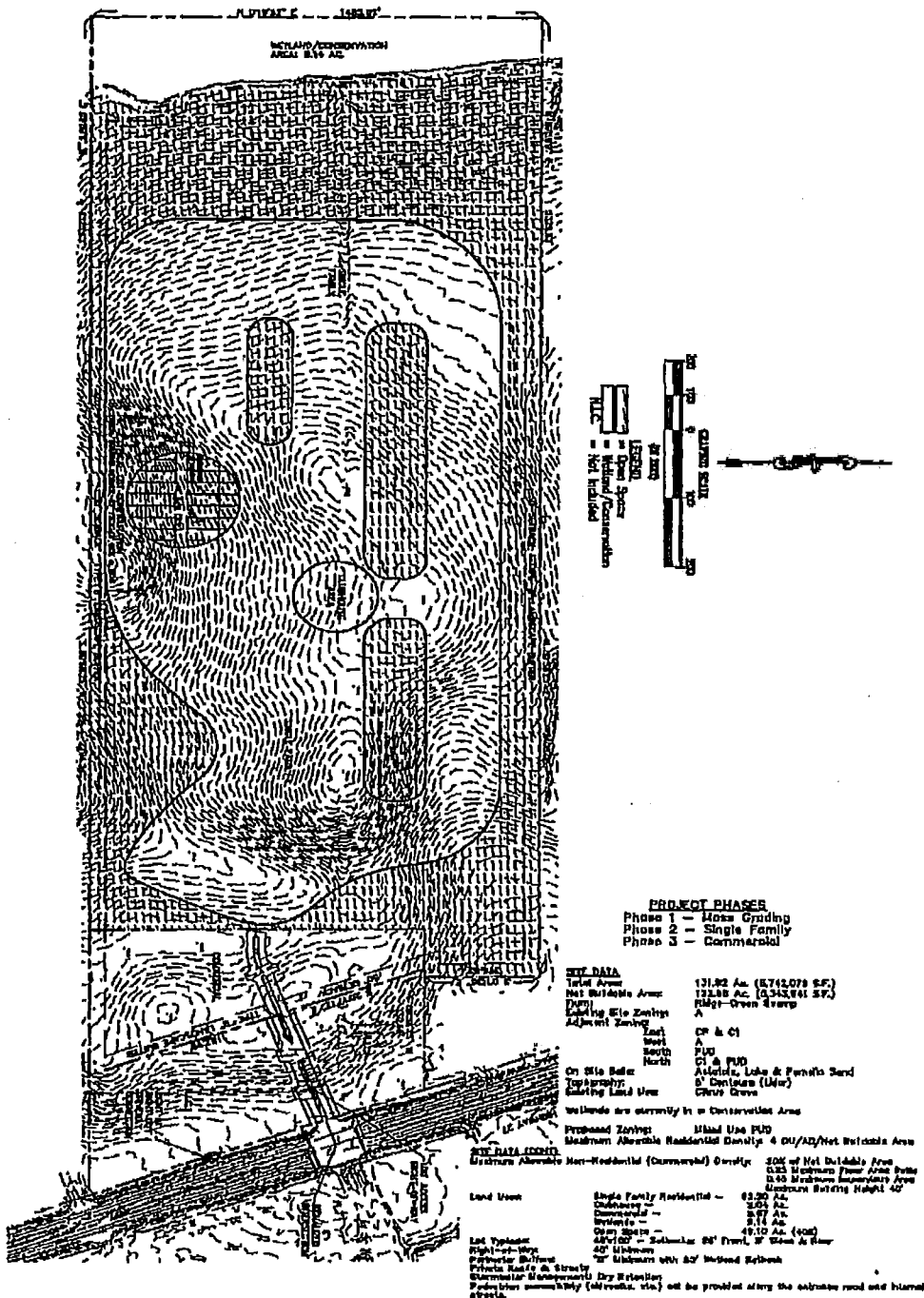
- 1 U.S. Highway 27 (State Road 25) per Florida Department of Transportation Right-of-Way Map
2 Section 11200, for a point of beginning. Thence continue along said South line, North 89°59'11"
3 West, a distance of 469.14 feet; thence leaving said South line, North 20°17'17" West, a
4 distance of 1184.20 feet; thence South 89° 53'15" East, a distance of 469.45 feet, to a point on
5 the westerly right-of-way line of said U.S. Highway 27; thence along said westerly right-of-way
6 line, South 20°17'17" East, a distance of 1183.34 feet, to the point of beginning. Containing
7 11.95 acres, more or less.
- 8 **Subject to:**
- 9 Legal description: ingress/egress easement
- 10 A part of Section 26, Township 24 South, Range 26 East, Lake County, Florida, being more
11 particularly described as follows:
- 12 Commence at the Southeast corner of said Section 26; thence along the South line of said
13 Section 26, North 89°59'11" West, a distance of 2503.63 feet; thence leaving said South line,
14 North 20°17'17" West, a distance of 635.57 feet, for a Point of Beginning; thence continue North
15 20°17'17" west, a distance of 75.00 feet; thence North 69°43'18" East, a distance of 440.00 feet,
16 to the westerly right-of-way line of U.S. Highway 27 (State Road 25) per Florida Department of
17 Transportation Right-of-Way Map Section 11200; thence along said westerly right-of-way line,
18 South 20°17'17" East, a distance of 75.00 feet; thence leaving said westerly right-of-way line,
19 South 69°43'18" West, a distance of 440.00 feet, to the Point of Beginning.
20 Containing 0.75 acres, more or less.
21

ORDINANCE #2014-7

PH #21-13-1 / Rubin Groves of Clermont, LLC - Sheldon Rubin (Proj#2010060010 AR#2346)

1

EXHIBIT "B" - CONCEPT PLAN



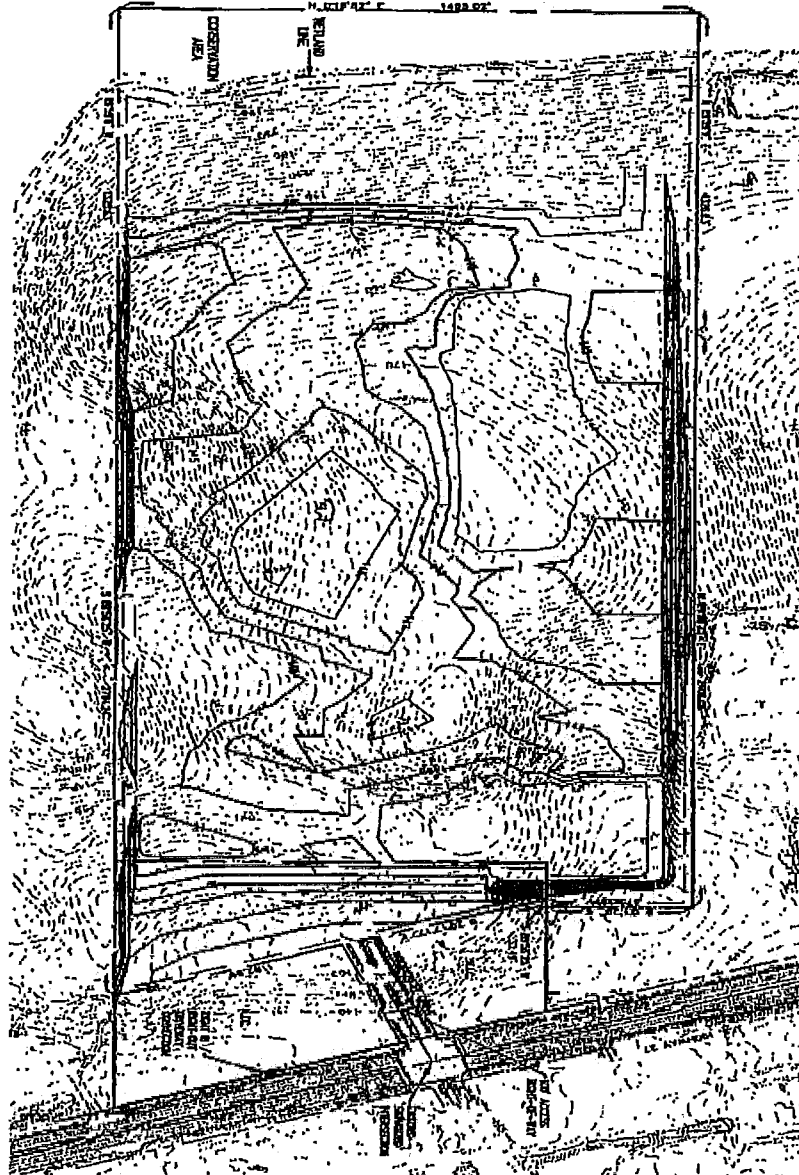
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ORDINANCE #2014-7

PH #21-13-1 / RubIn Groves of Clermont, LLC -- Sheldon Rubin (Proj#2010080010 AR#2346)

1

EXHIBIT "C" -- MASS GRADING CONCEPT PLAN



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I certify that the foregoing is an accurate copy of the document as reflected in the Official Records. Portions may be redacted.
NEIL KELLY, CLERK OF CIRCUIT COURT LAKE COUNTY

By Neil Kelly, Deputy Clerk 2/13/2014 10:10:40 AM

STATE OF FLORIDA
LAND AND WATER ADJUDICATORY COMMISSION

County Attorney
RECEIVED
APR 13 2014

DEPARTMENT OF ECONOMIC OPPORTUNITY,

County Attorney
RECEIVED
A

Petitioner,

vs.

FLWAC CASE NO.: APP-14-001

LAKE COUNTY, FLORIDA, and RUBIN
GROVES OF CLERMONT, LLC,

Respondents.

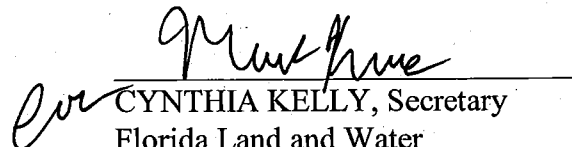
_____ /

ORDER OF ABEYANCE

This cause came before the Secretary of the Florida Land and Water Adjudicatory Commission upon the filing of a "Notice of Appeal" and "Petition for Appeal of Lake County Ordinance No. 2014-7, A Development Order Issued in an Area of Critical State Concern" by the Department of Economic Opportunity (Department) on March 31, 2014. The Department, with the concurrence of all parties, requests an abeyance of the subject proceeding to allow continued discussions aimed at resolving the challenge to the development order at issue.

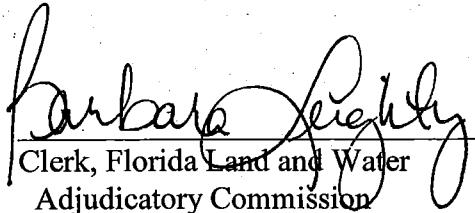
It is ORDERED that the request for abeyance is GRANTED for a period of 120 days. The Department shall file a detailed status report no later than July 28, 2014, on the status and outlook of settlement negotiations in the related comprehensive plan proceeding.

DONE AND ORDERED this 1st day of April, 2014.



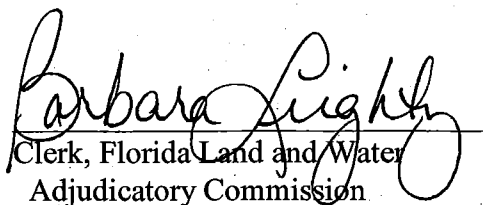
CYNTHIA KELLY, Secretary
Florida Land and Water
Adjudicatory Commission

15 FILED with the Clerk of the Florida Land and Water Adjudicatory Commission this
day of April, 2014.


Clerk, Florida Land and Water
Adjudicatory Commission

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was delivered to the following persons by United States mail, hand-delivery or electronic mail this 15th day of April, 2014.


Clerk, Florida Land and Water
Adjudicatory Commission

Honorable Rick Scott
Governor
The Capitol
Tallahassee, Florida 32399

Honorable Jeff Atwater
Chief Financial Officer
The Capitol
Tallahassee, Florida 32399

Honorable Pam Bondi
Attorney General
The Capitol
Tallahassee, Florida 32399

Honorable Adam H. Putnam
Commissioner of Agriculture
The Capitol
Tallahassee, Florida 32399

John "Jack" P. Heekin, Esquire
Governor's Legal Office
Room 209, The Capitol
Tallahassee, Florida 32399

Robert N. Sechen, General Counsel
Sherry A. Spiers, Assistant General Counsel
T. Christopher Long, Assistant General Counsel
Department of Economic Opportunity
107 East Madison Street, MSC 110
Tallahassee, Florida 32399-4128

Honorable Jimmy Conner, Chairman
Lake County Board of County Commissioners
315 West Main Street
Tavares, Florida 32778

Rubin Groves of Clermont, LLC
4600 Lyons Road
Lake Worth, Florida 33467

Keith Austin, Esquire
Registered Agent for
Rubin Groves of Clermont, LLC
223 Peruvian Avenue
Palm Beach, Florida 33480

Sanford A. Minkoff, County Attorney
Lake County
315 West Main Street
Tavares, Florida 32778

Jimmy D. Crawford, Esquire
MERIDETH NAGEL, P.A.
450 E. Highway 50, Suite 4
Clermont, Florida 34711

East Central Florida Regional Planning Council
309 Cranes Roost Boulevard
Suite 2000
Altamonte Springs, Florida 32701

Rick Scott
GOVERNOR



Jesse Panuccio
EXECUTIVE DIRECTOR

RECEIVED

APR 07 2014

BCC OFFICE

FILE COPY

April 3, 2014

The Honorable Jimmy Conner, Chairman
Lake County Board of County Commissioners
Post Office Box 7800
Tavares, Florida 32778

Dear Chairman Conner:

The Department of Economic Opportunity has completed its review of the County's adopted comprehensive plan amendments (Amendment No. 14-1ESR adopted by Ordinance Number 2014-12 on February 25, 2014, and Amendment No. 14-5ESR adopted by Ordinance Number 2014-11 on February 25, 2014). We have reviewed the amendments in accordance with the expedited state review process set forth in Sections 163.3184(2), (3) and (5), Florida Statutes (F.S.), and have identified no provision that necessitates a challenge of the ordinance adopting the amendments.

If these plan amendments are not challenged by an affected person, the amendments will become effective 31 days after the Department of Economic Opportunity notified the County that the plan amendment packages were complete. If a plan amendment is challenged by an affected person, the amendment will not become effective until the Department of Economic Opportunity or the Administration Commission enters a final order determining the amendment to be "In Compliance." No development orders, development permits, or land uses dependent on the amendment may be issued or commenced before the amendment has become effective.

We appreciated the opportunity to work with County staff during our review of these amendments. If you have any questions related to this review, please contact Caroline Knight at (850) 717-8496 or by email at: caroline.knight@deo.myflorida.com.

Sincerely,

Ana Richmond
Comprehensive Planning Manager

AR/ck

cc: Ms. Amye King, Growth Management Department Director
Mr. Hugh Harling, Executive Director, East Central Florida Regional Planning Council
Ms. Cathy Foerster, Intergovernmental Planner, St. Johns River Water Management District

Rick Scott
GOVERNOR



Jesse Panuccio
EXECUTIVE DIRECTOR

March 31, 2014

County Attorney
RECEIVED
APR 1 2014

Jimmy Conner, Chairman
Board of County Commissioners
Lake County Florida
315 W. Main Street
P.O. Box 7800
Tavares, FL 32778

Sheldon Rubin, Managing Member
Rubin Groves of Clermont, LLC
4600 Lyons Road
Lake Worth, FL 33467

Dear Chairman Conner and Mr. Rubin:

The Department of Economic Opportunity is in receipt of Lake County Ordinance No. 2014-7, which authorizes subdivision development on the Rubin Groves Property. The Department has no objection to the overall development of this subdivision, but we do believe further discussion and analysis are necessary regarding the plans to remove three million cubic yards of sand and soil for grading purposes. In order to preserve the Department's rights, we have filed today a petition with the Florida Land and Water Adjudicatory Commission ("Commission"). As stated, however, the Department hopes to discuss these development plans further, and for that reason we have requested that the Commission place this matter in abeyance.

We look forward to working together to find a way forward for this worthwhile project.

Sincerely,

William B. Killingsworth, Director
Division of Community Development

cc: Sanford A. Minkoff, County Attorney, Lake County, Florida
Keith Austin, Esq., Registered Agent for Rubin Groves of Clermont, LLC
Jimmy D. Crawford, Esq., Attorney for Rubin Groves of Clermont, LLC

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
866.FLA.2345 | 850.245.7105 | 850.921.3223 Fax
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Rick Scott
GOVERNOR



Jesse Panuccio
EXECUTIVE DIRECTOR

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APR 01 2014

BCC OFFICE

March 31, 2014

Cynthia Kelly, Secretary
Florida Land and Water Adjudicatory Commission
1801 The Capitol
Tallahassee, FL 32399

County Attorney
RECEIVED
APR 02 2014

Re: Department of Economic Opportunity v. Lake County and
Rubin Groves of Clermont, LLC – Development Order Appeal

Dear Ms. Kelly:

Enclosed is a petition regarding Lake County Ordinance No. 2014-7, a development order issued by Lake County. The Department respectfully requests that the Commission place this case in abeyance without referral to the Division of Administrative Hearings so that we may engage in further discussions with the relevant parties. Both the County and Rubin Groves of Clermont, LLC have authorized me to represent that they consent to placing this case in abeyance.

Sincerely,

Robert N. Sechen
General Counsel

Enclosure

cc: Governor Rick Scott
Attorney General Pam Bondi
Commissioner of Agriculture Adam Putnam
Chief Financial Officer Jeff Atwater
Lake County Commission Chairman Jimmy Conner
Sanford A. Minkoff, Lake County Attorney
Sheldon Rubin, Rubin Groves of Clermont, LLC
Jimmy D. Crawford, Esq.

**STATE OF FLORIDA
LAND AND WATER ADJUDICATORY COMMISSION**

DEPARTMENT OF ECONOMIC OPPORTUNITY,

Petitioner,

v.

CASE NO. _____

LAKE COUNTY, FLORIDA, and
RUBIN GROVES OF CLERMONT, LLC,

Respondents.

**PETITION FOR APPEAL OF LAKE COUNTY ORDINANCE NO. 2014-7,
A DEVELOPMENT ORDER ISSUED IN AN AREA OF CRITICAL STATE CONCERN**

The Department of Economic Opportunity (the "Department"), by and through its undersigned counsel, pursuant to section 380.07, Fla. Stat., hereby appeals Lake County Ordinance No. 2014-7, and as grounds therefor states as follows:

The Parties

1. The Department is the state land planning agency with the authority and responsibility to review development orders issued in Areas of Critical State Concern and, within 45 days after rendition to the Department, may appeal such development orders to the Florida Land and Water Adjudicatory Commission (the "Commission") if they are inconsistent with the requirements of chapter 380, Part I, Fla. Stat. §380.07(2), Fla. Stat. The Department's address is 107 East Madison Street, Tallahassee, Florida 32399-4128. The Department is represented by counsel, whose names and address appear in the signature block of this Petition.

2. Respondent Lake County is the local government that issued Ordinance No. 2014-7 and is the local government with jurisdiction over the property that is the subject of this appeal. Lake County's address is 315 West Main Street, Tavares, Florida 32778.

3. Respondent Rubin Groves of Clermont, LLC, is the owner of the real property that is the subject of Ordinance No. 2014-7 and was the applicant for the Ordinance. The Respondent's principal address is 9210 Equus Circle, Boynton Beach, Florida 33472, and its mailing address is 4600 Lyons Road, Lake Worth, Florida 33467.

Jurisdiction

4. The Florida Land and Water Adjudicatory Commission is the body that adjudicates appeals brought by the Department of any development order issued in an Area of Critical State Concern. § 380.07, Fla. Stat.

The Property and the Development

5. The real property that is the subject of the Ordinance consists of approximately 131 acres on the west side of U.S. Highway 27 south of the State Road 474 intersection in Lake County, Florida (the "Property"). The Property is located within the Green Swamp Area of Critical State Concern and within the Ridge Future Land Use Category pursuant to the Lake County Comprehensive Plan.

6. On February 26, 2013, Lake County adopted Ordinance No. 2013-8 approving a mixed use development on the Property and rezoning the Property to Planned Unit Development.

7. On January 28, 2014, the Lake County Board of County Commissioners adopted Ordinance No. 2014-7 (the "Ordinance") replacing and superseding Ordinance No. 2013-8 and authorizing development of a maximum of 490 single-family residential units, commercial development not to exceed 24.54 acres, and accessory uses. A copy of the Ordinance is attached hereto as Exhibit A.

8. The Ordinance authorizes a mass grading plan for the removal of 3,000,000 cubic yards of sand and soil from the Property.

9. The Ordinance provides that the mass grading plan is subject to the County's mining regulations and requires that the mass grading plan meet all submittal requirements for a Mining Conditional Use Permit and Operating Plan but will not be required to go through the Mining Conditional Use Permit public hearing process.

10. The Ordinance authorizes development as defined in section 380.04, Fla. Stat., and is a development order as defined in section 380.031(3), Fla. Stat.

11. The Ordinance was rendered to the Department by electronic mail on February 13, 2014.

Chapter 380, Part I, Fla. Stat., Requirements for Development Orders

12. Section 380.07(2), Fla. Stat., authorizes the Department to appeal a development order "by filing a petition alleging that the development order is not consistent with the provisions of this part." "This part" referred to in section 380.07(2), Fla. Stat., is chapter 380, Part I, Fla. Stat.

13. The provisions of chapter 380, Part I, Fla. Stat., require that in Areas of Critical State Concern, local governments adopt comprehensive plans and land development regulations that are consistent with the principles for guiding development of the Area and such comprehensive plans and land development regulations must be approved by the Department before they become effective. §§ 380.05(6) and (11), Fla. Stat. The Lake County Comprehensive Plan and land development regulations have been approved by the Department as provided in sections 380.05(6) and (11), Fla. Stat.

14. The provisions of chapter 380, Part I, Fla. Stat., authorize the Administration Commission to adopt rules establishing land development regulations for the Green Swamp Area

of Critical State Concern, and the Administration Commission has done so in chapter 28-28, Fla. Admin. Code. §380.05(8), Fla. Stat.

15. The provisions of chapter 380, Part I, Fla. Stat., require that no person shall undertake any development within any Area of Critical State Concern except in accordance with this chapter. §380.05(16), Fla. Stat. Accordingly development in the Green Swamp Area of Critical State Concern portion of Lake County is required to be consistent with the Lake County Comprehensive Plan, the Lake County Land Development Regulations, and Chapter 28-28, Fla. Admin. Code.

Additional Statutory Requirements for Development Orders

16. Section 163.3194, Fla. Stat., requires that after a comprehensive plan has been adopted in conformity with the Community Planning Act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element. The Lake County Comprehensive Plan has been adopted in conformity with the Community Planning Act.

17. Section 163.3194(3)(b), Fla. Stat., defines consistency as follows:

(b) A development approved or undertaken by a local government shall be consistent with the comprehensive plan if the land uses, densities or intensities, capacity or size, timing, and other aspects of the development are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

Consistency with Chapters 380, Part I, and 163, Part II, Fla. Stat.

18. The Lake County Comprehensive Plan, Chapter 10, Definitions, defines “mining activity” as “the removal of overburden for the purpose of extracting and removing from the site

such underlying deposits and all associated clearing, grading, construction, processing transportation, and reclamation on the property.”

19. The Application, the Ordinance, and other documents thus far rendered to the Department by Lake County indicate that the removal of 3,000,000 cubic yards of sand and soil from the Property fits within this definition.

20. Policies 1-4.2.1 and 1-4.2.2 in the Future Land Use Element of the Lake County Comprehensive Plan do not authorize sand mining in the Ridge Future Land Use Category.

21. Section 6.06.01.F.2., Appendix E of the Lake County Code, however, provides an exemption permitting removal of overburden (sand and soil) off site for bona fide subdivision construction “so long as the total amount of material removed offsite is not greater than two hundred (200) percent of the minimum stormwater retention/detention volume required.”

22. Two hundred percent of the minimum stormwater retention/detention volume for development of the Property is approximately 400,000 cubic yards of sand and soil. Excavation of 3,000,000 cubic yards of sand and soil from the Property constitutes removal of overburden and exceeds 200 percent of the minimum stormwater retention/detention volume required for the subdivision construction authorized by the Ordinance.

23. Section 6.06.01.F.2, Appendix E of the Lake County Code, also provides that the 200 percent limit may be “exceeded” if “the County Manager or designee . . . give[s] approval for removal of such excess Overburden if the applicant shows that the removal of such excess Overburden is necessary for development of the Site due to physical factors of the Land or Permitting requirements from a governmental agency.”

24. The Application, the Ordinance, and other documents thus far rendered to the Department by Lake County do not demonstrate that the removal of 3,000,000 cubic yards of sand and soil from the Property is necessary for the development of the Property.

25. Section 8.00.05.B.4, Appendix E of the Lake County Code provides that sites shall be developed to maximize the amount of natural rainfall which is percolated into the soil and to minimize direct overland runoff to adjoining roads and water courses to the extent feasible. The Application, the Ordinance, and other documents thus far rendered to the Department by Lake County do not demonstrate that the mass grading plan will maximize the amount of natural rainfall which is percolated into the soil or minimize direct overland runoff to the extent feasible as required by Section 8.00.05.B.4, Appendix E of the Lake County Code.

26. The Application, the Ordinance, and the other documents thus far rendered to the Department by Lake County do not demonstrate that the removal of 3,000,000 cubic yards of sand and soil from the Property will not significantly reduce the onsite percolation rate of rain water back into the ground, as required by Rule 28-28.008(2), Fla. Admin. Code.

27. The Application, the Ordinance, and other documents thus far rendered to the Department by Lake County do not demonstrate that the removal of 3,000,000 million cubic yards of sand and soil from the Property maximizes the amount of natural rainfall which is percolated into the soil or minimizes direct overland runoff into adjoining streets and water courses to the extent feasible, as required by Rule 28-28.008(4), Fla. Admin. Code.

28. The Application, the Ordinance, and other documents thus far rendered to the Department by Lake County do not demonstrate that removal of 3,000,000 cubic yards of sand and soil from the Property as authorized by the Ordinance is consistent with the Principles for

Guiding Development for the Green Swamp Area of Critical State Concern in Rule 28-26.003(a), (b), (c), (e), (g), (h), (j), and (k), Fla. Admin. Code.

29. Alternatively, Section 9.07.14.A., Appendix E of the Lake County Code, provides that elevation changes in topography for lot grading shall not exceed a maximum of ten feet except for the footprint of the structure. The Application, the Ordinance, and other documents thus far rendered to the Department by Lake County do not demonstrate consistency with Section 9.07.14.A.3, Appendix E of the Lake County Code.

30. For the reasons stated above, the Application, the Ordinance, and other documents thus far rendered to the Department by Lake County do not demonstrate compliance with section 163.3194(1)(a), Fla. Stat.

Request for *de novo* Hearing

31. Lake County is not an “agency” as defined in the Administrative Procedures Act and is not required to conduct hearings as prescribed by chapter 120, Fla. Stat. The record created below was not full and complete regarding the issues raised herein and did not comply with the procedural due process requirements of chapter 120, Fla. Stat. The Department was not a party to any proceeding conducted by Lake County in connection with the adoption of the Ordinance. Therefore, the Department requests a *de novo* hearing.

WHEREFORE, based upon the foregoing, the Department of Economic Opportunity, by counsel, respectfully requests the following relief:

A. That the Commission accept jurisdiction of this petition and refer this petition to the Division of Administrative Hearings as required by section 380.07(6), Fla. Stat., for a *de novo* hearing.

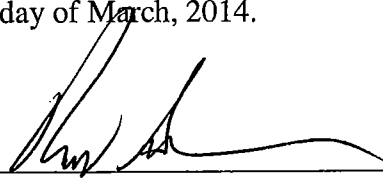
B. That an Administrative Law Judge conduct a hearing and issue a recommended order determining whether the removal of 3,000,000 cubic yards of sand and soil from the Property, and the Ordinance, are consistent with the requirements of chapter 380, Part I, and section 163.3194(1)(a), Fla. Stat., and the Principles for Guiding Development for the Green Swamp Area of Critical State Concern, for the reasons stated above.

C. That the Commission enter a final order pursuant to section 380.07(7), Fla. Stat.:

1. Granting the Owner permission to develop up to 490 dwelling units, commercial uses, and accessory uses as authorized by Ordinance No. 2014-7;
2. Determining whether the removal of 3,000,000 cubic yards of sand and soil from the Property as authorized by Ordinance No. 2014-7 is consistent with the requirements of chapter 380, Part I, and section 163.3194, Fla. Stat., and the Principles for Guiding Development for the Green Swamp Area of Critical State Concern, for the reasons stated above; and
3. If the Commission finds that the removal of 3,000,000 cubic yards of sand and soil from the Property is not consistent with the requirements of chapter 380, Part I, and section 163.3194, Fla. Stat., or the Principles for Guiding Development for the Green Swamp Area of Critical State Concern, imposing the following conditions on the development:
 - a. That the removal of sand and soil from the Property not exceed 200 percent of the minimum stormwater retention/detention volume required for development of the site; and
 - b. That the grading of the parcel not alter the elevation more than ten feet.

D. That the Commission grant such other and further relief as it deems appropriate.

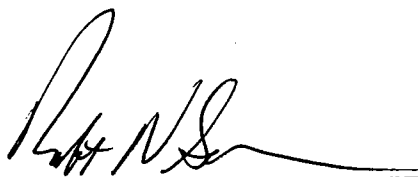
RESPECTFULLY SUBMITTED this 31st day of March, 2014.



Robert N. Sechen, General Counsel
Florida Bar No. 319287
Sherry A. Spiers
Assistant General Counsel
Florida Bar No. 0455490
T. Christopher Long
Assistant General Counsel
Florida Bar No. 86513
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Telephone: 850-245-7150
Email: Sherry.Spiers@deo.myflorida.com
Email: Chris.Long@deo.myflorida.com

CERTIFICATE OF FILING AND SERVICE

I certify that the above petition was filed with the Clerk of the Florida Land and Water Adjudicatory Commission and served on the following persons by the methods indicated this 31st day of March, 2014.



Robert N. Sechen
General Counsel

By Hand Delivery

The Honorable Rick Scott
Governor, State of Florida
The Capitol
400 South Monroe Street
Tallahassee, FL 32399-0001

The Honorable Pam Bondi
Attorney General, State of Florida
The Capitol
400 South Monroe Street
Tallahassee, FL 32399-0001

The Honorable Adam H. Putnam
Commissioner of Agriculture and Consumer Services, State of Florida
The Capitol
400 South Monroe Street
Tallahassee, FL 32399-0001

The Honorable Jeff Atwater
Chief Financial Officer, State of Florida
The Capitol
400 South Monroe Street
Tallahassee, FL 32399-0001

By Federal Express

Jimmy Conner, Chairman
Lake County Board of County Commissioners
315 West Main Street
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4600 Lyons Road
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Registered Agent for
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223 Peruvian Avenue
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East Central Florida Regional Planning Council
309 Cranes Roost Blvd. Suite 2000
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With courtesy copies by electronic mail to:

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Email: sminkoff@lakecountyfl.gov

Jimmy D. Crawford, Esq.
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Clermont, FL 34711
Email: Jimmy.Crawford@MNagellaw.com

**STATE OF FLORIDA
LAND AND WATER ADJUDICATORY COMMISSION**

DEPARTMENT OF ECONOMIC OPPORTUNITY,

Petitioner,

v.

CASE NO. _____

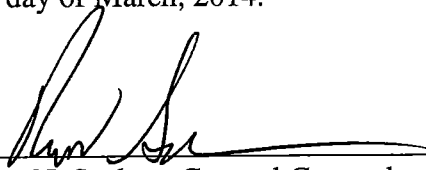
LAKE COUNTY, FLORIDA, and
RUBIN GROVES OF CLERMONT, LLC,

Respondents.

NOTICE OF APPEAL

The Department of Economic Opportunity ("Department"), by and through its undersigned counsel, hereby gives notice of filing its appeal of Ordinance No. 2014-7, a development order issued by Lake County, Florida. The Department's Petition for Appeal is filed contemporaneously with this Notice.

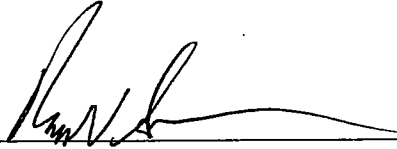
RESPECTFULLY SUBMITTED this 31st day of March, 2014.



Robert N. Sechen, General Counsel
Florida Bar No. 319287
Sherry A. Spiers
Assistant General Counsel
Florida Bar No. 0455490
T. Christopher Long
Assistant General Counsel
Florida Bar No. 86513
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Telephone: 850-245-7150
Email: Sherry.Spiers@deo.myflorida.com
Email: Chris.Long@deo.myflorida.com

CERTIFICATE OF FILING AND SERVICE

I certify that the above Notice of Appeal was filed with the Clerk of the Florida Land and Water Adjudicatory Commission and served on the following persons by the methods indicated this 31st day of March, 2014.



Robert N. Sechen
General Counsel

By Hand Delivery

The Honorable Rick Scott
Governor, State of Florida
The Capitol
400 South Monroe Street
Tallahassee, FL 32399-0001

The Honorable Pam Bondi
Attorney General, State of Florida
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Registered Agent for
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223 Peruvian Avenue
Palm Beach, FL 33480

East Central Florida Regional Planning Council
309 Cranes Roost Blvd. Suite 2000
Altamonte Springs, FL 32701

With courtesy copies by electronic mail to:

Sanford A. Minkoff, County Attorney
Lake County
315 West Main Street
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Email: sminkoff@lakecountyfl.gov

Jimmy D. Crawford, Esq.
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