



**Interoffice Memorandum**

09-18-15 11:19 RCVD

*SD FOR*

DATE: September 8, 2015

TO: Katie A. Smith, Deputy Clerk of the Board of County Commissioners, County Comptroller's Office

THROUGH: Cheryl Gillespie, Supervisor, Agenda Development Office

FROM: Lourdes O'Farrill, Development Coordinator Planning Division

*me for Jurdan.*

**CONTACT PERSONS:**  
**Lourdes O'Farrill,**  
**Development Coordinator**  
**Planning Division 407-836- 5686**  
**Lourdes.O'Farrill@ocfl.net**  
**&**  
**Lisette M. Egipciaco,**  
**Development Coordinator**  
**Planning Division 407-836- 5684**  
**Lisette.Egipciaco@ocfl.net**

SUBJECT: Request for Board of County Commissioners Public Hearing

Project Name: Appeal of a Development Review Committee Decision – Quadrangle PD / Quadrangle Fairfield Inn & Suites DP / Impact Fee Waiver - Case # DRCA-15-07-215

Type of Hearing: Development Review Committee (DRC) Appeal

Appellant(s): Robert Schanck, P.E.  
GAI Consultants, Inc.  
618 E. South Street, Suite 700  
Orlando, FL 32801

Commission District: 5

General Location: North of University Boulevard / East of Rouse Road

*October 20, 2015 @ 2 pm*

Parcel ID # (s) 04-22-31-7240-01-000

# of Posters: 0

Use: Hotel – 112 Rooms

Size / Acreage: 2.15

BCC Public Hearing  
Required by: Orange County Code Sec. 23-92(f)(4) and  
Administrative Regulation 4.01

Clerk’s Advertising  
Requirements: No advertising required for appeals.

Applicant/Abutters to  
be notified: Yes – Development Services will forward mailing  
labels to the Clerk’s office.

Spanish Contact Person: Para más información referente a esta vista  
pública, favor de comunicarse con la División de  
Planificación (Planning Division) al número 407-  
836-5686.

**Material being submitted as backup for the public hearing request:**

- (1) Copy of Impact Fee Committee Meeting Minutes dated July 9, 2015
- (2) Copy of Development Review Committee Meeting Minutes dated August 12, 2015
- (3) Location map

***SPECIAL INSTRUCTIONS TO CLERK (IF ANY):***

***This request is an appeal of a decision of Orange County’s Development Review Committee to uphold a decision of the Orange County Impact Fee Committee to reject a request to waive \$55,440 in impact fees for the construction of a 112-room hotel on 2.15 acres; District 5; North of University Boulevard / East of Rouse Road.***

Unless stated otherwise, the public hearing should be advertised to begin at 2:00 p.m., or as soon thereafter as the matter may be heard.

Please notify Lourdes O’Farrill and Lisette Egipciaco of the scheduled date and time. The Planning Division will notify the applicant.

Attachments (minutes and location map)

## **IMPACT FEE COMMITTEE**

**July 9, 2015 Meeting Minutes**

**Page 2**

Massaro noticed that this part of the discussion was omitted from the meeting minutes and requested that it be inserted. Ms. Barq also wanted her vote to be on record.

**A motion was made by Mirna Barq to approve the April 23, 2015 meeting minutes, as amended. Seconded by Steve Thorp. Motion carried.**

### **Quadrangle of Fairfield Inn and Suites Appeal of Staff Determination**

Robert Schanck, Doug Kelly, Aimee Shields and Brian Funk

The committee discussed the background of the project. The consultant applied for a building permit and they had issues with their application. Because of the delays, the new impact fee rate went into effect. Mr. Massaro mentioned that the BCC delayed the increase of fees from August 16, 2014 to December 1, 2014 a 90 day extension with the intent to move people through the process because businesses were ramping up. The applicant applied for their permit on May 29<sup>th</sup> 2014, but their permit wasn't approved until December 23, 2014 and it was issued January 23, 2015.

Mr. Schanck stated that there were unnecessary and unwarranted delays during the permitting process. Normally, it takes four (4) months to get a permit for this type of work. Mr. Schanck mentioned that the delays caused financial damage to his client. Mr. Schanck believes the delays were on the part of the County and would like to seek relief from the impact fee rate increase, which is approximately \$55,000. Mr. Funk added that this was also during the holidays and things were moving slowly and to miss the deadline by a few weeks, the County should take that into consideration. Mr. Funk also mentioned that with the hand-outs the committee received to show that there were plenty of delays throughout the process; you would be able to find at least 3-5 weeks of delays caused by the County. Lastly, Mr. Funk believes proper notice wasn't given to the public stating a fee increase was going to occur on December 1, 2015. Ms. Torres stated that notices were published in the newspaper and the Orange County website. Ms. Torres added that the fees went up on August 16, 2014, but the BCC extended it 90 days for delays in the permitting system. Mr. Massaro added that there were also two (2) public hearings regarding the rate increase.

Mr. Massaro stated that upon reviewing the time line that GAI Consultants submitted, there were plenty of occasions where the response time took months for GAI to resubmit and respond to comments. If these comments were done in a timely fashion, three (3) months could have been knocked off the permitting process. Mr. Schanck replied that during the early development plan process, there were zero comments and 60% approval in the beginning. However, there were some changes to the core structure that needed value engineering done that did add a month delay to the permitting process. Mr. Schanck added that it still should not have taken eight (8) months to go through the permitting process. Mr. Schanck stated he has emails and phone records from county employees who said they were too busy. Mr. Schanck continued by stating that they could not get in contact with county staff for days and weeks and these were delays on The County's side that added time to the permitting process as well. Mr. Funk stated that if the County wants to point out the delays from his side, it is only fair that he is given the opportunity to point out the delays from the County. Ms. Shields proceeded to explain that when she tried to contact the Plans Review Division regarding some comments, it took over a month just to get referred to another division. Mr. Schanck added that they distributed a detailed booklet to the committee outlining the whole timeline it took to receive their permit. As shown in the booklet, it would take weeks just to get a response to some of the comments after several attempts from our staff. Mr. Funk said that all they should have to show is that there is more than three (3) weeks' worth of delays on the County's side to show how they missed the new impact fee rate increase date; they should be granted the old rate. GAI Consultants should not be penalized for the slow responses received from the permitting department. Lastly, Mr. Funk added that he can show several other delayed responses to the committee if necessary.

Mr. Kelly mentioned that prior to scheduling a meeting with the Impact Fee Committee; he had a chance to speak to Mr. Testerman and Mr. Weiss regarding this situation and wasn't able to completely resolve it. Mr. Kelly stated that the more GAI Consultants reviewed the paper trail, the more they realized the unnecessary delays were apparent and the financial loss to their client. After speaking with Mr. Testerman trying to come to a resolution, it was suggested to start

**IMPACT FEE COMMITTEE**

**July 9, 2015 Meeting Minutes**

**Page 3**

with the Impact Fee Committee and go through the process. Ms. Alfonso inquired if they had spoken to their Commissioner and Mr. Kelly replied that he spoke to Commissioner Edwards who suggested going through the appeal process starting with the Impact Fee Committee.

*There was a brief discussion on when the permit was approved and picked up by the contractor. Also, there were more discussions regarding comments between the consultant and the Permitting Department as well as doing an alternative transportation impact fee study.*

Mr. Massaro asked Ms. Alfonso if the committee has the authority to waive these fees (grant the old impact fee rate) and Ms. Alfonso replied no. The ordinance states fees are assessed at the time of issuance. Ms. Alfonso mentioned that this isn't the first time where the rates have gone up during the permitting process and this committee does not have the authority to go back in time because the fees are assessed at the time of issuance. This can be found under ordinance 23-91a and 23-91b. Additional information can be found under 23-98. Ms. Alfonso stated she would advise the Impact Fee Committee not to grant the appeal of staff determination because they do not have the power to do so. Then, if GAI Consultants chooses, they can continue their appeal to DRC. If DRC denies the request, GAI Consultants has a right to have the BCC hear their appeal.

**A motion was made by Jeff Dunn to deny GAI Consultants appeal of staff determination to request an older impact fee rate. Seconded by Darryl Johnson.**

Mr. Massaro stated that it seems like there were delays on The County's side as well as the consultant's. And the Impact Fee Committee cannot change the rate.

**Motion approved. Steven Thorp denied the motion**

**A motion to adjourn the meeting at 11:00am was made Mark Massaro. Seconded by Steven Thorp.  
Next Scheduled Meeting July 23, 2015.**

**APPROVED MEETING MINUTES  
AUGUST 12, 2015**

- i. Design and construction at the developer's expense: Effluent disposal facilities consistent with these conditions, applicable federal, state and local laws and rules, and subject to the review and approval of the County.
  - ii. Payment by the developer of applicable sewer capital charges prior to the issuance of any building permits for construction of any structures on the developer's property, in accordance with the County Rate Resolution and Ordinances.
  - iii. Operations and maintenance of the effluent disposal facilities.
  - f. Priority for the allocation of water service capacity is typically implemented on a "first come, first served" basis. The County reserves the right, power, and authority, however, to allocate such capacity by service allocation rules later adopted by the Board or by written contract.
  - g. Prior to construction of any sanitary sewer facilities, drinking water facilities, or stormwater management facilities and system, the developer shall be required to obtain all applicable federal, state, and local permits and approvals for the construction and the operation thereof. The developer shall submit copies of all such permits to the division of public utilities and the County Engineering Department.
8. Permitted heights of development in the general commercial area shall be permitted up to, but limited to, five (5) story construction.
9. Assurance from FHA/VA shall be provided concerning the continued availability of FHA/VA loans to adjoining residential property since this property's percolation pond will be located only 300 feet from the adjacent residential property. If such assurances cannot be provided, the percolation pond shall be relocated a minimum of 400 feet from the adjacent residential properties.
10. All items that are deemed necessary by the County Attorney shall be incorporated into the developer's agreement.

***MOTION CARRIED.***

**15. DRCA-15-07-215- DISTRICT 5  
Quadrangle PD / Quadrangle Fairfield Inn & Suites DP**

Present for discussion were Aimee Shields, Doug Kelly, and Brian Funk. The applicant is requesting relief from impact fees. The applicant discussed that they applied for building permits and due to delays in permitting the new impact fee rate went into effect. The applicant alleges that unnecessary delays by the County in issuing permits caused financial loss to their client.

Based on the input from the County Attorney, it was determined that the DRC does not have the authority to waive provisions in the Code, which are enacted by the Board of County

**APPROVED MEETING MINUTES  
AUGUST 12, 2015**

Commissioners; therefore, the DRC voted to uphold the IFC's decision. The applicant may appeal the decision of the DRC to the BCC.

***MOTION by John Smogor (who stepped out of Chair), seconded by Joe Kunkel, TO UPHOLD THE IMPACT FEE COMMITTEE'S DECISION TO DENY THE REQUEST FOR RELIEF FROM IMPACT FEES.***

***MOTION CARRIED.***

**16. & 17 CDR-15-07-188 and 187 - DISTRICT 1**

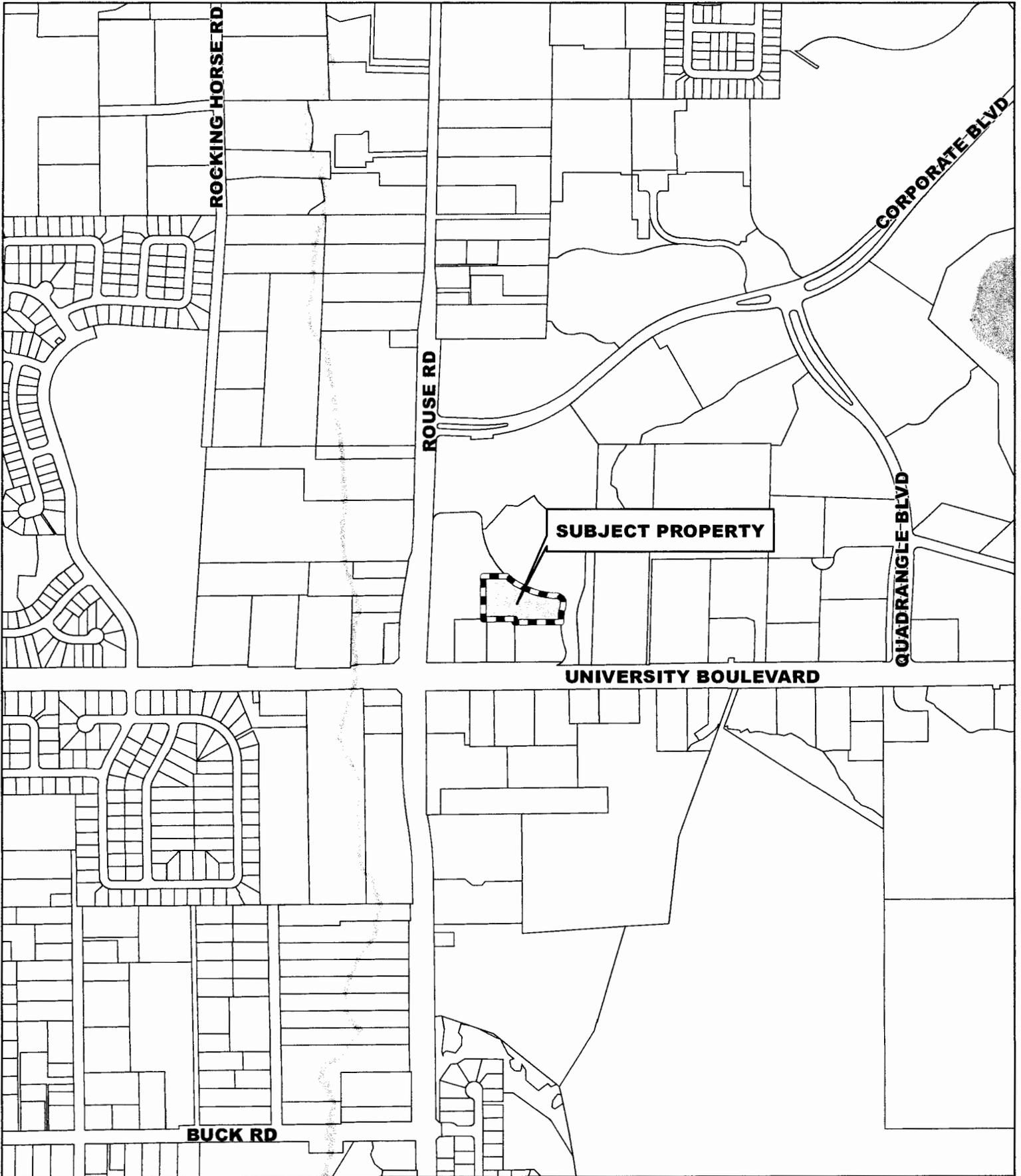
**Hamlin PD / UNP and Hamlin PD / UNP / Overlook 2 at Hamlin PSP**

Present for discussion were Justin Campbell, Tom Bradley, Nicole Stalder, Chris Tyree, and Chris Roper. Olan Hill, the Project Manager, provided an overview of the previous DRC discussion and action taken on June 10, 2015, and July 22, 2015, which resulted in the recommended approval of a PD substantial change for two (2) "after-the-fact" waivers from Orange County Code involving eight (8) lots within the Overlook 2 at Hamlin PSP that are, or will be, inconsistent with the applicable Horizon West development standards. Mr. Hill then indicated that the purpose for bringing the request back to DRC was to formally recognize that one (1) of the eight (8) lots had been removed, thereby subjecting only lots 38, 42, 45, 46, 49, 55 and 58 to the request. It was also clarified that lots 38, 42, 45, and 58 were previously permitted, and that lots 46, 49, and 55 were placed under contract, but had their permits withheld until the proposed waivers could be reviewed and approved by the County.

Finally, the applicant requested that the hold on permits for lots 38, 45, and 58 be released prior to the approval of the waivers by the BCC, subject to a Hold Harmless and Indemnification Agreement acceptable to the County, which recognizes that the applicant is proceeding with construction on lots 38, 45, and 58 at their own risk. Furthermore, the Agreement would also reflect that the applicant may be required to completely remove or substantially modify constructed homes to comply with County Code, if the waivers are denied by the Board. The modified condition language addressing the waivers and matters described above, and as provided by staff, are as follows:

*4. The following waivers from Orange County Code are granted:*

- a. A waiver from Section 38-1384(g)(2) to allow for a minimum thirteen (13) foot front-loaded garage door setback from the front property line, in lieu of a minimum twenty (20) foot front-loaded garage door setback from the front property line, and applicable to the Overlook 2 at Hamlin PSP lots 46, 49, and 55 only; and*
- b. A waiver from Section 38-1384(g)(2) to allow front-loaded garage doors to be located a maximum of 5.7 feet forward of the nearest adjacent plane of the primary structure (living area), in lieu of the requirement that front-loaded garage doors be recessed a minimum of ten (10) feet (or 7 feet with a qualifying porch) behind the nearest adjacent plane of the primary structure, and applicable to the Overlook 2 at Hamlin PSP lots 38, 42, 45, 46, 49, 55, and 58 only.*



**Quadrangle PD / Fairfield Inn & Suites DP  
Location Map**

