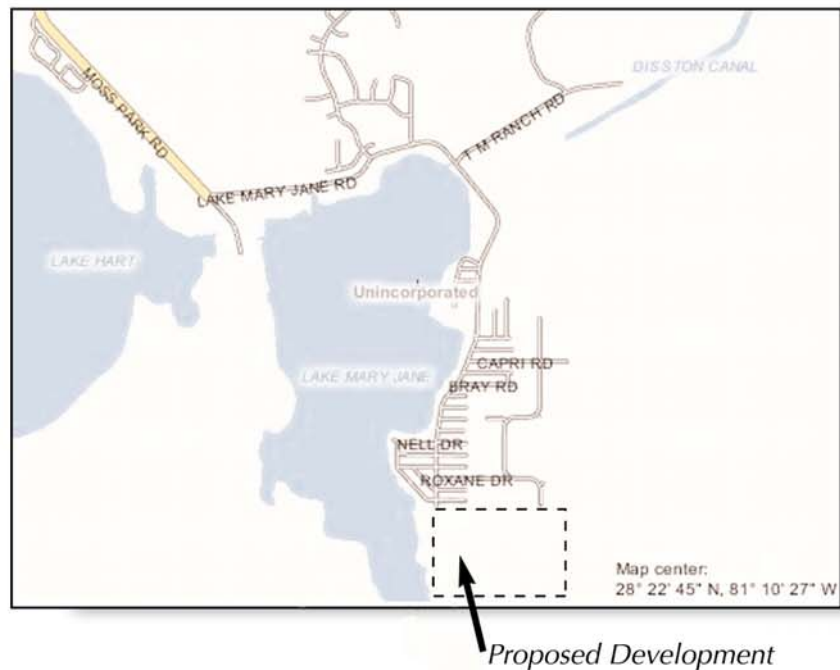




## Issues, objections and recommendations related to the proposed Hampton Bay Development

The proposed development is located on 464 acres (218 buildable acres) of environmentally sensitive wildlife habitat in Southeast Orange County. The area borders pristine Lake Mary Jane and encroaches on established wildlife corridors. The developer is proposing 109 single family lots from 0.75 to 5 acres adjacent to the Lake Mary Jane rural settlement and accessed by a single “one way in /one way out”

quiet rural road. The proposal is a classic example of urban sprawl into a rural area with an extensive list of legal, zoning, environmental, safety, pollution and health issues. These issues in total will severely compromise the quality of life for established residents. The land should preferably be preserved in its natural state or the development density significantly reduced to mitigate and address the multiple issues.



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## Today



## Issues

- Development is not consistent with comprehensive plan
- Zoning claimed by developer may have expired
- Developer wants  $\frac{3}{4}$  acre lots vs. 1 acre lot requirement
- Developer wants 1 Acre or less lakefront lots vs. 5 acre requirement
- 109 new wells will compromise existing water supply
- Outside 5 mile insurance limit from fire station
- Potential for pollution from septic systems
- Traffic not meeting Future Land Use codes
- Construction traffic safety issues for residents
- Children already attending overcrowded schools
- Extensive fill needed to avoid flooding new development
- Flooding potential for adjacent property
- Property designated as an Orange County Wildlife Habitat
- County wildlife corridors compromised

## Tomorrow?



## Background

Background knowledge is essential to assess the issues and make informed, logical decisions on the developer's proposal while respecting resident's quality of life.

On January 18<sup>th</sup> 1990 the Orange County Zoning Department granted the property a change from rural agricultural to RCE-2-C zoning with certain conditions despite the inconsistency with the comprehensive plan. (Ref 3). The key conditions were, 1 acre minimum lot size, 98 lots, 5 acre lots along the North boundary adjacent to the existing Lake and Pines subdivision and 5 acre lots along the east side. (Ref. 1)

On April 30<sup>th</sup> 1990 the Orange County Board of County Commissioners (BCC) ratified this zoning and the conditions, but changed the minimum lot size on the east side from 5 acres to 2.5 acres. (Ref. 2)

No development activity resulted from this zoning and the associated preliminary subdivision plan (PSP) expired. On December 30<sup>th</sup> 1991, a prospective purchaser of the land was given a Vested Rights Certificate for the RCE-2-C zoning despite the fact that the development was still not consistent with the comprehensive plan (Ref. 3) This certificate warned that if certain permits expired, then “---the rights granted hereunder shall also expire.” The proper interpretation of the meaning and rights under this certificate is one of the residents most critical and controversial issues. The Orange County Planning Department states that this expiration does not affect the granted zoning. The residents do not accept this and believe a more formal and independent legal opinion is both necessary and appropriate.

On March 26<sup>th</sup> 1992 the Development Review Committee (DRC) approved a Preliminary subdivision with the RCE-2-C zoning and the conditions previously approved by the BCC. (Ref. 4)

On August 11<sup>th</sup> 1992 the DRC approved another Preliminary Subdivision Plan with the RCE-2-C zoning and the BCC conditions but with only 93 lots. (Ref. 5)

On May 25<sup>th</sup> 2000 the DRC told another prospective purchaser “---the approvals are no longer valid.” Also the DRC restated the 1 acre minimum lot size but changed the 5 acre minimum lot size requirement to read “5 acre adjacent to Lake Mary Jane and East Pines.” (Ref. 6)

No development activity resulted and the property changed hands several times until October 2005 when the current applicant purchased the property and requested rezoning. There are many serious issues and non compliances in the requested rezoning prohibiting approval in the present form. Details and recommendations are provided on the following pages.

# Issues, Concerns and Recommendations

The residents overwhelming preference is for preservation of this property in its native, pristine state. The owner has indicated a willingness to consider any such proposals. To this end we are working with Orange County and private Land Mitigation banks. However, if these efforts are not successful the following issues must be considered before any Orange County approvals for this property.

**Comprehensive Plan Violations** - In 1991 Orange county approved the development “---despite the inconsistency of the development with the Comprehensive Plan---” (Ref. 3). Florida Statutes (Ref. 23) appear to require all actions taken by local government to be consistent with the Comprehensive Plan. Further, the 2000-2020 Comprehensive Plan, (Ref. 24) and the associated Future Land Use map show the area as conservation and rural 1 du/10 acres. Development above this density violates both (Ref. 23) and (Ref. 24).

**Validity of the Vested Rights Certificate** - This is a key issue. If the certificate is not valid, then the zoning reverts to 1 unit per 10 acres (Ref. 6). Orange County planners believe the certificate to be valid but the residents do not accept this as a reasonable interpretation of the wording. We recommend an independent, legal review to answer the validity question. Given the importance of this question, the certificate is provided as an attachment.

**One Acre Lot Size** - The RCE-2-C zoning requires 1 acre minimum lot size. The references quoted herein all require 1 acre minimum. The developer is asking for 0.75 acre minimum. The developer must be held to the zoning and other reference requirements and provide 1 acre minimum lots.

**Five Acre Lakefront Lots** – The document in reference 6 clearly states “---a minimum lot size of 5 acres adjacent to Lake Mary Jane.” The developer is showing 9 lots adjacent to this lake with lot sizes 1 acre or less. This is not acceptable; the developer must meet the requirement of 5 acres per lot.

**Water** - The nearly 600 existing homes all use individual wells for water. Water quality from these wells has steadily deteriorated over the past several years with many impurities in spite of state of the art filters. Reliability is also poor with many wells drying up and 65% of residents reporting problems. The developer also proposes individual wells, adding 109 wells to a fragile supply. We believe this will have unacceptable impacts on existing wells. The Florida Department of Health agrees (Ref. 7) this is a significant problem and effects on existing wells cannot be predicted unless the new wells are very deep. Problems with added wells can show up a year or more later. The developer has said problems are “unlikely”. We believe this is an irresponsible and unsubstantiated statement. Well water is a real and serious problem. We recommend the developer be required to bring in county water lines to protect existing potable water wells as required by Florida Statutes (Ref. 19).



**Fire Protection** - Another reason to bring in County water is to provide fire protection hydrants. The County is being asked to approve property that is more than 5 miles from the planned Fire Station 77 on Moss Park Road. This puts it outside of the 5 mile limit imposed by insurance companies (Ref. 8), and results in the highest insurance rates, Class 10. (Ref. 9). These rates are triple the normal rates. A very poor second choice to county water are Draft Hydrants to draw water out of the lake, however, this will not lower insurance rates.

**Septic Systems** - The developer proposes use of individual on-site septic systems for each of the 109 lots. Because the seasonal high ground water level is 12 to 18 inches below ground level (Ref. 10), these will have to be mounded up 2 to 3 feet to meet code requirements (Ref. 11). Unfortunately the topography of the land slopes down from proposed development to the adjacent lots and the lake (Ref 12). Since water flows downhill, the outflow from the on site systems will flow towards the lake and adjacent property, risking pollution of a

Kissimmee chain headwaters lake. While on site systems would be to the latest codes, everything will fail sooner or later. System failures here will have disastrous pollution consequences. We recommend the developer be required to use the county sewer lines 3.3 miles away or significantly reduce the number of lots.

**Traffic** - The quiet narrow one road in/out through our rural settlement will be severely impacted by development traffic. New residents will generate 1,090 extra trips per day, a number provided by the developer and verified by research. Additionally, construction vehicles will contribute even more trips. The description of a rural settlement states adjacent development should “produce minimal impact on local roads within a Rural Settlement” (Ref 13). On April 13<sup>th</sup> 2006 a professional Traffic Engineer set up traffic counter at the entrance of Isle of Pines community. The counter read 2,045 trips per day. The new resident’s trips per day (not even including construction and dump trucks) will be a 53% increase. No reasonable person can claim that 53% increase amounts to a “minimal impact”. The traffic increase will violate Orange County’s own requirements.



**Safety** - The increased traffic, particularly construction traffic, is a serious safety issue for residents and particularly our children. Children play and wait for the school bus on the quiet road because there are no sidewalks. Construction vehicle accidents have the potential of blocking the road such as the actual accident shown here which stopped all traffic for hours.



Photo from 2003 truck accident blocking Lake Mary Jane road.

**Schools**- Students from the proposed development will attend Northlake Elementary, Odyssey MS and Oak Ridge HS. Northlake and Odyssey are currently 334 students (34%) and 275 students (27%) respectively over capacity (Ref 16). Oak Ridge High School is nearly 20 miles away resulting in excessive travel times. We feel this area must have a community High School before any new development is approved.

**Flooding**- We believe the development will require significant amounts of fill, some of this will come from on- site retention ponds. However, the 100 year flood level is currently 64 feet (Ref 14). This level is too low because 64 ft. elevations have flooded in recent years. Parts of the development, particularly along the lake, are bisected by or adjacent to the 65 ft. elevation contour (Ref 12). This will force roads to be above grade level (Ref 10) and will force massive fill for house pads elevating them above existing grade. The resulting downhill runoff will flood the existing adjacent property, violating Stormwater Management codes, Section 1.1.3 (Ref 15).



Photo of Isle of Pines Community Dock on Lake Mary Jane

**Wildlife** - The area surrounding Lake Mary Jane is home to many important and listed species of birds, reptiles and mammals. Moss Park and Split Oak Park are the only two sites in Orange County listed by the Florida Fish & Wildlife Conservation Commission on the great Florida birding trail (Ref 20). Moss Park is the only site in Orange County listed by Audubon of Florida in their Important Bird Areas program (IBA) (Ref 21). The area is also home to six species of reptiles listed by the Florida Fish & Wildlife Conservation Commission as either threatened, endangered or of special concern. Two of these species are listed as threatened by the federal government (Ref. 22).



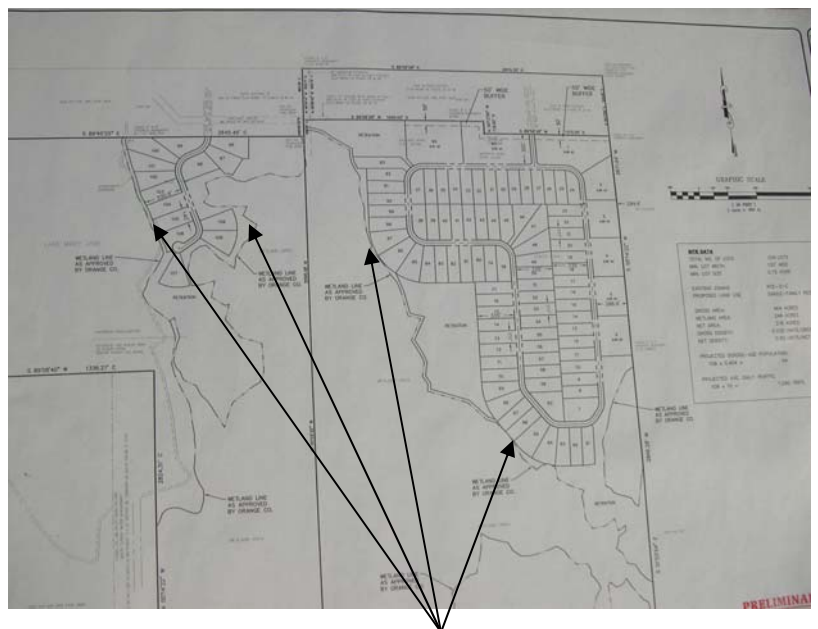
Although no known photographs exist, a formal survey of our residents report that 28% have seen a Florida panther in the area. Some of these recent sightings have reportedly been a female with her kitten.

The proposed development would jeopardize a critical wildlife corridor that connects multiple managed conservation areas used by important wildlife. Although the current Orange County administration should be commended for the work it has done to maintain and protect wildlife corridors, more needs to be done in this important area. The county has designated the area as a Wildlife Habitat (Ref.17) and taken great care to consider conservation needs in the Innovation Way studies (Ref. 18). The county has heavily invested in purchasing adjacent properties in the area for conservation. Approval of this development would be contradictory to the county’s conservation efforts. These county conservation activities contribute to the growing Eco-tourism benefits that already bring millions of dollars into the Central Florida area.

**Local and Downstream Pollution-** The developer has chosen a plat layout that wedges the lots up to the County wetlands lines in multiple, we count 24, places. This may be theoretically correct, but nature defines wetlands as a transition, not a line. Subdivision roads will be above grade with septic systems and house pads mounded up to avoid flooding. With these raised areas it will be almost impossible to prevent run-off from flowing into the wetlands, the lake, and from headwaters to further downstream lakes. Run-off that contains yard chemicals, fertilizer and similar destructive pollution has potentially serious consequences to lakes and wetlands (Ref 25).



Outflow Canal will carry run-off downstream



Lots abutting wetlands & lakefront

## Survey of Local Residents - Results

To verify that this brochure and all associated messages correctly reflect the views of a majority of local residents, we hand delivered a survey form to all 565 homes. We asked what factors were most important, what were the greatest concerns and for information on items such as flooding. The results were as follows.

Only 1 respondent has so far supported the proposed development. Principal concerns and reasons for opposition were traffic (94%), impact to environment and wildlife (92%), impact to existing wells (87%), lack of fire hydrants (64%), and overcrowded schools (60%).



The factual basis for concern over the 109 added wells was amply demonstrated because 46% had problems with water supply and wells running dry. Even greater, (65%) had water contamination or quality issues. This data proves adding 109 new wells would be unacceptable. Requiring county water and sewer was favored by 44%, a lower number basically due to concerns that county utilities would encourage more development.

The data further verified our concerns for flooding, 29% had flooding during Hurricane Wilma. Massive amounts of fill will be mandatory to raise house pads, roads and septic systems. The run-off will affect adjacent property, a code violation, and offers pollution potential.

We asked residents to rate issues of greatest importance with 1 being most important and 5 being least important. Topping the list were traffic and maintaining safe and uncongested roads, rating a 1.2. Protecting the environment and wildlife, rated 1.4 and school quality, rated 2.0. Providing more fire hydrants rated 1.3, sidewalks and bike paths to maintain safe roads rates 3.2 (80% would support developer provision of these paths), county and sewer 3.4 and 3.8 respectively again due to concerns these would bring more development and street lighting rated 3.6.

## Conclusion

The residents of the Lake Mary Jane area are against the proposed Hampton Bay development. Hundreds of homeowners attended an initial public meeting with universal opposition to the proposed development. A follow up survey shows over 99% of respondents echo this opposition. A petition drive has so far collected hundreds of signatures. As residents, we have many issues regarding the applicability, validity and legality of the vested rights claimed by the applicant. We believe the rezoning process should be halted until these important questions are answered. We have also presented 13 additional major concerns outlined in this document that we request be addressed before any further approvals are considered. Our first preference is for this land to be preserved, either under county control or by a private organization. If lack of funding prevents this option, the development application should be denied or sharply reduced in density to conform to the comprehensive plan and to address the many issues identified.

## References

1. Orange County Zoning Department Minutes from Public Hearing #17 Dated January 18<sup>th</sup> 1990 Page 3 and 4
2. Minutes of Orange County Board of Commissioners Meeting Dated April 30 1990 Pages 103 and 104
3. Orange County Certified Mail Letter, from Edward J Williams, Planning and Zoning Director to Bon Van Hoang, Dated December 30 1991 Vested Rights Application #91-31
4. Orange County Memo from George Cole, Chairman of Development Review Committee, Hampton Bay Preliminary Subdivision, Plan # 5000243, Dated March 26 1992
5. Orange County Memo from George Cole, Director of Public Works Division, Hampton Bay Preliminary Subdivision, Plan #5000243, Dated August 11 1992
6. Orange County DRC Minutes, Item 8, Page IV, Dated May 2000
7. Telecom, Ms Kathy Fuchs and Ms Elke Ursin Florida State Department of Public Health to P Betterman, April 19 2006
8. Email from Joe Donovan, Battalion Chief, Orange County Fire Department, April 17 2006
9. Email from Ms Linda Knight, April 18 2006
10. Letter from Karl L Pect P.E., Consulting Engineer, to William P Baxter, Orange County Public Works, Dated June 7 1993
11. State of Florida Standards fro Onsite Sewage Treatment and Disposal System, Chapter 64 of Florida Administrative Code.
12. United States Department of the Army, Corps of Engineers Topographical-Narcoossee Quadrangle 28081-D2-TF-024 Photo revised 1980
13. Orange County comprehensive plan, Future Land Use, Rural Settlements, Section 2.1.18.”Adjacent development shall be designed to produce minimal impact on local roads within the rural settlement”
14. Orange County storm water Management Division, Lake Index (REV, Jan 2005) Lake Mary Jane FEMA Panel # 650
15. Orange County Comprehensive Plan, Storm water Management, Section 1.1.3 “Discharge storm water without creating any additional flooding to adjacent property owners”
16. Orange County Public Schools response to Innovation Place DRI, dated April 5 2006
17. Orange County Interactive Mapping System [www.ocgsi.ocfl.net](http://www.ocgsi.ocfl.net)
18. Orange County Innovation Way Development & environmental resource Management Study
19. Florida Statutes, Section 163.3202 minimum types of land use regulations.
20. [www.floridabirdingtrail.com](http://www.floridabirdingtrail.com)
21. [www.audubon.org/bird/iba/florida](http://www.audubon.org/bird/iba/florida)
22. Florida’s Endangered Species, Threatened Species, and Species of Special Concern. Jan. 29, 2004. [www.myfwc.org](http://www.myfwc.org)
23. Florida Statutes, Section 163.3215
24. Orange County Florida Comprehensive Plan 2000-2020, future land use maps
25. Wekiva River Basin Coordinating Committee, final report, March 16, 2004