

## MEMORANDUM

**TO:** Honorable Mayor and City Council Members

**FROM:** Elaine Wilson, Planning & Zoning Analyst II

**DATE:** February 7, 2008

**SUBJECT:** **Vacation of Portion of Orange City Heights Subdivision for the Land, Building & Beyond LLC Property — 9.012 Acres**

---

### PURPOSE

To approve the vacation of a 9.012-acre portion of Orange City Heights Subdivision, said portion including Parcel # 8012-00-00-0166, located north of Veterans Memorial Parkway, approximately 1,000 feet south of the intersection with Graves Avenue.

### BACKGROUND

The subject property is currently vacant and undeveloped. The property is located within the City's jurisdiction. The owner proposes to develop the property as a Business Planned Unit Development consisting of two medical/commercial buildings.

The 15 lots and platted rights-of-way are to be vacated from the Orange City Heights Subdivision and returned to acreage via Ordinance No. 334. The 9.012 acre property is designated as one parcel by the Volusia County Property Appraiser. The vacation is necessary to eliminate any future concerns about the existence of the underlying subdivision.

### RECOMMENDATION

Staff recommends City Council approval of Ordinance No. 334, thereby vacating this portion of the Orange City Heights Subdivision.

## ORDINANCE NO. 334

**AN ORDINANCE OF THE CITY OF ORANGE CITY, FLORIDA, VACATING AND ABANDONING A CERTAIN PORTION OF THE ORANGE CITY HEIGHTS SUBDIVISION PLAT AND RETURNING SAID PLAT TO ACREAGE, CONSISTING OF 9.012 ACRES, PARCEL #8012-00-00-0166, LOCATED IMMEDIATELY NORTH OF VETERANS MEMORIAL PARKWAY, ORANGE CITY, FLORIDA; CONTAINING A REPEALER PROVISION, A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.**

---

**WHEREAS**, Land, Building & Beyond LLC., has requested approval to develop the LBB Medical Complex Business Planned Unit Development (BPUD) on Parcel #8012-00-00-0166, sixteen lots totaling 9.012 acres located immediately north of Veterans Memorial Parkway, and

**WHEREAS**, the 9.012 acre property proposed to be developed consists of sixteen lots within the Orange City Heights subdivision, said lots consisting of Block 12, Lots 17, 42, 43, 44, 54, 55, 56, 57, 58, 59, 60, 61, and 62, and

**WHEREAS**, it has been established that Land, Building & Beyond LLC is the owner in fee simple of said real property, and all property taxes have been paid, and

**WHEREAS**, it is the City's desire to vacate the aforementioned said portion of the Orange City Heights subdivision, including three rights-of-way for the purpose of returning said subdivision lots to acreage, and

**WHEREAS**, Section 6.9 of the City's land development code allows that the owner of any land subdivided into lots may request to vacate the subdivision plat for the purpose of returning such land to acreage, and

**WHEREAS**, Section 6.9.2 of the City's land development code states that the city council may order the vacation and reversion to acreage of all or any part of a subdivision within its jurisdiction, including the vacation of streets or other parcels of land dedicated for public purposes or any of such streets or other parcels by adoption of an ordinance, and

**WHEREAS**, Section 6.9.3 of the City's land development code states that City Council action shall be based on a finding by the City Council for the approval of

subdivision plats that the proposed vacation and reversion to acreage of subdivided land conforms to the comprehensive plan and that the public health, safety, economy, comfort, order, convenience and welfare will be promoted thereby, and that before acting on the proposal for vacation and reversion of subdivided land to acreage, the city council shall conduct a public hearing with due public notice, and

**WHEREAS**, Florida Statutes Chapter 177.101.(3) states that the governing body may return the property covered by such plat either in whole or in part to acreage, and

**WHEREAS**, On the \_\_\_\_\_ day of \_\_\_\_\_, 2008, the City Council held a public hearing to consider vacating and abandoning said portion of the Orange City Heights subdivision plat, lying within the City of Orange City, Florida,

**NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA:**

**SECTION 1.** It is hereby determined that the property hereinafter described is no longer useful or needed as a subdivision, and it is in the public interest that said property be abandoned, vacated and closed as a subdivision and be from any and every public right, use, title and interest. The following described property be, and the same is hereby released and discharged of any and every public right, use, title and interest of the City of Orange City, for subdivision, and that said property shall revert to acreage. Said portion of Orange City Heights identified as Lots Block 12, Lots 17, 42, 43, 44, 54, 55, 56, 57, 58, 59, 60, 61, and 62, said property described in Attachment A, and depicted on Attachment B, and attached hereto, is by reference incorporated herein.

**SECTION 2. CONFLICTS:** All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed, as well as any portion of the Official Zoning Map of the City of Orange City, Florida, in conflict herewith.

**SECTION 3. SEVERABILITY:** If any section, part of a section, paragraph, clause, phrase or word of this ordinance is declared invalid, the remaining provisions of this ordinance shall not be affected.

**SECTION 4. EFFECTIVE DATE.** This Ordinance shall take effect upon adoption by the City Council of the City of Orange City, Florida.

**ROLL CALL VOTE AS FOLLOWS:**

First Reading this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

Jim Mahoney	_____	Donald C. Sherrill	_____
Tom Laputka	_____	Tom Abraham	_____
Donald Sandford	_____	Jeff H. Allebach, Vice Mayor	_____
Harley Strickland, Mayor	_____		

**ROLL CALL VOTE AS FOLLOWS:**

Second Reading this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

Jim Mahoney	_____	Donald C. Sherrill	_____
Tom Laputka	_____	Tom Abraham	_____
Donald Sandford	_____	Jeff H. Allebach, Vice Mayor	_____
Harley Strickland, Mayor	_____		

PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

**ATTEST:**

**AUTHENTICATED:**

\_\_\_\_\_  
Deborah J. Renner, CMC, City Clerk

\_\_\_\_\_  
Harley Strickland, Mayor

**Approved as to form and legal sufficiency:**

\_\_\_\_\_  
William E. Reischmann, Jr., City Attorney

*Return to:*

*Debbie Renner, City Clerk  
205 East Graves Avenue  
Orange City, Florida 32763-5299*

# **Attachment A**

## **Ordinance No. 334**

### **Legal Description**

#### **Vacate portion of Orange Heights Subdivision**

**Property located north of Veterans Memorial Parkway**

**Name: Land, Building & Beyond LLC**

**Street Address: N/A**

**Parcel ID: 8012-00-00-0166**

**Acreage: 9.012**

**Legal Description:**

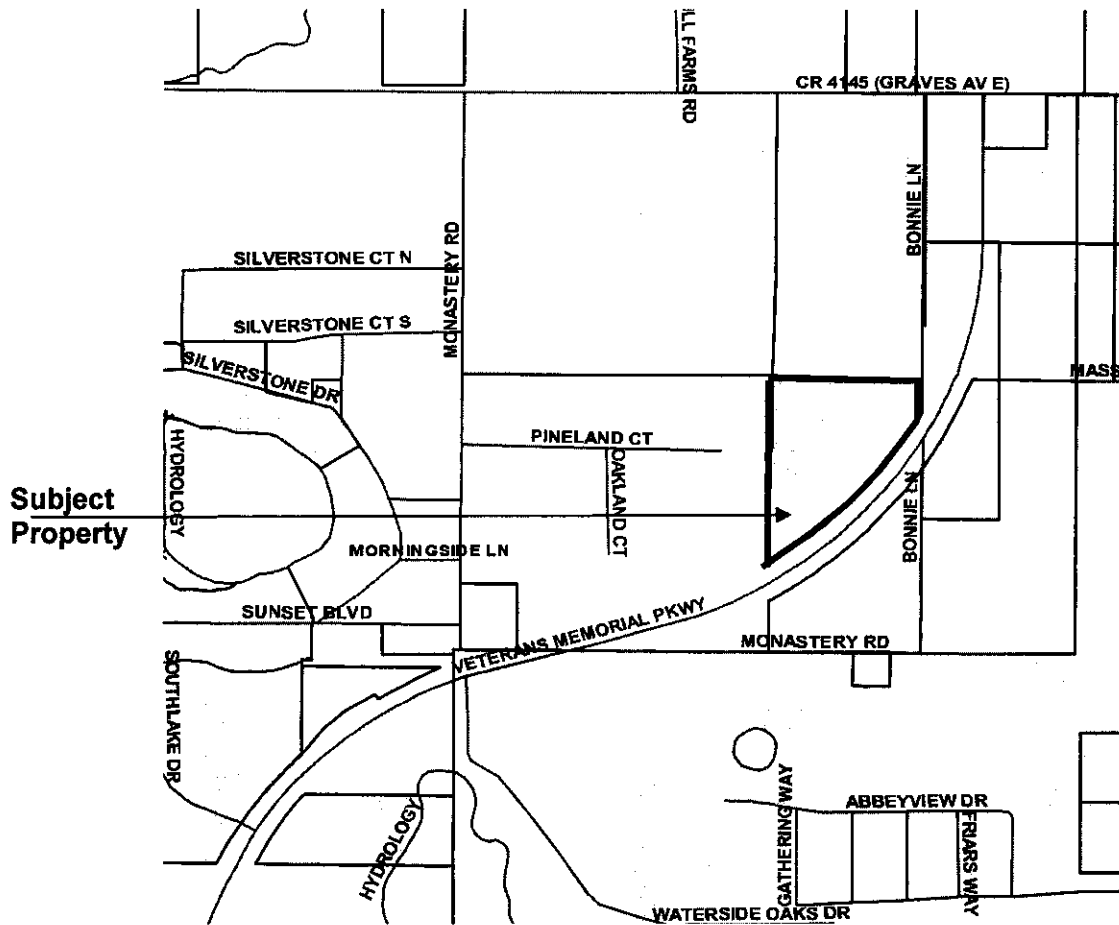
**18-30-12 E 1/2 OF W 1/2 OF SW 1/4 OF NE 1/4 & INC BLK 12 BLK 15 & BLK  
16 ORANGE CITY HEIGHTS MB 19 PG 6 PER OR 4850 PG 6 28 ALL LYING N  
OF VETERANS MEMORIAL PKWY PER OR 5102 PG 3996 PER OR 5684 PG  
1940-1941 PER OR 5684 PG 1942**

# Attachment B

## Ordinance No. 334

### Land, Building & Beyond

#### Vacate portion of Orange City Heights Subdivision



## MEMORANDUM

**TO:** Chairman and Planning Commission Members

**FROM:** Elaine Wilson, Planning & Zoning Analyst II

**DATE:** January 30, 2008

**SUBJECT:** **Vacation of a Portion of Orange City Heights Subdivision for the Land, Building & Beyond LLC Property — 9.012 Acres**

---

### **BACKGROUND**

Dave Jordan, representing Land, Building & Beyond LLC, submitted an application for a Business Planned Unit Development consisting of two medical/commercial buildings on Nov. 16, 2007. The subject property is located north of Veterans Memorial Parkway, approximately 1,000 feet south of the intersection with Graves Avenue.

To eliminate any future concerns about the existence of the underlying subdivision, vacation of a part of the Orange City Heights Subdivision has been proposed by staff. The property is currently vacant and undeveloped. The subject property consists of 15 lots and platted rights-of-way. The 9.012 acre property is designated as one parcel by the Volusia County Property Appraiser.

The land in question will be returned to acreage via Ordinance No. 334.

### **RECOMMENDATION**

Staff advises that the Planning Commission recommends City Council approval of Ordinance No. 334, thereby vacating this portion of the Orange City Heights Subdivision.

# MEMORANDUM

**DATE:** January 30, 2008

**TO:** Chairman Seaman and members of the Planning Commission

**FROM:** Elaine Wilson, Planning & Zoning Analyst II

**SUBJECT:** Review and Consideration of an Application for:  
♦Rezoning, ♦Final Master Plan, ♦Site Plan and ♦Subdivision Vacation  
for the Land, Building & Beyond (LBB) Medical Center Business  
Planned Unit Development to be located north of Veterans Memorial  
Parkway approximately 1,000 feet from Graves Avenue

---

**Background** — The subject property is an irregularly shaped parcel located at the north side of Veterans Memorial Parkway approximately 1,000 feet south of Graves Avenue. The property is vacant. The 9.01 acre property is forested with Live and Laurel Oak with a dense understory of scrub vegetation.

The proposal is to build one medical building immediately, followed by a second building for medical offices and possible retail use.

Kevin Spolski submitted a BPUD application and a master plan to the Development Services Department on Nov. 16, 2007. The development team met with the Orange City Technical Review Committee Jan. 10, 2008 to review the proposed project. A revised plan reflecting the TRC comments was submitted on Jan. 16.

The Future Land Use of the property, along the surrounding properties in the area, is Mixed Use (MX). The property is currently zoned Mixed Use Suburban (MX-2). Because the property is within an MX area, it must be developed under the planned unit development process. Because the FLU is MX, the project has been submitted to the Volusia Growth Management Commission for Consistency Certification in accordance with VGMC rules. The application was submitted to VGMC on Jan. 14, 2008.

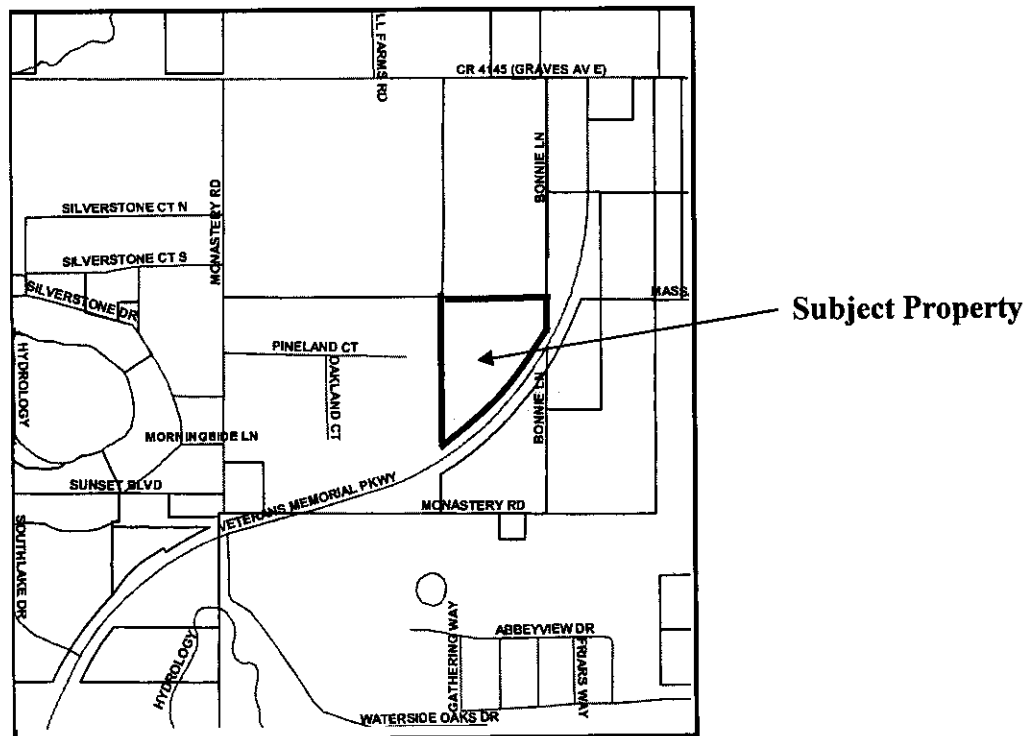
The LBB property is one parcel, according to Volusia County records, but it overlays a portion of the Orange City Heights subdivision, which was platted in 1942 for a housing development. Ordinance 334 vacates a total of 13 lots and the adjacent roadways, and returns them to acreage.

The site plan for Phase I of the project, which consists of the first of two buildings and the infrastructure for the entire site, was submitted as a part of this development package.

**OVERVIEW OF LAND USE AND ZONING STATUS**

	<b>FUTURE LAND USE</b>	<b>ZONING</b>	<b>EXISTING LAND USE</b>	<b>PERCENT DEVELOPED</b>	<b>JURISDICTION</b>
<b>SUBJECT</b>	Mixed Use, MX	Mixed Use Suburban, MX-2	Vacant	0	City
<b>NORTH</b>	Mixed Use, MX	Mixed Use Suburban, MX-2	Land-o-Lakes Mobile Home Park	100	City
<b>SOUTH</b>	Mixed Use, MX	Mixed Use Suburban, MX-2	Vacant	0	City
<b>EAST</b>	Mixed Use, MX	Mixed Use Suburban, MX-2	Single family residential	100	City
<b>WEST</b>	Urban Low Density, UL	Rural Residential, RR	Single family residential	50	County

**VICINITY MAP**



**Project Analysis** — The Technical Review Committee (TRC) met with the applicant on Jan. 10, 2008 to review this Business Planned Unit Development for issues related to unified control, access control, water and sewer, stormwater drainage and retention, parking, trees and landscaping,

as listed in the City's Land Development Code. At the meeting the TRC recommended approval of the BPUD with certain revisions.

The developer proposes a BPUD that contains two buildings, driveways, parking and stormwater facilities. The intent is to build a 27,720 sq. foot medical treatment center with radiology, oncology and urology facilities. The second building is proposed to be 32,000 sq. feet. The uses within the building are not finalized but the developer expects it to contain medical offices with some commercial/retail uses.

**Master Plan** — The master plan for the project was submitted Nov. 16, 2007. The plan includes the roadways, sidewalks, stormwater structures and drainage retention areas. The TRC met with the applicant on Jan. 10, 2008 to review the plan. At that meeting the TRC recommended that the rezoning and master plan be approved.

City Code states that the master development plan shall consist of a plan and a written development agreement. The development agreement, along with the master plan, shall govern the development of the PUD and shall regulate the future use of the land. Sec. 8.7.22 of the Land Development Code specifies the requirements of the master plan. Details of those requirements appear later in this report. The development agreement has been submitted to the City Attorney for review. Staff recommends one stipulation of approval of the master plan is that the City Attorney approves the written agreement prior to issuance of the development order.

Approval of the master plan grants the applicant the right to develop the property with the maximum square footage of structures and paving as shown on the plan. The site plan for the Phase II, the second building will be reviewed for compliance with City Code in regard to appearance and landscaping at a later time. The Planning Commission will be responsible for approval of that site plan.

**Traffic Access** — Two entrances from Veterans Memorial Parkway are proposed for the site. Because VMP is a Volusia County roadway, the project engineer has worked directly with County staff on the design and placement of the entrances. Volusia County will issue the driveway permits.

The trip generation for the proposed development is 1,287 new trips per day with 141 trips during the peak PM hour. (The traffic impact study also has been submitted to Volusia County for review since this development connects to a County roadway.)

**Water and Wastewater** — The proposed development lies within the Orange City wastewater and water service area. Orange City Utilities issued a letter stating that adequate capacity for potable water exists and wastewater needs for the proposed project. Sewer does not exist at the subject property and the developer proposes to install an on-site septic system. According to OCU, sanitary sewer is anticipated to be available within 18 months. The project will be required to connect to the sewer within one year of availability. The Development Agreement for the project states that such connection will be made.

The developer has granted a utility easement across the property to the City. The easement will be used in conjunction with connecting Land-O-Lakes Mobile Home Park to the sanitary sewer system.

**Appearance** — The Phase I building proposed for this site has been reviewed for compliance with the City Code Appearance Standards. The building meets the City's appearance standards in regard to architectural features and overall design.

The Phase II will be reviewed individually for compliance with the City Code Appearance Standards.

The only sign proposed for the site is a monument in compliance the City Code.

**Tree Planting and Protection** — The 392,560 square foot development requires a total of 942 diameter inches of trees to meet the requirements of Sec. 11.7 the Land Development Code. A total of 2,108 DBH inches are proposed. A tree preservation area (TPA) of 58,884 square feet is required. The plan provides a total of 56,929. Staff recommends that a stipulation of approval of this project be that the required TPA be shown on the site plan.

The subject property abuts residential areas to the north and west. Code requires the buffers along these property lines be a minimum of 15 feet. The required width of the buffers is provided. Code also states a visual screen consisting of plant materials, or a decorative wall or fence shall be installed when commercial property abuts a residential property.

In this project, the developer is proposing the use of plant material as screening, rather than a wall. Code requires that if plant material is used for screening, said materials shall be selected and located to provide, within 2 years, a visual barrier that is 6 feet above the average ground level of the buffer. The existing vegetation along the buffers is to be preserved and additional plantings added as needed, according to the proposed plan. Plantings are to include a shrub hedge that staff believes can meet the height requirement within the specified time period. It is the responsibility of the property owner to maintain the buffer in a manner that complies with Code. In particular, the shrubs must be allowed to grow to the required height so that the needed screening is provided. Staff recommends that the trees planted in the buffers be evergreens rather than the deciduous Maples shown on the plan in order to provide a more opaque screen year round.

The landscaping for the parking lot meets Code except for the required shrubbery in some of the landscape islands. Perimeter planting around the Phase I building meets Code. Staff recommends a stipulation of approval be that the site plan be revised to meet all landscaping requirements.

**Stormwater and Drainage** — An underground drainage system connected to an on-site retention pond is proposed for the project. The City engineer requested certain modifications to the stormwater structures, such as inlets and swales, prior to issuing final approval of the system. Staff recommends that a stipulation of any approval be that all outstanding engineering issues be resolved prior the issuance of the development order for this project.

**Requirements for the Planned Unit Development** — The City's land development code requires that the Planning Commission hold a public hearing on the rezoning after due public notice and consider the application with respect to the items found in Section 8.6.16 and 8.7.22. The required public notice has been published.

**Section 8.6.16.A** states: "The planned unit development (PUD) district is intended to provide a flexible approach for unique and innovative land development proposals, which would otherwise not be permitted by this Code. Notwithstanding the specific criteria identified herein, PUD proposals shall be consistent with the comprehensive plan and should accomplish the following purposes, to the greatest extent possible."

Planning staff has reviewed the purposes to be accomplished, and finds that the LBB Medical Center Business Planned Unit Development (BPUD) application is consistent with Section 8.6.16, 1 through 7 of the City's land development code.

**Sec. 8.6.16.B.2** states: "The permitted uses within a BPUD may be those found in any of the business zoning districts, provided that said uses are listed in the development agreement and have been approved by the City Council."

Planning staff has reviewed the LBB Medical Center Business Planned Unit Development (BPUD) and finds that the use is consistent with a business development.

**Sec. 8.6.16.C.1** states the minimum parcel size for a BPUD is 20,000 square feet. (0.45 acres)

The subject property consists of 9.012 acres, thereby significantly exceeding the requirement.

**Sec. 8.6.16.E** states: Landscape buffers shall comply with the requirements of Chapter 10 of this Code.

As noted previously, the proposed landscape buffers meet the size and planting requirements of Section 10.

**Sec. 8.6.16.F** states: "Off-street parking and loading/unloading areas shall comply with Section 8.7.7."

The parking requirements for a commercial development have been met on the proposed plan.

**Sec. 8.6.16.G** states: "A transportation impact analysis report shall be required for any use which, according to the Institute of Transportation Engineers Trip Generation Manual, latest edition, rates published by the Florida Department of Transportation or rates documented by study and agreed to prior to use by the DSD, will generate in excess of 1,000 trips per day. The contents of the transportation impact analysis report shall meet the requirements of Chapter 4."

The analysis, prepared by Engineered Permits Inc., was provided with the master plan as required, indicating 1,287 new external daily vehicle trips.

**Sec. 8.7.22 A** states: “All land included for purposed of development as a PUD shall be under the legal control of the applicant, whether that applicant be an individual, partnership or corporation or group of individuals, partnerships or corporations.”

A copy of the recorded warranty deed indicating the subject property is owned Land, Building & Beyond, LLC. A title opinion has not been submitted at this time. Therefore the City Attorney has not yet approved the Development Agreement.

**Sec. 8.7.22 C** states: “There shall be a minimum common open space requirement of 30 percent of the total gross acreage of the PUD.”

The Development Agreement and master plan indicates that open area will equal 44.45 percent (4 acres) of the total gross acreage of the development. Open space includes the retention and landscape areas.

**Sec. 8.7.22 D** states: “Within a PUD, all utility distribution lines, including telephone, television cable and electrical systems, shall be installed underground. However, appurtenances to said utilities requiring above ground installation may be exempted by the City Council.”

The master plan indicates that all utilities will be installed underground.

**Sec. 8.7.22.5.a through p** are either described or indicated on the master plan as required.

**Sec. 8.7.22.6 a through l** are included in the required development agreement, which is under review by the City Attorney.

**Planning Department Recommendation & Summary** — The Technical Review Committee has worked with the developer of LBB Medical Center. Staff believes that the necessary safeguards to ensure compliance with all code requirements have been incorporated in the development agreement and the master plan.

The Commission may wish to take the following action:

➤ Create a motion stating that the Planning Commission recommends to City Council the approval of Ord. # 334 for the vacation of the existing subdivision, Ord. #343 for the rezoning to BPUD, Reso. # 464-08 for the master plan and site plan for Land, Building & Beyond Medical Center with the following stipulations:

- The PUD rezoning and plan approvals are subject to approval of a certificate of consistency by the Volusia Growth Management Commission and other government entities as required.

- A development agreement approved by the City Attorney be signed and recorded by the developer.
- All outstanding landscaping and engineering issues be resolved and approved by City Staff prior to issuance of the development order for the site.