



Interoffice Memorandum

DATE: October 8, 2020

TO: Mayor Jerry L. Demings
-AND-
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director
Planning, Environmental and Development
Services Department

CONTACT PERSON: **Eric Raasch, DRC Chairman**
Development Review Committee
Planning Division
(407) 836-5523

Eric P. Raasch,
Jr., AICP

Digitally signed by Eric P.
Raasch, Jr., AICP
Date: 2020.10.08 11:19:32
-04'00'

SUBJECT: October 27, 2020 – Public Hearing
Applicant: Tom Sullivan, Gray Robinson, P.A.
Grassmere Reserve Planned Development
Case # CDR-20-02-064 / District 2

The Grassmere Reserve Planned Development (PD) is generally located north of Orange Blossom Trail and east of Junction Road. The existing PD development program allows for 100 single-family dwelling units.

Through this PD substantial change, the applicant is seeking to add 32,670 square feet of commercial development and remove notes #10 and #12 from the plan, which required the evaluation of a masonry wall adjacent to U.S. 441 at the Preliminary Subdivision Plan stage, and based the number of homes on site on the available uplands as documented by a Conservation Area Determination (CAD). The CAD has been completed and there are no changes proposed to the number of homes within the community. No waivers are associated with this request.

On September 9, 2020, the Development Review Committee (DRC) recommended approval of the request, subject to conditions. A community meeting was not required for this request.

Finally, the required Specific Project Expenditure Report and Relationship Disclosure Forms have been completed in accordance with the requirements of Article X, Chapter 2, Orange County Code, as may be amended from time to time, and copies of these and the PD/LUP may be found in the Planning Division for further reference.

ACTION REQUESTED: Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Grassmere Reserve Planned Development / Land Use Plan (PD/LUP) dated “Received August 11, 2020”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 2

Attachments
JVW/EPR/nsw

CASE # CDR-20-02-064

Commission District: # 2

GENERAL INFORMATION

APPLICANT Tom Sullivan, Gray Robinson, P.A.
OWNER ECP Grassmere, LLC
PROJECT NAME Grassmere Reserve Planned Development
PARCEL ID NUMBER(S) 26-20-27-0000-00-020
TRACT SIZE 129.08 gross acres (overall PD)
5.00 gross acres (affected area only)
LOCATION Generally located north of Orange Blossom Trail and east of Junction Road
REQUEST A PD substantial change to add 32,670 square feet of commercial development and remove notes number 10 and 12 from the plan.

Notes proposed to be removed:

10. A 6' masonry wall along U.S. 441 will be evaluated on the preliminary subdivision plan (PSP).

12. Actual number of homes allowed on the site will be determined once the limits and acreage of conservation areas has been confirmed through the conservation area determination process.

PUBLIC NOTIFICATION A notification area extending beyond One thousand five hundred (1,500) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Seven hundred sixty (760) notices were mailed to those property owners in the notification buffer area. A community meeting was not required for this application.

IMPACT ANALYSIS

Special Information

The Grassmere Reserve PD was originally approved on June 13, 2006 and currently includes entitlements for 100 single-family dwelling units. On February 11, 2020, the Board adopted Comprehensive Plan Amendment 2019-2-S-2-5, which changed the Future Land Use Map (FLUM) designation on a five acre portion of the PD from Rural Settlement 1/1 (RS 1/1) to Commercial – Rural Settlement (C-RS).

Through this PD Change Determination Request (CDR), the applicant is seeking to add 32,670 square feet of commercial development and remove notes #10 and #12 from the plan, which required the evaluation of a masonry wall adjacent to U.S. 441 at the Preliminary Subdivision Plan stage, and based the number of homes on site on the available uplands as documented by a Conservation Area Determination (CAD). The CAD has been completed and there are no changes proposed to the number of homes within the community. No waivers are associated with this request.

Land Use Compatibility

The proposed PD substantial change would not adversely impact any adjacent properties or result in an incompatible land use pattern.

Comprehensive Plan (CP) Consistency

The subject property has an underlying Future Land Use Map (FLUM) designation of Rural Settlement 1/1 (RS 1/1) and Commercial – Rural Settlement (C-RS). The proposed Change Determination Request (CDR) is consistent with these designations and all applicable CP provisions; therefore, a CP amendment is not necessary

Overlay Ordinance

The subject property is not located within an Overlay District.

Rural Settlement

The subject property is located within the Zellwood Rural Settlement.

Joint Planning Area (JPA)

The subject property is not located within a JPA.

Environmental

No conservation area was claimed within the amendment area of the 5.0 acre commercial area (there are wetlands associated with Lake Grassmere that are not in this 5.0 acres).

All development is required to treat stormwater runoff for pollution abatement purposes. Per Orange County Code Sections 30-277 and 30-278, discharge that flows directly into wetlands or surface waters without pretreatment is prohibited.

Transportation / Concurrency

There is a failing segment within the project's impact area; Orange Blossom Trail, from Sadler Road to the Lake County line is failing. A traffic study and proportionate share agreement will be required prior to obtaining a building permit.

Community Meeting Summary

A community meeting was held on not required for this request.

Schools

Orange County Public Schools (OCPS) reviewed the request and determined that it will not impact public school capacity.

Parks and Recreation

Orange County Parks and Recreation staff reviewed the Change Determination Request but did not identify any issues or concerns.

Specific Project Expenditure Report and Relationship Disclosure Forms

The original Specific Project Expenditure Report and Relationship Disclosure Form are currently on file with the Planning Division.

ACTION REQUESTED

Development Review Committee (DRC) Recommendation – (September 9, 2020)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Grassmere Reserve Planned Development / Land Use Plan (PD/LUP), dated “August 11, 2020”, subject to the following conditions:

1. Development shall conform to the Grassmere Reserve PD Land Use Plan (LUP) dated "Received August 11, 2020," and shall comply with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. Accordingly, the PD may be developed in accordance with the uses, densities, and intensities described in such Land Use Plan, subject to those uses, densities, and intensities conforming with the restrictions and requirements found in the conditions of approval and complying with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. If the development is unable to achieve or obtain desired uses, densities, or intensities, the County is not under any obligation to grant any waivers or modifications to enable the developer to achieve or obtain those desired uses, densities, or intensities. In the event of a conflict or inconsistency between a condition of approval and the land use plan dated "Received August 11, 2020," the condition of approval shall control to the extent of such conflict or inconsistency.

2. This project shall comply with, adhere to, and not deviate from or otherwise conflict with any verbal or written promise or representation made by the applicant (or authorized agent) to the Board of County Commissioners ("Board") at the public hearing where this development received final approval, where such promise or representation, whether oral or written, was relied upon by the Board in approving the development, could have reasonably been expected to have been relied upon by the Board in approving the development, or could have reasonably induced or otherwise influenced the Board to approve the development. In the event any such promise or representation is not complied with or adhered to, or the project deviates from or otherwise conflicts with such promise or representation, the County may withhold (or postpone issuance of) development permits and / or postpone the recording of (or refuse to record) the plat for the project. For purposes of this condition, a "promise" or "representation" shall be deemed to have been made to the Board by the applicant (or authorized agent) if it was expressly made to the Board at a public hearing where the development was considered and approved.

3. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit, or any other development order, if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this land use plan to promptly disclose to the County any changes in ownership, encumbrances, or other matters of record affecting the property that is subject to the plan, and to resolve any issues that may be identified by the County as a result of any such changes. Developer / Applicant acknowledges and understands that any such changes are solely the Developer's / Applicant's obligation and responsibility to disclose and resolve, and that the Developer's / Applicant's failure to disclose and resolve any such changes to the satisfaction of the County may result in the County not issuing (or delaying issuance of) development permits, not recording (or delaying recording of) a plat for the property, or both.
5. Property that is required to be dedicated or otherwise conveyed to Orange County (by plat or other means) shall be free and clear of all encumbrances, except as may be acceptable to County and consistent with the anticipated use. Owner / Developer shall provide, at no cost to County, any and all easements required for approval of a project or necessary for relocation of existing easements, including any existing facilities, and shall be responsible for the full costs of any such relocation prior to Orange County's acceptance of the conveyance. Any encumbrances that are discovered after approval of a PD Land Use Plan shall be the responsibility of Owner / Developer to release and relocate, at no cost to County, prior to County's acceptance of conveyance. As part of the review process for construction plan approval(s), any required off-site easements identified by County must be conveyed to County prior to any such approval, or at a later date as determined by County. Any failure to comply with this condition may result in the withholding of development permits and plat approval(s).
6. The applicant / owner has an affirmative obligation to expressly notify potential purchasers, builders, and/or tenants of this development, through an appropriate mechanism, including a conspicuous note on the plat and/or a recorded restrictive covenant, as applicable, shall include notification of the prior use of this property as a citrus grove. Portions of the property are located within a State of Florida Department of Environmental Protection delineated area for ethylene dibromide that has potable water well construction regulatory guidelines.
7. Per Comprehensive Plan Policy FLU8.1.4, this PD shall be limited to 32,670 square feet of commercial uses.
8. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a capacity encumbrance letter prior to construction plan submittal and must apply for and obtain a capacity reservation certificate prior to issuance of the initial

certificate of occupancy. Nothing in this condition and nothing in the decision to approve this development plan shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a capacity encumbrance letter or a capacity reservation certificate.

9. Unless the Florida Department of Transportation formally objects or disallows it, a right turn deceleration lane shall be required on U.S. 441 at the entrance to the commercial parcel.
10. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated August 20, 2019 shall apply:
 - a. Lake Grassmere shall be limited to non-motorized watercraft.
 - b. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) submittal and must be approved prior to Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) approval for any streets and/or tracts anticipated to be dedicated to the County and/or to the perpetual use of the public.
 - c. All acreages identified as conservation areas and wetland buffers are considered approximate until finalized by a Conservation Area Determination (CAD) and a Conservation Area Impact (CAI) Permit. Approval of this plan does not authorize any direct or indirect conservation area impacts.
 - d. Prior to mass grading, clearing, grubbing or construction, the applicant is hereby noticed that this site must comply with habitat protection regulations of the U.S. Fish and Wildlife Service (USFWS) and the Florida Fish & Wildlife Conservation Commission (FWC).
 - e. The applicant / owner has an affirmative obligation to expressly notify potential purchasers, builders, and/or tenants of this development, through an appropriate mechanism, including a conspicuous note on the plat and/or a recorded restrictive covenant, as applicable, that the adjacent land use includes publicly managed property. The notice shall indicate that the adjacent property will require the use of resource management practices that may result in periodic temporary conditions that may limit outdoor activities. These practices will include, but not be limited to, ecological burning, pesticide and herbicide usage, exotic plant and animal removal, usage of heavy equipment and machinery, and other practices as may be deemed necessary for proper resource management.
 - f. The applicant/owner has an affirmative obligation to expressly notify potential purchasers, builders, and/or tenants of this development, through the appropriate mechanism, including a conspicuous note on the plat and/or a recorded restrictive covenant, as applicable, of the proximity of solid waste management facilities.
 - g. Approval of this plan does not constitute approval of a permit for the construction or alteration of a boat dock, boardwalk, observation pier, fishing pier, community

pier or other similar permanently fixed or floating structures. Any person desiring to construct any of these structures shall apply to the Orange County Environmental Protection Division, as specified in Orange County Code Chapter 15 Environmental Control, Article IX Dock Construction, prior to installation, for an Orange County Dock Construction Permit, as well as to any other Orange County Division(s) for any other applicable permits.

- h. Tree removal/earthwork shall not occur unless and until construction plans for the first Preliminary Subdivision Plan and/or Development Plan with a tree removal and mitigation plan have been approved by Orange County.
 - i. Pole signs and billboards shall be prohibited. All other signage shall comply with Chapter 31.5 of the Orange County Code.
 - j. The developer shall obtain water and wastewater service from the City of Apopka.
 - k. The following waivers from Orange County Code are granted:
 - 1) A waiver from Section 38-556(a) to allow a minimum lot size of 70' by 120' lot size (8,400 square feet lot area), in lieu of code required minimum lot width of 100' and 1/3 acre (14,520 square feet lot area) for lots with central water service.
 - 2) A waiver from Orange County Code Section 38-556(b) to allow for a front setback of 25 feet, in lieu of 30 feet.
11. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated June 13, 2006 shall apply:
- a. Developer shall comply with all provisions of the Public Education Agreement entered into with the Orange County School Board as of April 12, 2005. The developer has a signed Capacity Enhancement Agreement with Orange County Public Schools dated September 28, 2005 (executed on October 12, 2005), and is on file with the Orange County Planning Division.

Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Public Education Agreement, the County shall immediately cease issuing building permits for any residential units in excess of the 10 (ten) residential units allowed under the zoning existing prior to the approval of the PD zoning. The County shall again begin issuing building permits upon Orange County Public Schools' written notice to the County that the developer is no longer in breach or default of the Public Education Agreement. The developer and its successor or assign under the Public Education Agreement, shall indemnify and hold the County harmless from any third party claims, suits, or actions arising as a result of the act of ceasing the County's issuance of residential building permits.

Developer, or its successor or assign under the Public Education Agreement, agrees that it shall not claim in any future litigation that the County's enforcement of any of these conditions are illegal, improper, unconstitutional, or a violation of developer's property rights.

Orange County shall be held harmless by the developer and its assigns under the Public Education Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Public Education Agreement.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (August 20, 2019)

Upon a motion by Commissioner Moore, seconded by Commissioner Uribe, and carried by all present members voting AYE by voice vote, the Board made a finding of consistency with the Comprehensive Plan and approved a PD substantial change to remove January 8, 2019 BCC Condition of Approval #18b, which states: "At the Preliminary Subdivision Plan (PSP) stage, the applicant shall propose a 5-acre park".

CDR-20-02-064



Subject Property
 PD Boundary



Subject Property

Future Land Use Map

FLUM: Commercial (C)

APPLICANT: Tom Sullivan, Gray Robinson, P.A.
 Brian Warren, NV5, Inc.

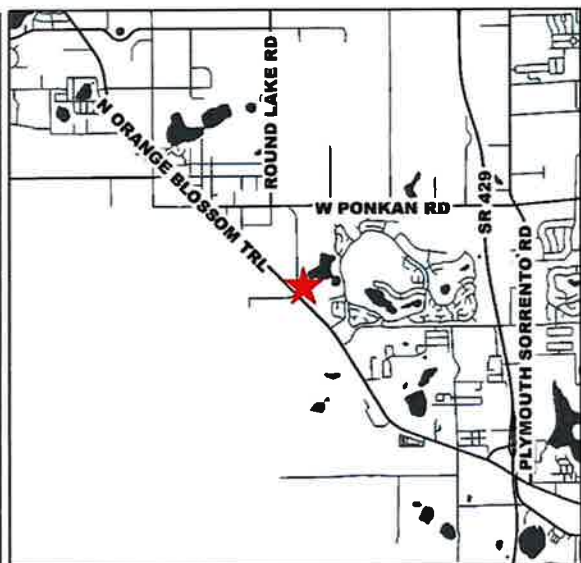
LOCATION: Generally located north of Orange Blossom Trail and east of Junction Road

TRACT SIZE: 129.08 gross acres (overall PD)
 5.00 gross acres (affected area only)

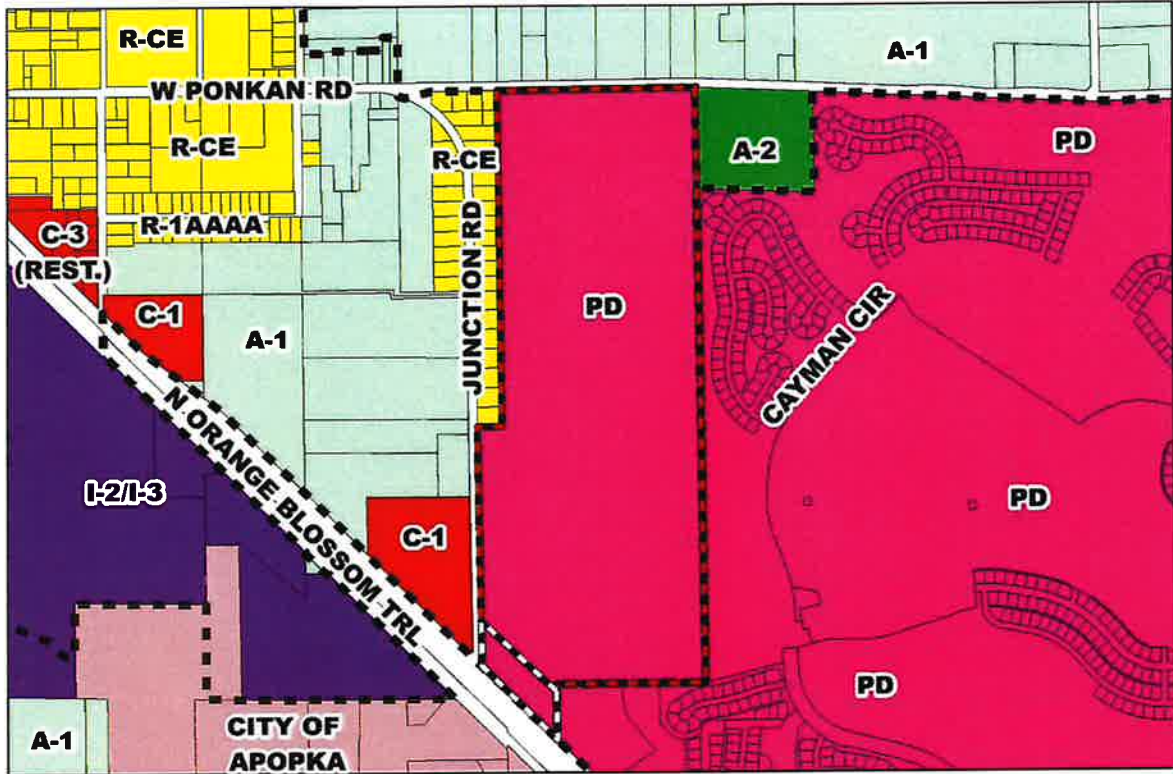
DISTRICT: # 2

S/T/R: 26/20/27

1 inch = 1,000 feet



CDR-20-02-064



Subject Property
 PD Boundary



Subject Property

Zoning Map

ZONING: PD (Planned Development District)

APPLICANT: Tom Sullivan, Gray Robinson, P.A.
 Brian Warren, NV5, Inc.

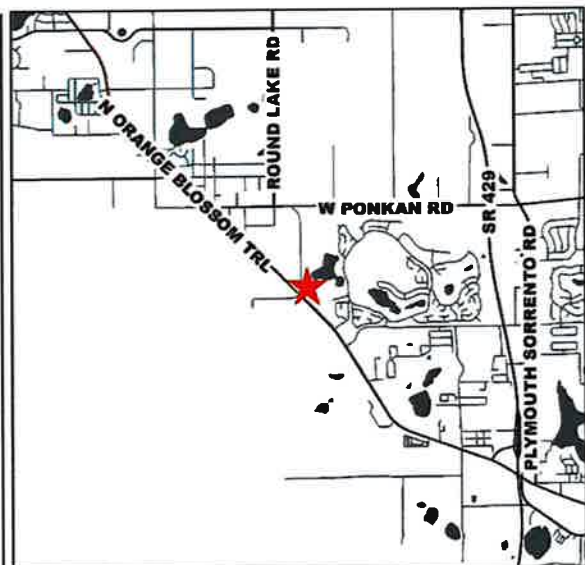
LOCATION: Generally located north of Orange Blossom Trail and east of Junction Road

TRACT SIZE: 129.08 gross acres (overall PD)
 5.00 gross acres (affected area only)

DISTRICT: # 2

S/T/R: 26/20/27

1 inch = 1,000 feet



Grassmere Reserve PD / LUP

Grassmere Reserve

Parcel ID# 26-20-27-0000-00-020

Planned Development

Land Use Plan

Orange County, Florida
 Nov 2005

Revisions

1/26/08 - Revised per DRC comments dated 1/17/08
 7/20/08 - Revised per TRG comments dated 7/20/08
 10/15/18 - Revised per TRG comments dated 9/5/18
 11/05/18 - Revised per TRG comments dated 11/2/18
 08/28/19 - Revised per DRC comments dated 10/24/19
 08/28/19 - Revised per TRG comments dated 8/24/19
 04/10/20 - Revision per TRG comments dated 4/1/20
 7/24/20 - Revision per DRC comments dated 8/4/20

GRANTED WAIVERS PER BCC APPROVAL DATE AUGUST 20, 2019

1. WAIVER OF THE REQUIREMENT FOR THE SUBMITTAL OF A FLOOD HAZARD STUDY FOR THE PROPOSED DEVELOPMENT.
 2. WAIVER OF THE REQUIREMENT FOR THE SUBMITTAL OF A FLOOD HAZARD STUDY FOR THE PROPOSED DEVELOPMENT.
 3. WAIVER OF THE REQUIREMENT FOR THE SUBMITTAL OF A FLOOD HAZARD STUDY FOR THE PROPOSED DEVELOPMENT.

AFFECTED PARCEL LEGAL DESCRIPTION:

SECTION 26-20-27-0000-00-020, ORANGE COUNTY, FLORIDA, BEING THE LAND CONTAINED IN THE PLAT OF THE GRASSMERE RESERVE PLANNED DEVELOPMENT, AS SHOWN ON PLAT NO. 26-20-27-0000-00-020, AS RECORDED IN PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, AND BEING THE LAND CONTAINED IN THE PLAT OF THE GRASSMERE RESERVE PLANNED DEVELOPMENT, AS SHOWN ON PLAT NO. 26-20-27-0000-00-020, AS RECORDED IN PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, AND BEING THE LAND CONTAINED IN THE PLAT OF THE GRASSMERE RESERVE PLANNED DEVELOPMENT, AS SHOWN ON PLAT NO. 26-20-27-0000-00-020, AS RECORDED IN PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

Location Map

ORANGE COUNTY CASE # CDR-20-02-064

SITE DATA

PARCEL NUMBER: 26-20-27-0000-00-020
 PARCEL AREA: 10.00 ACRES
 ZONING: PUD-1
 PLANNED DEVELOPMENT: GRASSMERE RESERVE
 PLANNED DEVELOPMENT NUMBER: 26-20-27-0000-00-020
 PLANNED DEVELOPMENT DATE: 11/2005
 PLANNED DEVELOPMENT STATUS: PENDING BCC APPROVAL
 PLANNED DEVELOPMENT CONTACT: NATURE'S BREEZE, LLC
 PLANNED DEVELOPMENT ADDRESS: 201 S. BUNKER AVE., ORLANDO, FL 32801
 PLANNED DEVELOPMENT PHONE: (407) 999-3317
 PLANNED DEVELOPMENT FAX: (407) 999-3317
 PLANNED DEVELOPMENT WEBSITE: WWW.NATURESBREEZE.COM

REVISIONS

1/26/08 - Revised per DRC comments dated 1/17/08
 7/20/08 - Revised per TRG comments dated 7/20/08
 10/15/18 - Revised per TRG comments dated 9/5/18
 11/05/18 - Revised per TRG comments dated 11/2/18
 08/28/19 - Revised per DRC comments dated 10/24/19
 08/28/19 - Revised per TRG comments dated 8/24/19
 04/10/20 - Revision per TRG comments dated 4/1/20
 7/24/20 - Revision per DRC comments dated 8/4/20

GRANTED WAIVERS PER BCC APPROVAL DATE AUGUST 20, 2019

1. WAIVER OF THE REQUIREMENT FOR THE SUBMITTAL OF A FLOOD HAZARD STUDY FOR THE PROPOSED DEVELOPMENT.
 2. WAIVER OF THE REQUIREMENT FOR THE SUBMITTAL OF A FLOOD HAZARD STUDY FOR THE PROPOSED DEVELOPMENT.
 3. WAIVER OF THE REQUIREMENT FOR THE SUBMITTAL OF A FLOOD HAZARD STUDY FOR THE PROPOSED DEVELOPMENT.

AFFECTED PARCEL LEGAL DESCRIPTION:

SECTION 26-20-27-0000-00-020, ORANGE COUNTY, FLORIDA, BEING THE LAND CONTAINED IN THE PLAT OF THE GRASSMERE RESERVE PLANNED DEVELOPMENT, AS SHOWN ON PLAT NO. 26-20-27-0000-00-020, AS RECORDED IN PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, AND BEING THE LAND CONTAINED IN THE PLAT OF THE GRASSMERE RESERVE PLANNED DEVELOPMENT, AS SHOWN ON PLAT NO. 26-20-27-0000-00-020, AS RECORDED IN PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, AND BEING THE LAND CONTAINED IN THE PLAT OF THE GRASSMERE RESERVE PLANNED DEVELOPMENT, AS SHOWN ON PLAT NO. 26-20-27-0000-00-020, AS RECORDED IN PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

RECEIVED

BY THE OFFICE OF THE PLANNING DIVISION
 AUGUST 11, 2020

NV5

201 S. BUNKER AVE.
 ORLANDO, FL 32801
 (407) 999-3317
 WWW.NV5.COM

CERTIFICATE OF AUTHORIZATION # 26000

Soils Legend

- 3) Basinger fine sand, depositional
- 4) Candler line sand, 0 - 5% slopes
- 6) Candler-Apples line sands, 5% - 12%
- 33) P19
- 46) Tavaca fine sand, 0-5%
- 47) Tavaca Milhopper fine sands, 0-5% slopes
- 54) Zolla fine sand

THE BCC CONDITIONS OF APPROVAL (08/20/19) ARE INCLUDED ON PAGE 2

Notification Map

locnasygmdeBusiness SystemsBoard Administration\5 SUBSTANTIAL CHANGE\2020\DR\Grassmere Reserve PD_CDR-20-02-064\Gras

