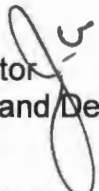




**Interoffice Memorandum**

**DATE:** October 24, 2022

**TO:** Mayor Jerry L. Demings  
-AND-  
County Commissioners

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

**CONTACT PERSON:** **Joe Kunkel, P.E., DRC Chairman**  
**Development Review Committee**  
**Public Works Department**  
**(407) 836-7971**

**SUBJECT:** November 15, 2022 – Public Hearing  
Brian Forster, Land Design  
Ward Property Planned Development / Nona West Townhomes  
Preliminary Subdivision Plan  
Case # PSP-21-06-167 / District 4

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of October 5, 2022, to approve the Ward Property Planned Development (PD) / Nona West Townhomes Preliminary Subdivision Plan (PSP) to subdivide 17.25 acres, generally located north of Simpson Road and west of Boggy Creek Road, in order to construct 188 single-family attached residential dwelling units.

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 PSP may be found in the Planning Division for further reference.

**ACTION REQUESTED:** **Make a finding of consistency with the Comprehensive Plan and approve the Ward Property PD / Nona West Townhomes PSP dated "Received August 31, 2022", subject to the conditions listed under the DRC Recommendation in the Staff Report. District 4**

JVW/JK/lme  
Attachments

**CASE # PSP-21-06-167**

Commission District # 4

**1. REQUEST**

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of October 5, 2022, to approve the Ward Property Planned Development (PD) / Nona West Townhomes Preliminary Subdivision Plan (PSP) to subdivide 17.25 acres, generally located north of Simpson Road and west of Boggy Creek Road, in order to construct 188 single-family attached residential dwelling units.

**2. PROJECT ANALYSIS**

- A. Location: North of Simpson Road / West of Boggy Creek Road
- B. Parcel ID: 33-24-30-0000-00-021
- C. Total Acres: 17.25 gross acres
- D. Water Supply: Orlando Utilities Commission
- E. Sewer System: Orange County Utilities
- F. Schools: Stonewyck ES – Enrolled: 608 / Capacity: 791  
South Creek MS – Enrolled: 1,154 / Capacity: 1,132  
Cypress Creek HS – Enrolled: 3,474 / Capacity: 2,763
- G. School Population: 280
- H. Parks: Meadow Wood Park – 5.7 Miles
- I. Proposed Use: 188 Single-Family Attached Residential Dwelling Units
- J. Site Data: Maximum Building Height: 35' (2-stories)  
Minimum Living Area: 1,000 Square Feet  
Minimum Lot Width: 20'  
Building Setbacks:  
20' Front  
0' Side  
20' Rear  
10' Side Street  
50' NHWE
- K. Fire Station: 55 - 801 Greenway Professional Court

**L. Transportation:**

**Boggy Creek Road / Ward Property PUD:** The Board of County Commissioners approved the Road Impact Fee Agreement for the Ward Property on Boggy Creek Road on 8/21/2007 and was recorded at ORBk/Pg 9431/3516. The Ward Property Road Impact Fee Agreement provides that the Owner, Boggy Creek L.L.P., dedicate 2.15 acres of Right-of-Way property for Boggy Creek Road Right-of-Way along with 4.14 acres of drainage easements. The Owners will convey this Right-of-Way by warranty deed within 120 days of execution of this agreement and will receive Road Impact Fee Credits in the amount of \$587,600. This agreement was approved by the Roadway Agreement Committee on May 2, 2007. A First Amendment to the Road Impact Fee Agreement was approved on April 1, 2008 and recorded at 9653/0102 to extend the timeframe for conveyance to 120 days from the Effective Date of the First Amendment. The warranty deed and drainage easements for conveyance were approved by the BCC on June 10, 2008.

Existing/Valid transportation capacity entitlements not found. This development will require transportation capacity via a Capacity Encumbrance Letter (CEL) Application. Please contact the Concurrency Management Office at 407-836-5617 for more information. **IMPORTANT NOTE:** This development is located near failing roadway(s) within Orange County. Contact Transportation Planning at 407-836-7893 to verify the existing capacity surrounding the project location, and to verify what type of agreement (if applicable) is needed to remedy deficiencies (OC Code: Chapter 30, Sections 30-620 thru 30-624). This deficiency will require you to submit a Transportation Capacity Analysis with your CEL Submittal Package. Please refer to the Submittal Requirements on the CEL Application for further information. **INFORMATION:** This development will require School Concurrency via a Capacity Encumbrance Letter (CEL) Application. Additional Information: Encumbered school and transportation capacity must be reserved (aka prepay school and transportation reservation fees) by the CEL expiration date or prior to platting.

**Improvements:** Boggy Creek Rd, from Osceola County Line to SR 417 will be widened from a two-lane roadway to a four-lane roadway from the Orange/Osceola County line to SR 417. The widening will include sidewalks, bicycle lanes, roadway lighting, and median landscaping. At the time of the report, this project has an overall completion of approximately 63%. Construction is anticipated to be complete June 2024. This information is dated and subject to change.

Based on the Concurrency Management database (CMS) dated 6/23/2021, there are multiple failing roadway segments within the project's impact area. Sand Lake Road, from Dr. Phillips Boulevard to Turkey Lake Road, Turkey Lake Road, from Sand Lake Commons to Sand Lake Road, are failing. This information is dated and subject to change.

**M. EPD**

This project site was included in an Orange County Conservation Area Determination CAD-19-12-201 and Conservation Area Impact Permit CAI-21-01-004 issued October 14, 2021. Impacts to 0.05 acre of a portion of a Class III surface water stream were approved for the Nona West Infrastructure PSP at this project location. Environmental Protection Division (EPD) staff did not identify any concerns or issues at this time.

**3. COMPREHENSIVE PLAN**

The subject property is designated on the Future Land Use Map (FLUM) as Planned Development. The property zoning is PD and is within the Ward Property PD. The proposal is consistent with the comprehensive plan.

**4. ZONING**

PD (Planned Development District) (Ward Property PD)

**5. REQUESTED ACTION:**

Approval subject to the following conditions:

1. Development shall conform to the Ward Property PD Land Use Plan; Orange County Board of County Commissioners (BCC) approvals; Nona West Townhomes Preliminary Subdivision Plan dated "Received August 31, 2022," and to the conditions of approval listed below. Development based upon this approval shall comply with all applicable federal, state, and county laws, ordinances, and regulations, which are incorporated herein by reference, except to the extent any applicable county laws, ordinances, or regulations are expressly waived or modified by these conditions, or by action approved by the BCC, or by action of the BCC. In the event of a conflict or inconsistency between a condition of approval of this preliminary subdivision plan and the preliminary subdivision plan dated "Received August 31, 2022," 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 preliminary subdivision 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 infrastructure, other than public utilities, shall be privately owned and maintained. Residential development shall comply with the requirements of Article VIII, Sections 34-280, 34-290, and 34-291, of the Orange County Code, as they may be amended from time to time.
7. A mandatory pre-application/sufficiency review meeting for the plat shall be required prior to plat submittal, but after approval of the site construction plans. The applicant shall resolve, to the County's satisfaction, all items identified in the pre-application/ sufficiency review meeting prior to formal submittal of the plat to the County.
8. Prior to construction plan approval, documentation with supporting calculations shall be submitted which certifies that the existing drainage system and pond have the capacity to accommodate this development and that this project is consistent with the approved master drainage plan (MDP) for this PD.
9. Prior to construction plan approval, documentation must be provided certifying that this project has the legal right to tie into the master drainage system.
10. If it is anticipated that retaining wall(s) will be designed and constructed, it shall be noted on the preliminary subdivision plan, and the following provision must be incorporated into the Declaration of Covenants, Conditions, and Restrictions (CC&Rs):

For the proposed retaining wall(s), the CC&Rs shall reflect all lots served by such retaining wall and a reserve fund for maintenance, repair, and capital replacement of the retaining wall shall be established and funded with the creation of the HOA; removal of this section from the CC&Rs is prohibited unless approved by the Orange County Board of County Commissioners. Coincident with platting, the developer shall record in the public records the CC&Rs governing the lots and addressing the HOA responsibilities for the annual maintenance and any necessary repairs of the retaining wall. The CC&Rs shall require the establishment and maintenance of two HOA accounts for:

- a. Annual routine maintenance of the retaining wall, including an engineer's report to be submitted to the HOA on a three-year cycle.
- b. Capital-repair/replacement of the retaining wall based on a 50-year life cycle.

Initial funding of the accounts shall be approved by County Engineer, or their designee, and on the basis of a professional engineer's estimate for the above referenced accounts.

If the subdivision construction plans depict and provide for retaining wall(s) without being noted on the preliminary subdivision plan, it shall constitute a substantial change requiring a public hearing.

11. The Declaration of Covenants, Conditions, and Restrictions (CC&Rs) shall contain a prominent note, in bold, indicating that the developer has opted to not install gates, or the infrastructure to provide for the installation of gates, with the initial development of this subdivision; and, that all costs associated with any future request to provide for the installation of gates including, but no limited to, County approvals, plans preparation, permits, equipment, and installation shall be borne by the Home Owners Association (HOA).
12. Prior to commencement of any earth work or construction, if one acre or more of land will be disturbed, the developer shall provide a copy of the completed National Pollutant Discharge Elimination System (NPDES) Notice of Intent (NOI) form for stormwater discharge from construction activities to the Orange County Environmental Protection Division, NPDES Administrator. The original NOI form shall be sent to the Florida Department of Environmental Protection by the developer.
13. Prior to issuance of any certificate of completion, all storm drain inlets shall have metal medallion inlet markers installed. Text on the marker shall read "No Dumping, Only Rain in the Drain." Specification detail will be provided within all plan sets. Contact the National Pollutant Discharge Elimination System (NPDES) Supervisor at the Orange County Environmental Protection Division for details.
14. 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).
15. No activity will be permitted on the site that may disturb, influence, or otherwise interfere with: areas of soil or groundwater contamination, or any remediation activities, or within the hydrological zone of influence of any contaminated area, unless prior approval has been obtained through the Florida Department of Environmental Protection (FDEP) and such approval has been provided to the Environmental Protection Division of Orange County. An owner/operator who exacerbates any existing contamination or does not properly dispose of any excavated contaminated media may become liable for some portion of the contamination pursuant to the provisions in section 376.308, F.S.
16. The site shall be stabilized following grubbing, clearing, earth work or mass grading to establish a dense stand of grass, or shall incorporate other approved Best Management Practices, on all disturbed areas if development does not begin within 7 days. Final stabilization shall achieve a minimum of seventy percent (70%) coverage of the disturbed land area and shall include a maintenance program to ensure minimum coverage survival and overall site stabilization until site development. Prior to clearing or grubbing, or approval of mass grading or constructions plans a letter of credit or cash escrow acceptable to the County shall be submitted to guarantee the required site stabilization and maintenance of all disturbed areas. The County Engineer shall establish the amount of the letter of credit or cash escrow.

17. A Master Utility Plan (MUP) for the PD shall be submitted to Orange County Utilities at least thirty (30) days prior to submittal of the first set of construction plans. Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP). MUP updates shall be submitted to Orange County Utilities at least thirty (30) days prior to the corresponding construction plan submittal. The MUP and updates must be approved prior to Construction Plan approval.
18. New streets that are extensions of or in alignment with existing streets shall bear the same names as those borne by such existing streets.
19. Pole signs and billboards shall be prohibited. All other signage shall comply with Chapter 31.5 of the Orange County Code.
20. Unless otherwise specified to the County's satisfaction in the PSP, a Development Plan, in conformance with the requirements of Section 34-131(b) (20), including the appropriate group type, is required for the park / recreation tract(s) within this Preliminary Subdivision Plan (PSP), or phase thereof, as appropriate. Regardless of whether the park / recreation tract is included in the PSP or approved via a separate Development Plan, the park / recreation area tract(s) shall be constructed in conjunction with the subdivision infrastructure and completed prior to issuance of the Certificate of Completion (C of C) for the infrastructure for the phase in which the park / recreation tract(s) is located.
21. All fencing abutting open space Tract THOS-1 shall be limited to fifty (50) percent opaque, such as aluminum picket or similar, up to six (6) feet tall, or opaque up to four (4) feet tall.
22. Short term / transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater.
23. 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 approval of the plat. Nothing in this condition, and nothing in the decision to approve this preliminary subdivision 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.
24. No fencing shall be permitted within any THOS Tracts with the exception of the south property line in Tract THOS-3 and Tract THOS-4.
25. Prior to issuance of the Certificate of Completion for the site construction permit associated with this PSP, the Boggy Creek improvements under E-Permit 22-E-016 and the installation of the traffic signal at the intersection of Beth Road / Road D and Boggy Creek Road under E-Permit 22-E-087 shall both be completed as evidenced by Certificates of Completion for each permit.



Zoning Map

PSP-21-06-167



Subject Property



★ Subject Property

**Zoning Map**

ZONING: PD (Planned Development District)

APPLICANT: Brian Forster - Land Design

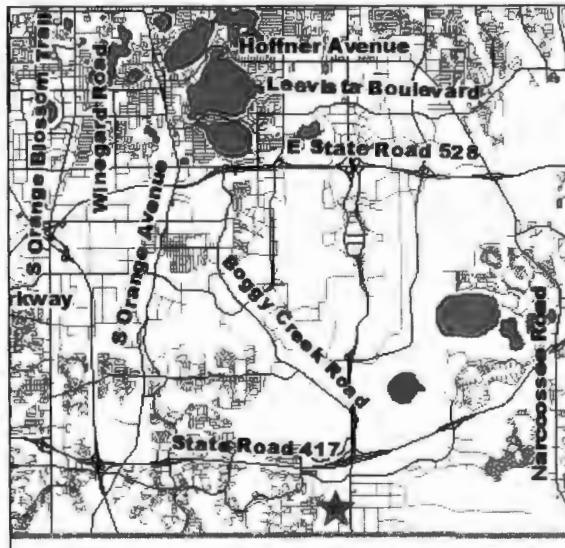
LOCATION: North of Simpson Road / East of Ward Road

TRACT SIZE: 20.6 acres

DISTRICT: # 4

S/T/R: 33/24/30

1 inch = 1,000 feet

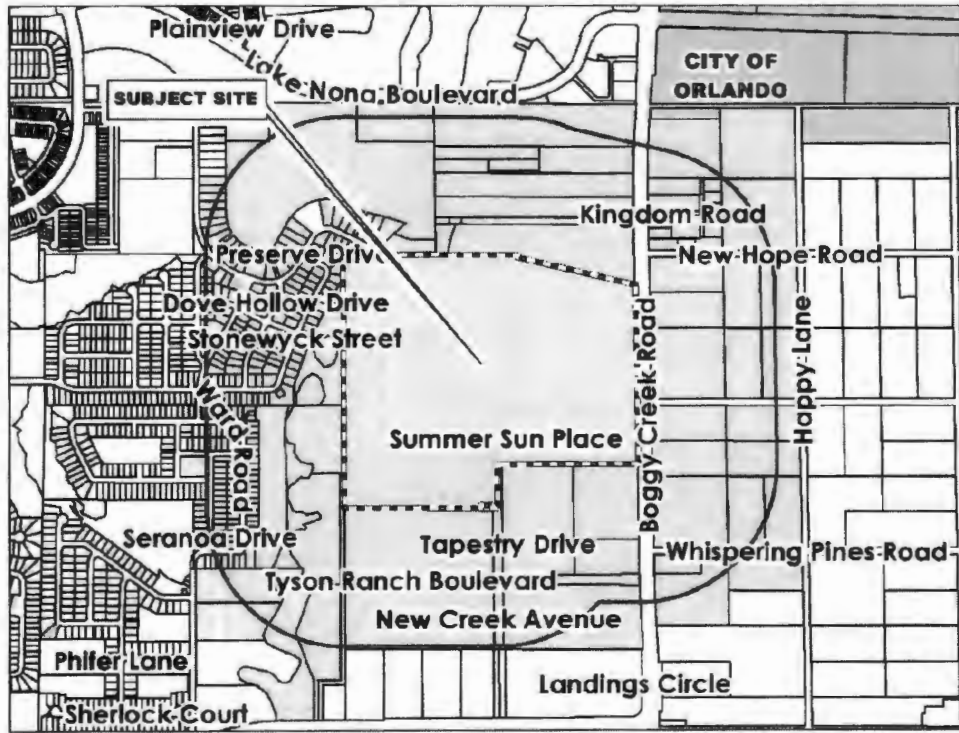






# Public Notification Map

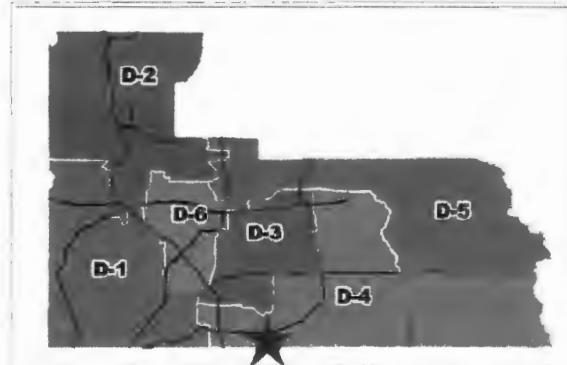
Ward Property PD\_Nona West Townhomes\_PSP-21-06-167



## MAP LEGEND

- SUBJECT SITE
- 1200 FT BUFFER
- PARCELS
- NOTIFIED PARCELS

**BUFFER DISTANCE:** 1200  
**# OF NOTICES:** 325



Notification Map

**DRC Staff Report**  
**Orange County Planning Division**  
**BCC Hearing Date: November 15, 2022**