

CASE # CDR-16-04-130

Commission District: # 1

GENERAL INFORMATION

APPLICANT	Adam Smith, VHB, Inc.
OWNER	DR Horton, Inc.
PROJECT NAME	Waterleigh Planned Development / Land Use Plan (PD/LUP)
PARCEL ID NUMBERS	05-24-27-0000-00-003; 07-24-27-0000-00-003; 07-24-27-0000-00-001; 08-24-27-0000-00-021; 08-24-27-0000-00-017; and 31-23-27-0000-00-005
TRACT SIZE	1,485.40 gross acres (<i>overall PD</i>)
LOCATION	Generally located south of Old YMCA Road, west of Avalon Road (CR 545), and east of the Orange / Lake County Line
REQUEST	<p>A PD substantial change request for approval of a Master Sign Plan (MSP), along with the following four (4) signage-related waivers from Orange County Code:</p> <ol style="list-style-type: none">1. <i>A waiver from Section 38-79(114) to allow a maximum accessory structure height of up to twenty-five (25) feet, in lieu of twenty (20) feet with a roof slope of 2:12 or steeper for locations as depicted on the Master Sign Plan;</i>2. <i>A waiver from Section 31.5-193(c)(2) to allow a maximum ground sign height of twelve (12) feet, in lieu of eight (8) feet within the Village Center;</i>3. <i>A waiver from Section 31.5-193(1)(c)(5) to allow a maximum copy area of sixty (60) square feet for the primary subdivision sign, in lieu of twenty (20) square feet and to allow the copy area of secondary subdivision signs to have a maximum copy area of twenty (20) square feet, in lieu of ten (10) square feet;</i>4. <i>A waiver from Section 31.5-67(b) to allow for a maximum subdivision sign height of twelve (12) feet, in lieu of eight (8) feet.</i>
PUBLIC NOTIFICATION	A notification area extending beyond five hundred (500) feet was used for this application [<i>Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet</i>]. Two hundred fifty-five (255) notices were mailed to those property owners in the notification buffer area.

IMPACT ANALYSIS

Special Information

The 1,485.4-acre Waterleigh PD was originally approved on February 12, 2013 and provides a development program with 3,600 residential dwelling units, 204,453 square feet of non-residential uses, a public elementary school site, and a public middle school site.

Through this substantial change, the applicant is seeking to amend the PD/LUP by adding a Master Sign Plan (MSP) with four (4) signage-related waivers from Orange County Code. If approved, the waivers would increase the maximum height for a proposed accessory structure (*considered as a sign*) from 20 to 25 feet; increase the maximum height of ground signs within the Village Center District from 8 to 12 feet; increase the maximum copy area of a primary subdivision sign from 20 to 60 feet, and of other secondary subdivision signs from 10 to 20 feet; and finally increase the maximum height of all subdivision signs from 8 to 12 feet. No changes to the existing PD development program have been proposed.

Land Use Compatibility

The proposed PD substantial change request would not adversely impact surrounding properties.

Comprehensive Plan (CP) Consistency

The underlying Future Land Use Map (FLUM) designation of the subject property is Village (V); however, as reflected on the Village H Specific Area Plan (SAP) map, the PD contains Village Center, Neighborhood Center, Estate Home, Garden Home, Garden Home Mixed Use, Village Home, Townhome, Condo, and Apartment Districts. The PD also contains designated Middle School, Elementary School, and Neighborhood Park tracts. The proposed PD substantial change request is consistent with the CP.

Overlay District Ordinance

The subject property is not located within an Overlay District.

Rural Settlement

The subject property is not located within a Rural Settlement.

Joint Planning Area (JPA)

The subject property is not located within a JPA.

Environmental

Orange County Conservation Area Determination CAD #06-041 was approved for this project on December 5, 2006. This received an extension and is valid through December 5, 2016. The southwest portion of the project area is located in the Lake Wales Ridge Ecosystem. Prior to PSP/DP approval, the Orange County Environmental Protection Division (EPD) will require a habitat survey to identify any wildlife or plants listed as threatened, endangered, or species of special concern found on site or determined to use the site. All previously approved EPD findings and conditions of approval for this PD still apply.

Transportation / Concurrency

Avalon Road (CR 545): Village H Horizon West Road Network Agreement for C.R. 545 among Orange County and D.R. Horton, Inc; et al collectively referred to herein as "Signatory Owners" was approved by the Board of County Commissioners on 2/12/2013 and recorded at OR Book/Page 10525/6172. The Agreement provides for the dedication of right-of-way, design, engineering, permitting, mitigation and construction of C.R. 545 to four lanes in four phases according to specific trip allocations and performance thresholds. Concurrency Vesting shall be provided pursuant to Table 1 based on achieved thresholds of the road improvements. Conveyance shall be by general warranty deed at no cost to the County prior to each phase of roadway construction. The Signatory Owners will receive Road Impact Fee Credits in Road Impact Fee Zone 4 for the lesser of (a) 95% of the actual, reasonable unreimbursed sums incurred by Signatory Owners for permitting, design, mitigation, inspection and construction expense exclusive of enhanced landscaping and street lighting or (b) 60% of the countywide average total cost of road construction per lane mile. This agreement was negotiated based on the approved Horizon West Global Road Term Sheet.

As proof of satisfaction of the project's transportation concurrency obligations, and in compliance with that certain Village H Road Network Agreement recorded at O.R. Book 10525, Page 6172, Public Records of Orange County, Florida, the developer must provide a valid Assignment of Vested Trips document together with the applicable Confirmation Letter issued by Orange County, concurrently with or prior to Preliminary Subdivision Plan/Development Plan submittal. In addition, the Preliminary Subdivision Plan and each subsequent Development Plan must show a legend with trip allocations by parcel identification number and phase of the development.

Schools

This request would not impact any Orange County Public Schools.

Parks and Recreation

This request would not impact any Orange County Parks.

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 – (August 24, 2016)

Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Waterleigh Planned Development / Land Use Plan (PD/LUP) dated "Received August 10, 2016", subject to the following conditions:

1. Development shall conform to the Waterleigh Planned Development / Land Use Plan (PD/LUP) dated "Received August 10, 2016," 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 10, 2016" 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 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 project shall comply with the terms and conditions of the road agreement for CR 545 (Avalon Road).
7. 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.
8. 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).
9. The developer shall be responsible for building master utilities transmission and collection infrastructure adequate to serve the PD and to accommodate the ultimate flows for the entire Village. Utilities infrastructure shall be built connecting to the buildout points of connection approved in the Village H MUP.
10. Billboards and pole signs shall be prohibited. Ground and fascia signs shall comply with the Master Sign Plan.
11. The following waivers from Orange County Code are granted for the Master Sign Plan:
 - a. A waiver from Section 38-79(114) is approved to allow a maximum accessory structure height of up to twenty-five (25) feet in lieu of twenty (20) feet with a roof slope of 2:12 or steeper for locations as depicted on the Master Sign Plan;

- b. A waiver from Section 31.5-193 (c)(2) is approved to allow a maximum ground sign height of twelve (12) feet in lieu of eight (8) feet within the Village Center;
 - c. A waiver from Section 31.5-193(1)(c)(5) is approved to allow a maximum copy area of sixty (60) square feet for the primary subdivision sign in lieu of twenty (20) square feet and to allow the copy area of secondary subdivision signs to have a maximum copy area of twenty (20) square feet in lieu of ten (10) square feet;
 - d. A waiver from Section 31.5-67(b) is approved to allow for a maximum subdivision sign height of twelve (12) feet in lieu of eight (8) feet.
12. Median signs shall not be allowed on the roads connecting to SR 545. Signs may be permitted in the medians of low volume, low speed roads and shall be located in a separate tract, to be owned and maintained by the HOA. The medians shall be designed to Greenbook standards addressing clear zone and sight distance requirements, and shall include non-mountable curbs.
13. Except as amended, modified, and/or superseded, the following BCC Conditions of Approval, dated July 19, 2016 shall apply:
- a. The covenants, conditions and restriction (CC&Rs) shall contain notification of the proximity of solid waste management facilities within one-mile of development activity in this project area.
 - b. A current Level One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review and approval as part of any Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) submittal.
 - c. The following waivers from Orange County Code are granted for PD Parcels 10 and 11 only:
 - 1) A waiver from Orange County Code Section 38-1258(c) to allow a maximum height of five (5) stories and sixty-five (65) feet for multi-family residential buildings located within one hundred fifty (150) feet from single family zoned property, in lieu of a maximum height of three stories and forty (40) feet for multi-family residential buildings located within one-hundred fifty (150) feet of single-family zoned property.
 - 2) A waiver from Orange County Code Section 38-1258(f) to eliminate the requirement of constructing a six (6) foot high masonry, brick, or block wall whenever a multi-family development is located adjacent to a single-family zoned property.
 - 3) A waiver from Orange County Code Section 38-1258(g) to allow multi-family development to access any right-of-way serving single-family residential development.

- 4) A waiver from Orange County Code Section 38-1258(i) to eliminate the requirement of a multi-family development located adjacent to a right-of-way to be fenced whenever single-family zoned property is located across the right-of-way.
 - 5) A waiver from Orange County Code Section 38-1258(j) to allow a minimum twenty (20) feet of building separation where doors, windows or other openings in the wall of a living unit back up to a wall of another building with doors, windows or other openings, in lieu of thirty (30) feet of separation for two-story buildings, and in lieu of forty (40) feet of separation for building three (3) stories or higher.
14. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated May 19, 2015, shall apply:
- a. As proof of satisfaction of the project's transportation concurrency obligations, and in compliance with that certain Village H Road Network Agreement recorded at O.R. Book 10525, Page 6172, Public Records of Orange County, Florida, the developer must provide a valid Assignment of Vested Trips document together with the applicable Confirmation Letter issued by Orange County, concurrently with or prior to Preliminary Subdivision Plan / Development Plan submittal. In addition, the Preliminary Subdivision Plan and each subsequent Development Plan must show a legend with trip allocations by parcel identification number and phase of the development.
 - b. 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 updated MUP must be approved prior to construction plan approval.
 - c. Payment of 500 ERUs (wastewater) and 500 ERCs (water) are due prior to construction plan approval for the first construction plan set within Village H unless previously satisfied by another Village H parcel. Alternatively, property owners may elect to enter into an agreement with Orange County to construct, with the first set of construction plans, the utility improvements beyond what is required by the Village H Master Utility Plan.
 - d. The five-acre APF tract for a water facility identified in this PD shall be dedicated to the County in accordance with the Waterleigh PD APF Agreement approved by BCC, as may be amended.
15. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval dated April 9, 2013 and February 12, 2013, shall apply:

- a. Prior to construction plan approval, a phased master stormwater management plan including a drainage study to establish the 100-year flood elevation shall be submitted to the Development Engineering Division for review and approval.
- b. Prior to the approval of the first PSP or DP for this PD, a driveway access spacing plan, consistent with the preliminary study included as part of the Road Network Agreement, for CR 545, Old YMCA Road, and the internal loop road shall be submitted to and approved by the County Engineer.
- c. The APF Agreement shall be approved by BCC concurrent with the PD Land Use Plan.
- d. The developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of 08-16-2006, and amended on 04-29-2008 and 06-24-2008.
 - 1) Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Capacity Enhancement Agreement, the County shall immediately cease issuing building permits for any residential units in excess of the 199 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 Capacity Enhancement Agreement. The developer and its successor(s) and/or assign(s) under the Capacity Enhancement 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.
 - 2) Developer, or its successor(s) and/or assign(s) under the Capacity Enhancement 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 rights.
 - 3) Orange County shall be held harmless by the developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Capacity Enhancement Agreement. At the time of platting, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.
- e. A Master Utility Plan (MUP) consistent with Village H MUP shall be submitted to Orange County Utilities prior to approval of the first PSP/DP. The MUP must be approved prior to Construction Plan approval.

- f. The Developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities.
- g. Prior to construction plan approval, all property owners within Village H, excluding public entities, shall be required to sign an agreement between the parties addressing their proportionate share of funds for the costs of the offsite and onsite master utilities sized to Village requirements. Property owners may elect to use alternate financing in lieu of the private proportionate cost share agreement provided master utilities sized for Village requirements are constructed.
- h. Tree removal / earthwork shall not occur unless and until construction plans for the first Preliminary Subdivision and/or Development Plan with a tree removal and mitigation plan have been approved by Orange County.
- i. Outdoor sales, storage, and display shall be prohibited within any district that allows commercial / office uses.
- j. The following waivers are from Orange County Code Section 38-1258 (Multi-Family Development Compatibility):
 - 1) A waiver is granted from Section 38-1258(a) to allow multi-family buildings located within twenty-five (25) feet of single-family zoned property to be developed at a maximum height of five (5) stories and sixty-five (65) feet, in lieu of single-story maximum within one-hundred (100) feet of single-family zoned property.
 - 2) A waiver is granted from Section 38-1258(b) to allow multi-family buildings between twenty-five (25) feet to one-hundred and fifty (150) feet of single family zoned property to be developed at a maximum height of five (5) stories and sixty-five (65) feet in height for one-hundred (100) percent of the buildings, in lieu of multi-family buildings located between one hundred plus (100+) feet to one hundred and fifty (150) feet of single-family zoned property varying in height with a maximum of fifty percent (50%) of the buildings being three (3) stories [not to exceed forty (40) feet] in height with the remaining buildings being one (1) story or two (2) stories in height.
 - 3) A waiver is granted from Section 38-1258(e) to allow for ten (10) foot paving setbacks adjacent to single-family zoned property, in lieu of a twenty-five (25) foot minimum paving setback.
- k. A waiver is granted from Orange County Code Section 38-1384(f)(l) [General Residential Development Standards] to allow each block face with more than five (5) lots with or without alleys to contain one (1) distinct lot size (excluding end units), in lieu of at least two (2) distinct lot sizes (excluding end units).

- I. The following waivers are from the development guidelines under Orange County Code Sections 38-1385.8 (Garden Home Mixed Use District) and 38-1386 (Village Home District):
 - 1) A waiver is granted from Section 38-1385.8(b)(2) to decrease the minimum average lot size to three-thousand eight-hundred and forty (3,840) square feet for single-family lot sizes less than forty (40) feet in width [and corner lots less than fifty (50) feet in width], in lieu of six-thousand (6,000) square feet.
 - 2) A waiver is granted from Section 38-1385.8(b)(4) to allow for a minimum lot width of thirty-two (32) feet for single-family detached units, in lieu of forty (40) feet for single-family detached units.
 - 3) A waiver is granted from Section 38-1385.8(b)(9)(a) to allow a seven (7) foot front porch setback for lots less than forty (40) feet in width [and corner lots less than fifty (50) feet in width], in lieu of a ten (10) foot front porch setback.
 - 4) A waiver is granted from Section 38-1385.8(b)(9)(b) to allow a minimum side yard setback of four (4) feet for lots less than forty (40) feet in width [and corner lots less than fifty (50) feet in width], in lieu of a five (5) foot side yard setback.
 - 5) A waiver is granted from Section 38-1386(b)(2) to decrease the minimum average lot size to three-thousand eight-hundred and forty (3,840) square feet for single-family lots sizes less than thirty-five (35) feet in width [and corner lots less than forty-five (45) feet in width], in lieu of four-thousand two-hundred (4,200) square feet.
 - 6) A waiver is granted from Section 38-1386(b)(4) to allow for a minimum lot width of thirty-two (32) feet for single-family detached units, in lieu of thirty-five (35) feet for single-family detached units.
 - 7) A waiver is granted from Section 38-1386(b)(10)(a) to allow a seven (7) foot front porch setback for lots less than forty (40) feet in width [and corner lots less than fifty (50) feet in width], in lieu of a ten (10) foot front porch setback.
 - 8) A waiver is granted from Section 38-1386(b)(10)(b) to allow a minimum side yard setback of four (4) feet for lots less than thirty-five (35) feet in width [and corner lots less than forty-five (45) feet in width], in lieu of a five (5) foot side yard setback.
- m. A waiver is granted from Orange County Code Sections 38-1387.2(a)(8)(c) [Apartment District] and 38-1387.3(b)(3)(h)(3) [Condominium District] to correct the referenced code section to reflect "garage setbacks per section 38-1384(g)", in lieu of "garage setbacks per section 38-1384(i)".

- n. A waiver is granted from Orange County Code Section 38-1388(e)(i) [Neighborhood Center District] to eliminate the maximum fifty (50) foot lot width.
- o. The Development Standards and Guidelines for this PD shall be consistent with Orange County Code Chapter 38 (New Village PD Code) unless expressly and explicitly waived by the Board of County Commissioners.
- p. Multi-use trails / bike paths shall be maintained by the HOA. Funding of this maintenance expense shall be the responsibility of the HOA unless the County approves a MSBU or other funding mechanism for this purpose.
- q. Prior to the first PSP/DP an agreement addressing development and maintenance of the APF Park land shall be entered into with the developer and the County.
- r. Waivers to any development standard of Chapter 38 of the Orange County Code may be granted by the Board of County Commissioners at a public hearing in conjunction with the approval of any PSP for a parcel(s) of land within the Waterleigh PD, except as may be provided to the contrary in Section 38-1207 regarding substantial changes to a PD/LUP. A revised PD noting the requested waivers (applicable to the specific PSP) shall be submitted with the PSP application. Notification of waiver requests prior to the public hearing shall be the same as that required for a substantial change to a PD/LUP, e.g., including notice to owners of property within 300 feet of the perimeter of the PD.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION *July 19, 2016*

Upon a motion by Commissioner Boyd, seconded by Commissioner Clarke, and carried with all members voting AYE by voice vote, the Board made a finding of consistency with the Comprehensive Plan; further, approved the substantial change request by John Prowell, VHB, Inc., Waterleigh Planned Development / Land Use Plan (PD/LUP), - Case # CDR-16-03-089, to reconfigure the boundary between PD Parcels 10 and 11, revise and add access points, reduce the residential units within PD Parcel 11 from 508 to 504, and increase the residential units with PD Parcel 13 from 402 to 406. Additionally, five (5) waivers from Orange County Code were requested for PD Parcels 10 and 11. Collectively, the request constituted a substantial change to the development on the described property, subject to conditions.