

CASE # CDR-19-09-306

Commission District # 1

1. REQUEST

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of September 25, 2019, to approve a substantial change to the Village F Master Planned Development (PD) / Horizon West Village F Parcels S-7, S-15, S-16, S-17, S-18, S-19, & S-20 Preliminary Subdivision Plan (PSP) to add thirty-five (35) units in the future development parcels in the previously approved Preliminary Subdivision Plan for Phase 1 and Phase 2B.

2. PROJECT ANALYSIS

- A. Location: South of Summerlake Groves Street / East of Seidel Road
- B. Parcels: Tracts FD-1, FD-2, FD-3, and FD-4 of the Watermark Phase 4 Plat, recorded in OR Book 97 / Page 87; PIDs 04-24-27-7557-06-001; 04-24-27-7557-06-002; 09-24-27-7558-06-003; and 09-24-27-7558-06-004
- C. Total Acres: 114.89 gross acres (Total PSP) / 5.23 gross acres (Affected Parcels Only)
- D. Water Supply: Orange County Utilities
- E. Sewer System: Orange County Utilities
- F. Schools: Water Spring ES – Capacity: 791 / Enrollment: 964
Bridgewater MS – Capacity: 1,039 / Enrollment: 1,834
Windermere HS – Capacity: 2,753 / Enrollment: 3,975
- G. School Population: 15 (Affected Parcels Only)
- H. Parks: Deputy Scott Pine Community Park – 4 Miles
- I. Proposed Use: 332 Single-Family Residential Dwelling Units (Total PSP) / 35 Single-Family Residential Dwelling Units (Affected Parcels Only)
- J. Lot Dimension: **Village Home District (S-19):**
Maximum Building Height: 45' (2-stories)
Minimum Living Area: 1,000 Square Feet
Building Setbacks:
 - 15' Front
 - 7' Porch
 - 20' Rear
 - 4' Side

10' Side Street
50' NHWE
2' Driveways Side Lot Line

K. Fire Station: 44 – 16990 Porter Road

L. Transportation: As proof of satisfaction of the project's transportation concurrency obligations, the project must comply with that certain Village F Road Network Agreement recorded at O.R. Book 10591, Page 5123, 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 plat approval. In addition, any Development Plan must show a legend with trip allocations by parcel identification number and phase of the development.

3. COMPREHENSIVE PLAN

The subject property has an underlying Future Land Use Map (FLUM) designation of Village (V) and it is located within Village F of Horizon West. Further, the site is designated as S-19, Village Home District, on the approved Village F Master PD. The request is consistent with the FLUM designation and the Comprehensive Plan.

4. ZONING

PD (Planned Development District) (Village F Master PD)

5. REQUESTED ACTION:

Approval subject to the following conditions:

1. Development shall conform to the Village F Master PD Land Use Plan; Orange County Board of County Commissioners (BCC) approvals; Horizon West Village F Parcels S-7, S-15, S-16, S-17, S-18, S-19, and S-20 Preliminary Subdivision Plan dated "Received October 2, 2019," 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 October 2, 2019," 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 preliminary 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. 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.
7. The plat and the Conditions, Covenants, and Restrictions (CC&Rs) for this project shall notify homeowners of the following: Homeowners own and maintain their individual water and reclaimed water services which extend to their homes from public water and reclaimed water meters located adjacent to public road right-of-way and/or public utility easements. The owners of the affected lots shall be granted access to HOA-owned tracts for the purpose of maintaining their water and reclaimed water services.
8. Where public gravity main will be located within in alleyways, the distance from structure to structure shall be a minimum of 38 feet. To meet this requirement, the Rear Setbacks for affected lots on the PSP shall be a minimum of 19 feet from the centerline of the alley, based on the utility configuration shown in the PSP.
9. 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.
10. Except as amended, modified, and/or superseded, the following previous BCC Conditions of Approval, dated, May 8, 2018, shall apply:
 - a. Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement. Unless the property is otherwise vested or exempt, the applicant shall be subject to school concurrency and required to go through the review process prior to platting.
 - b. 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.

- c. 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).
 - d. 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.
 - e. Unless a Conservation Area Impact (CAI) permit is approved by Orange County consistent with Orange County Code Chapter 15, Article X, "Wetland Conservation Areas", prior to Construction Plan approval, no conservation area or buffer encroachments shall be permitted. Approval of this plan does not authorize any direct or indirect conservation area impacts.
 - f. Construction plans within this PSP shall be consistent with an approved and up-to-date Master Utility Plan (MUP) , including hydraulically dependent parcels outside the PSP boundaries; such MUP shall include supporting calculations showing that the PSP-level MUP is consistent with the approved MUP for the Village, or shall include an update to the Village MUP to incorporate any revisions. The MUP(s) must be approved prior to construction plan approval. 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.
11. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated September 15, 2015, shall apply:

- a. Roads and drainage system(s), including any retention pond(s), will be owned and maintained by Orange County with a Municipal Service Benefit Unit (MSBU) established for stormwater system functionality. Routine maintenance, including mowing, beyond that provided by the County, shall be the responsibility of the Homeowners' Association.
- b. The stormwater management system shall be designed to retain the 100-year/24-hour storm event onsite, unless documentation with supporting calculations is submitted which demonstrates that a positive outfall is available. If the applicant can show the existence of a positive outfall for the subject basin, then in lieu of designing for the 100-year/24-hour storm event, the developer shall comply with all applicable state and local stormwater requirements and regulations. An emergency high water relief outfall shall be provided to assure overflow does not cause flooding of surrounding areas.
- c. A Municipal Service Benefit Unit (MSBU) shall be established for the standard operation and maintenance of street lighting inventory including leasing, fuel, and energy costs for this project. Street lighting fixtures, poles, and luminaries used in this project shall be selected from the approved inventory list supplied by the Orange County Comptroller. Street lighting fixtures, poles, and luminaries used in this project shall be supplied and installed by the utility company that services the area of the project, as authorized by law or agreement, and thereafter maintains the street lighting inventory. The developer shall obtain approval of the street lighting fixtures, poles, and luminaries from the Orange County Comptroller Special Assessments Department via a "Letter of Commitment" prior to the installation of the street lighting fixtures, poles, and luminaries and prior to the plat being recorded by Orange County Comptroller Official Records section. All installation costs and street lighting operational costs prior to the effective date of the MSBU approval by the Orange County Board of County Commissioners shall be the sole responsibility of the developer.
- d. A Utilities Developer Agreement related to the oversizing of utility mains included in this PSP may be required. The need for an agreement and the terms of the agreement will be determined based on the MUP for this PSP. Agreements must be approved by the BCC prior to construction plan approval.
- e. At least thirty (30) days prior to construction plan submittal, the applicant shall submit a Master Utility Plan (MUP) for the PSP, including hydraulically dependent parcels outside the PSP boundaries; such MUP shall include supporting calculations showing that the PSP-level MUP is consistent with the approved MUP for the Village, or shall include an update to the Village MUP to incorporate any revisions. The MUP(s) must be approved prior to construction plan approval.

- f. Outside sales, storage, and display shall be prohibited.
- g. A separate Development Plan for the park tracts shall be reviewed by DRC, approved and constructed prior to certificate of completion for the infrastructure for each phase.
- h. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
- i. The following waiver is for Parcels S-15 & S-18 only:

A waiver from Orange County Code Sections 38-1382(h)(4) and 38-1384(i)(3) is granted to allow blocks with townhome lots less than fifty (50) feet in width, to have rear vehicular access from a public right-of-way when the block and lots are designed to front an open space or mews as described in Section 38-1382(h)(6); in lieu of the requirement that any block containing any lots with a width of fifty (50) feet or less be accessed from a rear alley easement.
- j. A waiver from Section 34-152(c) is granted to allow lots 238 - 297 to front a mew, park, open space, etc. in lieu of a County roadway. Legal access to these lots shall be through an ingress/egress easement shown on the plat, in lieu of the twenty-foot (20') fee simple access required by code.
- k. As proof of satisfaction of the project's transportation concurrency obligations, the project must comply with that certain Village F Road Network Agreement recorded at O.R. Book 10591, Page 5123, 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 plat submittal. In addition, any Development Plan must show a legend with trip allocations by parcel identification number and phase of the development.
- l. Simultaneously with the recording of the subdivision plat, the developer shall record in the public records of Orange County, Florida, a declaration of covenants, conditions, and restrictions governing Parcels S-7, S-15, S-16, S-17, S-18, S-19 and S-20, the terms of which shall include notification that the subdivision is adjacent to a future high school site and a conspicuous requirement that each purchaser of a residential lot in the subdivision for the personal or family uses of the purchaser(s) must be given a copy of the declaration at or prior to the time the sales contract is executed by the purchaser(s), together with a disclosure statement to be executed by the initial purchaser(s) stating as follows: "I/We acknowledge, understand, and accept that I/we am/are purchasing a lot or home in a subdivision that, on the date of its approval by the Board of County Commissioners on March 24, 2015, is located east of a future high school site, as depicted on the Village F Specific Area Plan. I/We also acknowledge, understand, and accept that the development of such high

school may include athletic fields, stadiums, tracks, etc. and the accompanying seating, lighting, and public address system that may be associated with those uses."

In addition to the declaration requirement described above, the developer shall incorporate the following statement into each deed initially conveying title to a lot: "The property being conveyed is part of the Watermark Subdivision, which is located adjacent to a future high school site." (PSP Condition of Approval #22 from BCC Minutes of March 24, 2015).

The proximity of the subdivision to the future high school site shall also be conspicuously notated on the plat.

- m. Applicant and its assigns agrees to cooperate with the owner of parcel S-21 as shown on the Village F PD and the County for potential connectivity by providing access easements, temporary construction easements and rights of way across parcel S-16 of the PD to connect to the cul-de-sac shown within that parcel on the PSP. The land required for said access, easements or right of way shall be provided at no cost to the owners of Parcel S-21 or the County. All approvals and costs related to such connectivity and access shall be at no expense to Applicant.