



Interoffice Memorandum

DATE: October 28, 2021

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

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

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

SUBJECT: November 9, 2021 – Public Hearing
Applicant: Nicole P. Stalder, Dewberry
Village F Master Planned Development / Magnolia Estates
Preliminary Subdivision Plan
Case # CDR-21-02-038 / District 1

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of September 8, 2021, to approve a substantial change to the Village F Master Planned Development (PD) / Magnolia Estates Preliminary Subdivision Plan (PSP) to is to adjust lot lines for 14 lots to allow for boat docks; Lots 294-296 (Phase 3B) and 340-350 (Phase 3C).

This item was continued from the October 12, 2021 Board meeting to allow for a community meeting.

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 Village F Master PD / Magnolia Estates PSP dated "Received May 13, 2021", subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1**

JVW/EPR/lme
Attachments

CASE # CDR-21-02-038

Commission District # 1

1. REQUEST

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of September 8, 2021, to approve a substantial change to the Village F Master Planned Development (PD) / Magnolia Estates Preliminary Subdivision Plan (PSP) to adjust lot lines for 14 lots to allow for boat docks; Lots 294-296 (Phase 3B) and 340-350 (Phase 3C).

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2. PROJECT ANALYSIS

A. Location: North of Seidel Road / West of Lake Hancock Road

B. Parcel IDs: 33-23-27-2738-02-940, 33-23-27-2738-02-950,
33-23-27-2738-02-960, 33-23-27-2738-00-033,
33-23-27-2739-06-006, 33-23-27-2739-03-400,
33-23-27-2739-03-410, 33-23-27-2739-03-420,
33-23-27-2739-03-430, 33-23-27-2739-03-440,
33-23-27-2739-03-450, 33-23-27-2739-03-460,
33-23-27-2739-03-470, 33-23-27-2739-03-480,
33-23-27-2739-03-490, 33-23-27-2739-03-500

C. Total Acres: 159.04

D. Water Supply: Orange County Utilities

E. Sewer System: Orange County Utilities

F. Schools: Summerlake ES – Capacity: 751 / Enrollment: 1,011
Bridgewater MS – Capacity: 1,040 / Enrollment: 1,699
Windermere HS – Capacity: 2,753 / Enrollment: 3,333

G. School Population: 153

H. Parks: Deputy Scott Pine Community Park – 3.8 Miles

I. Proposed Use: 356 Single-Family Residential Dwelling Units (overall PSP)

J. Lot Dimensions: Garden Home District (N-22, N-25A, & N-25B):
Maximum Building Height: 45' (3-stories)
Minimum Living Area: 1,200 Square Feet
Building Setbacks:
15' Front
10' Porch

20' Rear
5' Side
10' Corner / Side Street

Village Home District (N-26A & N-26B):
Maximum Building Height: 45' (3-stories)
Minimum Living Area: 1,000 Square Feet
Building Setbacks:
15' Front
10' Porch
20' Rear
5' Side
10' Corner / Side Street

Townhome District (N-26A & N-23B):
Maximum Building Height: 55' (4-stories)
Minimum Living Area: 1,000 Square Feet
Building Setbacks:
15' Front
10' Porch
14' Rear
0' / 7' Side
10' Corner / Side Street

Estate District (N-21):
Maximum Building Height: 45' (3-stories)
Minimum Living Area: 1,500 Square Feet
Building Setbacks:
20' Front
10' Porch
25' Rear
5' Side
10' Corner / Side Street

K. Fire Station: 44 – 16990 Porter Road

L. Transportation: The Village F Horizon West Road Network Agreement provides for the dedication of right-of-way, design, engineering, permitting, mitigation and construction of Seidel Road to four lanes in three 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.

3. COMPREHENSIVE PLAN

The subject property has an underlying Future Land Use Map (FLUM) designation of Village, indicating that it is within the Horizon West Special Planning Area. The subject property is within Village F and it is designated Village Home, Garden Home, Townhome, and Estate District on the Village F Special Planning Area map. The subject property is designated PD (Planned Development) on the Zoning Map, which is consistent with the FLUM Designation.

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; Magnolia Estates Preliminary Subdivision Plan dated "Received May 13, 2021," 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 May 13, 2021," 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. 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.

7. Approval of this plan does not constitute approval of a permit for the construction 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.
8. The project shall comply with the terms and conditions of that certain Village F Road Network Agreement approved on June 18, 2013 and recorded at OR PB 10591/PG 5123, Public Records of Orange County, Florida, as may be amended.
9. Except as amended, modified, and / or superseded, the following DRC Conditions of Approval, dated August 19, 2014, 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 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. The project contains 357 unvested units that are subject to the County's school capacity policy (a/k/a the Martinez Doctrine.) The developer purchased school rights/credits established under the Capacity Enhancement Agreement CEA #06-011-01.

The Developer shall comply with all provisions of the Capacity Enhancement Agreement. Upon the County's receipt of written notice from OCPS that the developer is in default or breach of the Capacity Enhancement Agreement, the County shall immediately cease issuing building permits for any unvested units. 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 cessation of the County's issuance of residential building permits resulting from such notification from OCPS. Developer, and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, agrees that is 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. 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 OCPS 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. As proof of satisfaction of the project's transportation concurrency obligations, and in compliance with that certain Village F Road Network Agreement recorded at O.R., Book 10591, Page 5123, 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 Development Plan submittal. In addition, the Development Plan must show a legend with trip allocations by parcel identification number and phase of development.
- f. No activity will be permitted on the site that may disturb, influence or interfere with: areas of soil or groundwater contamination, any remediation activities, or within the hydrological zone of influence of any contaminated area, unless prior approval has been obtained through 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.

- g. 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 and Wildlife Conservation Commission (FWC).
- h. 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.
- i. Prior to commencement of any earthwork or construction, 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.
- j. 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 is consistent with the approved MUP for Village F, or shall include an update to the Village F MUP to incorporate any revisions. The MUP(s) must be approved prior to construction plan approval.
- k. Prior to approval of a plat for a single-family residential unit project, the developer shall have prepared and submitted for review a document containing covenants, conditions, and restrictions (CC&Rs) for the property being platted. The CC&Rs, which shall be recorded simultaneously with the plat, shall include a provision incorporating, verbatim, the following requirements:
 - i. The same front facade for single-family residential units may not be repeated more than five (5) times within one (1) block length for both sides of any street, and shall be separated by at least two (2) units with different facades.

- ii. House front facades shall be varied and articulated to provide visual interest to pedestrians along the street frontage. The front facade of the main body of any house shall not exceed forty (40) feet in length, except for wings or "L's" which are set back from the facade. In no case shall more than fifty percent (50 %) of the front facade of any house consist of an unobstructed block wall or garage door.
- iii. At least fifty percent (50%) of all single-family residential units shall have a front porch. A front porch shall be a minimum of seven (7) feet in depth and cover a minimum ten (10) feet in width or one third (1/3) of the front facade, whichever is greater.
- iv. Flat roofs shall be prohibited.
- v. Unless otherwise prohibited by the CC&Rs, fencing in the front yard shall be no higher than three feet, six inches (3'6") and limited to decorative wrought iron or wood picket style.
- vi. The provisions of the CC&Rs incorporating the above-referenced requirements shall not be amended, removed, or superseded without the prior approval of the Board of County Commissioners, which approval may be withheld in the Board's sole discretion, and the CC&R's shall contain a statement to that effect.

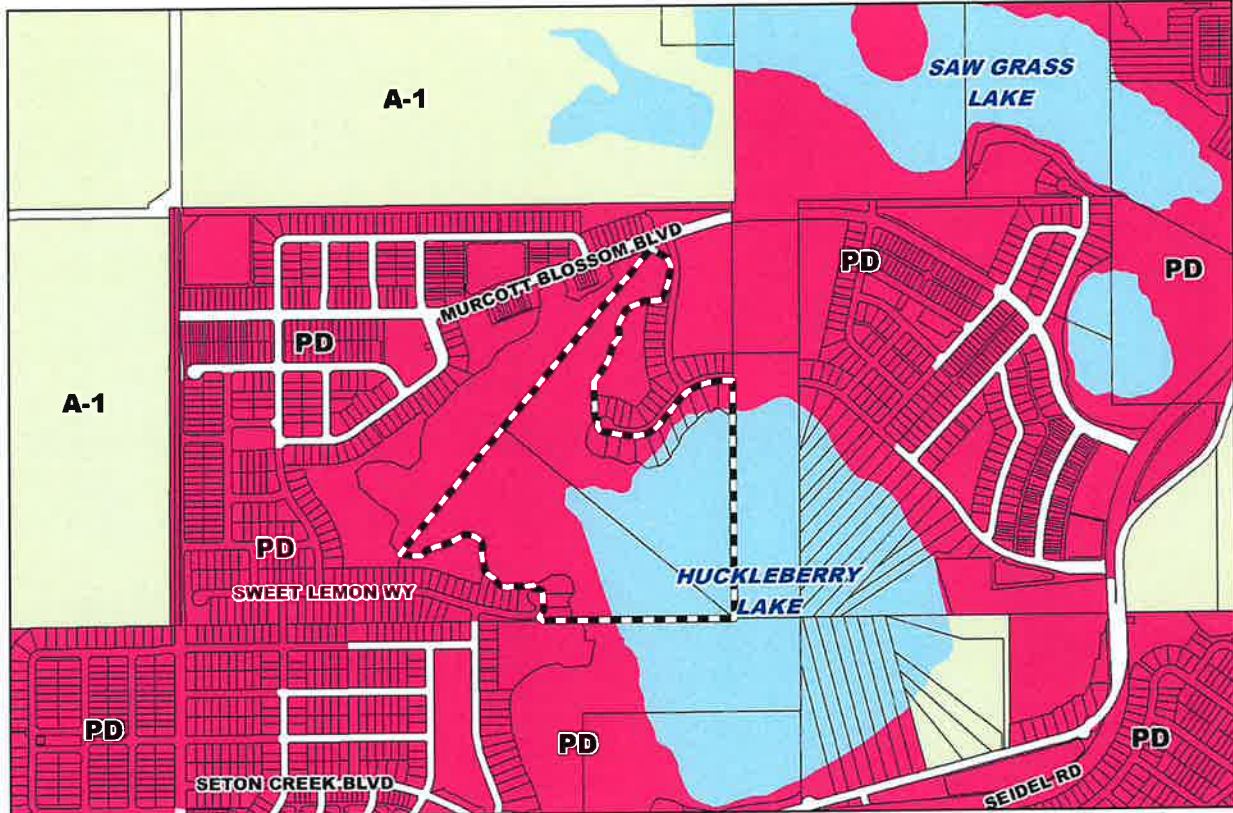
Furthermore, the CC&R's shall provide that the homeowners' association and any person owning the property in the development have the right to enforce these requirements in the event they are violated.

Finally, the CC&Rs shall also state that Orange County shall have the right, but not the duty, to enforce these requirements in the same manner as it enforces other Orange County ordinances and regulations.

- l. There shall be no certificate of completion for any phase within this PSP until Park Tract P-1 is built.
- m. Where public gravity sewer service is proposed within mews, parks, or open space tracts, there shall be a minimum thirty-eight foot (38') wide clearance between vertical structures, with a stabilized access road over manholes and a utility easement over the gravity sewer main.
- n. Wastewater gravity systems extending into the alleys shall have no more than one manhole (the terminal manhole) in the alley upstream of a right-of-way manhole, a minimum thirty-eight foot (38') clear zone between permanent vertical structures, and a minimum twenty-six foot (26') clear zone between fences. The gravity mains located in alleys shall be eight-inch (8") diameter, upgraded to SDR-26 PVC pipe, and shall have a maximum of five feet (5') of cover.

Zoning Map

CDR-21-02-038



Subject Property

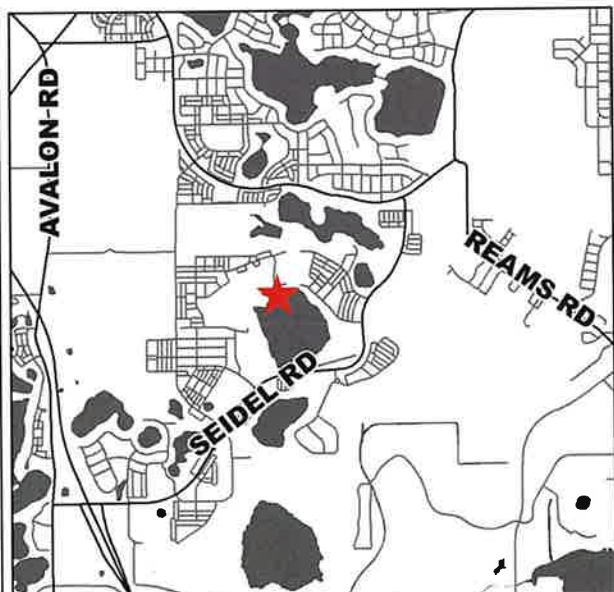


Subject Property

Zoning Map

ZONING: Planned Development
APPLICANT: Nicole P. Stalder, Dewberry
LOCATION: Generally north of Seidel Road and west of Lake Hancock Road
TRACT SIZE: 159.04 gross acres (total PSP)
DISTRICT: # 1
S/T/R: 33/23/27

1 inch = 1,000 feet



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Notification Map



Public Notification Map

Village F Master PD Magnolia Estates PSP_CDR-21-02-038

