

Murphy Oaks PUD Hearing on Special Magistrate's Recommendation and Amended Petition

APPLICANT'S PRESENTATION

FEBRUARY 9, 2021

A long history

2016 - 2017 - Application for rezoning to RSF-2 and Preliminary Plat – 119 units;

- Many conditions to address lot configuration and layout issues
 - City Council hearing --- make this a PUD
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2018 - PUD Application (under vested rights) for 105 units

- Planning Board recommends approval with several conditions; applauds Windham for concessions and design changes
- City Council -- Denies based on compatibility issues raised by Fox Lea Farm, including wanting berm and wall in 40' buffer

2019 – 1st FLUEDRA proceeding

- Preliminary settlement regarding changes to buffers and other issues – revised application back to Council
- City Council meeting --- votes to reduce density to 85 (Windham accepts)
- Fox Lea continues to object and demand new and intrusive conditions; demands change in configuration to remove all homes south of road;-Windham agrees to every other condition than removing all units south of the road
- City Council and staff concerned about enforcement of many of the conditions
- City Council denies again.

2020 – 2nd FLUEDRA proceeding – brings us to today

- No settlement – goes to Special Magistrate finding/recommendation
- Special Magistrate finds the 2019 denial was unreasonable
- Windham compromises again and proffers a site plan that reflects Fox Lea's last demand

Special Magistrate Findings

Denial of 2019 Rezoning was unreasonable and unfairly burdened the Property.

- Proposed density was reasonable
- Setbacks, buffering, and landscaping extensive,
- Proposed conditions went beyond what was necessary to ensure compatibility.
- Code and comprehensive plan do not deem a rezoning incompatible due to possible temporary impacts during construction.

The Proposed 2021 Rezoning

- Is Reasonable
- Is Consistent with the Comprehensive Plan and Land Development Regulations.
- Addresses Compatibility with Fox Lea Farm through density, enhanced setbacks and buffering and conditions

The Special Magistrate recommends approval of the 2021 Rezoning request.

Binding Master Plan

85 units/ 2. 15 units/acre

Detached Single Family
Homes

Building height – 1 story; 25'
max.

Min Lot Size – 6,050 sq ft

Front yard – 20';

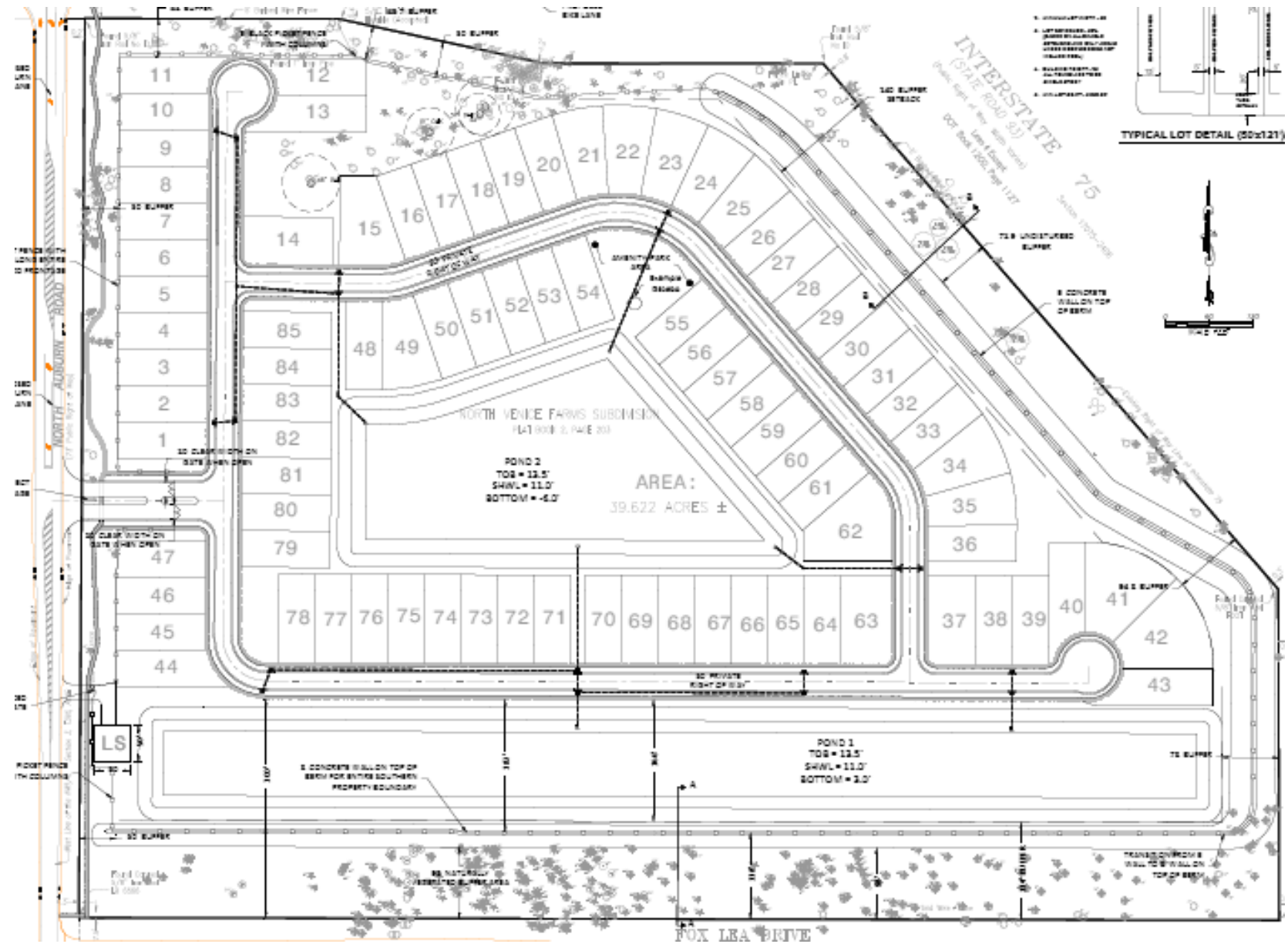
Side yard – 5';

Rear: 10'

Max building coverage– 60%

Open Space:

23.56 acres/59 %



Buffers

- Auburn Road: 50', winding sidewalk, 90% opacity, decorative fence;
- Border Road: min 45.7' buffer, same fence as along Auburn Road and fence/berms connect.
- I-75 - min 120.9' vegetated buffer with berm and 6' concrete wall

Fox Lea Drive:

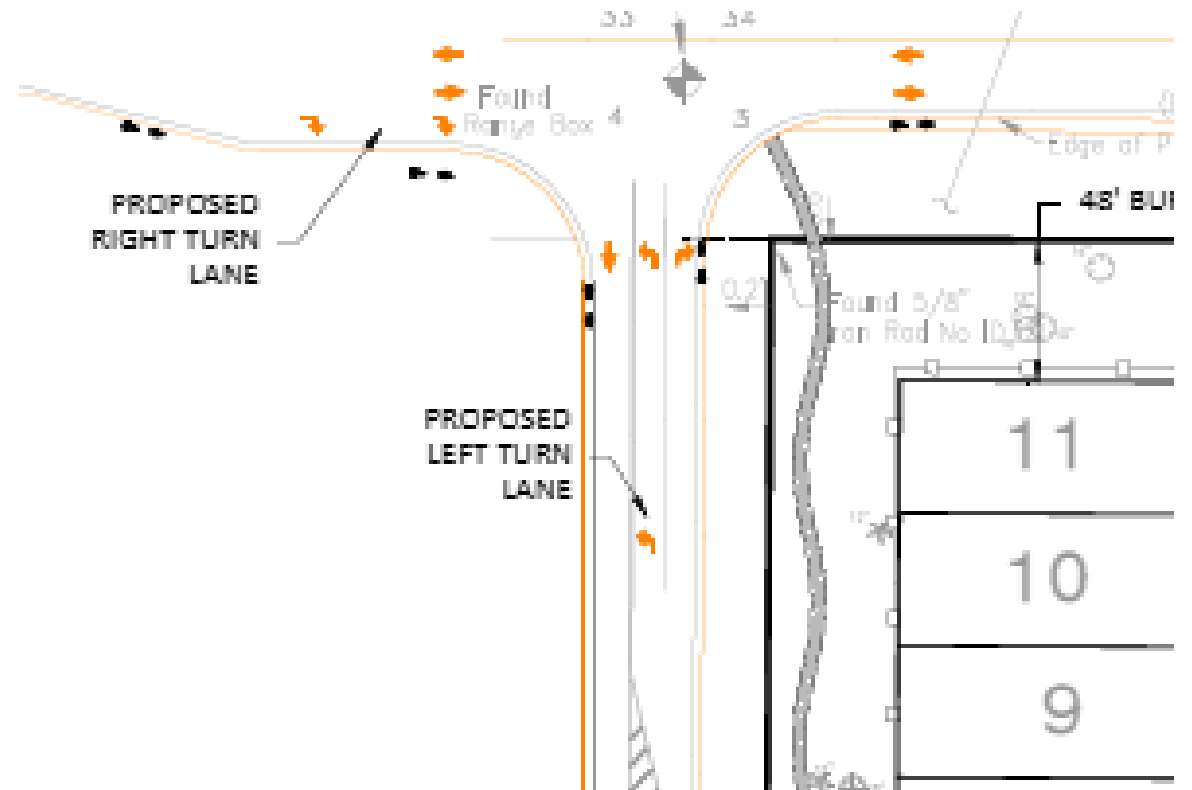
- 300' setback from road/houses;
- 134' landscape buffer with 5' berm and 8' concrete wall with wax myrtle hedge and additional trees.
- 166' stormwater pond
- Existing vegetation in landscape buffer to remain (other than nuisance trees)
- Existing vegetation in Fox Lea Drive right-of-way will not be disturbed.

Existing Vegetation along Fox Lea Drive – additional buffering



Transportation Improvements

- Additional turn lanes on Border and Auburn
 - **Fix existing issues that Murphy Oaks could not otherwise be required to address.**
- Left hand turn land into project on Auburn
- Bike lane on Border
- Meandering landscape path on Auburn
- Sidewalk Waivers
 - Fox Lea Farm Drive – not desired, would require removing vegetation
 - Border – ROW and conflicts with other utilities
- Also will pay Mobility Fees



Conditions to Ensure Development per Plan and Compatibility

On Binding Master Plan

- Preliminary Plat/Design Standards
 - Access control/ street standards
 - Enhanced stormwater requirements – County 100 year and basin standards
 - Well site location
 - Utilities
- Buffer requirements
 - Details for all four buffer areas
- Construction /staging
 - No access from Fox Lea Drive
 - Limit on chipping/burning
 - Timing of construction of berm and wall.
- Environmental

In Ordinance:

- Master plan is binding, enforceable and incorporated
- Timing of construction plans and documents for right-of-way improvements
- Construction of amenity area within 12 months of first CO
- Requirements for the Notice to Buyers/Notice of Proximity and other covenant requirements set out in the Developer's Agreement.
- Enhanced enforcement provisions for third parties; injunction and cause of action for damages for violation of conditions that causes injury. .

Developer's Agreement

- Already signed by the Property Owner and Windham
- Commits Developer to Transportation Improvements in Lieu of the Extraordinary Exactions (otherwise illegal).
- Provides for Enforcement
- Requires imposition of Covenants on Development:
 - Notice of Proximity to Buyers (drafted by Fox Lea Farm) to protect City and Fox Lea Farm from complaints of incompatible activities/impacts
 - Restrictions requested by Fox Lea Farm on
 - Open burning
 - Fireworks
 - Drones

Changes since October 2019

- Southern buffer and setback increased to 300' (per Fox Lea request)
 - 134' of landscape buffer plus 166' of open space/pond
 - Wall on top of berm – was 25' from property line; now 118'; will still have Wax Myrtle hedge along wall (then 98' natural, then approx. 20' vegetation in Fox Lea Drive ROW)
 - Distance to nearest yard from Fox Lea Drive up from 180' to 300' (and all but two houses are > 350' from Fox Lea Drive.
 - No houses south of internal road (per Fox Lea request)
- Buffer along Border Rd– fencing the same as Auburn and extended to meet the eastern berm (per Sawgrass request)
- Small amenity area added (per Sawgrass request).
- Open space up from 20.5 acres to 23.56 acres
- Development conditions and modifications centralized on Page 3 of Binding Master Concept Plan (minimize duplication; aid staff review). Not out of line with the notes and conditions often seen on preliminary plats and construction drawings.

Extraordinary construction conditions intended to alleviate Fox Lea concerns about construction impacts offered in private agreement.

Comprehensive Plan

Future Land Use Map & Designation – Low Density Residential – Min 1 unit / acre (gross); max 5 units/acre (gross) – residential use;

JPA - up to 3 units per acre; residential or some commercial/office use; recognizes equestrian uses for Fox Lea Farm Property.

- The JPA use designations recognize residential uses adjacent to Fox Lea Farm's equestrian uses: the City found residential and equestrian use to be compatible by making that designation.

Transitional policy for compatibility

Land Use Compatibility Review Procedures. Ensure that the **character and design of infill and new development are compatible with existing neighborhoods**. **Compatibility review** shall include the evaluation of the following items with regard to annexation, rezoning, conditional use, special exception, and site and development plan petitions:

- A. Land use density and intensity.
- B. Building heights and setbacks.
- C. Character or type of use proposed.
- D. Site and architectural mitigation design techniques.

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OUE-1 Zoning is NOT Consistent with the Comprehensive Plan

The OUE-1 zoning density (1 /5 acres) is less than the minimum 1 unit per acre gross density required by the Low-Density Residential Land Use

Agricultural uses permitted by the OUE-1 district are not allowed in the Low-Density Residential Land Use or the JPA.

- Retaining the OUE-1 zone district is inconsistent with the Comprehensive Plan.
- Denying the rezoning is inconsistent with the Comprehensive Plan.

Compatibility with Sawgrass and Other Nearby PUDs

Development	Density	Other aspects of development
Waterford	3.67±	Multiple sub-projects with lots < 7,500 sq ft– Colony, Devonshire, Ashley Place, Turnberry Place; Berkshire Place, Palm Villas
Sawgrass	1.8±	Multiple sub-project with smaller lots: 116 lots < 7,500 sf; 83 under 7,000 sft.; 48 of 6,050 s ft; 14 Villa lots;
Milano	2.56±	Detached lots – min 4,500 sft; attached 4,140/unit; setbacks 20/5/10; no max building coverage; 43' wide ROW with 1 sidewalk
SJMR	1.8±	Detached lots – min 4,500 sft; attached 4,140/unit; setbacks 20/5/10, no max building coverage; 43' wide ROW with 1 sidewalk

Compatibility Protection for Fox Lea Farm

Design and Conditions:

- Reduced density (119 to 105 to 85)
- No access to Fox Lea Drive
- No stormwater to ditches on Fox Lea Drive; enhanced stormwater standards
- No development/activities (other than pond) within 300' of Fox Lea Drive – 134' landscape buffer; 166' stormwater pond.
- 8' wall on top of 5' berm with Wax Myrtle hedge; wall 118' from Fox Lea drive; existing vegetation (other than nuisance) to remain;
- Berm and wall to be constructed first, and avoiding Fox Lea Peak season to extent possible
- Enhanced enforcement rights to Fox Lea Farm

Developer's Agreement

- Notice of Proximity – specifically identifies possible impact to residents from Fox Lea Farm
- Prohibition on drones, fireworks, open fires

Private Agreement

- Coordination of development
- Inspection during construction
- Construction screen
- Groundwater monitoring plan
- Enforcement

Stormwater Study — no adverse impacts to Fox Lea Farm (or Sawgrass) under County 100 year standard and basin modeling

Ground water study (updated) – drawdown of < 2' in for almost all of Fox Lea show areas during phase 1; impact of < 1' at Fox Lea pond. Post construction impacts are positive on groundwater levels.

Staff: Rezoning is Compatible

Staff Comment:

The Binding Master Plan provides zoning standards for the development. In addition, the applicant has provided a landscape plan for the development as part of the Binding Master Plan that includes specific details for all areas of the project and material proposed. *Large perimeter buffers are being provided, although not required, along with a limitation on homes to one-story and multiple additional restrictions all to provide for increased compatibility with surrounding properties.*

Staff Comment on Mitigation Strategies:

With the majority of the mitigation techniques of Policy 8.2 being employed by this project and the additional proximity notice requirement along with additional PUD restrictions, City Council has adequate evidence on which to determine confirmation of compatibility with the adjacent property to the south.

Special Magistrate-the Proposed Rezoning is Compatible

- The 2021 Rezoning request is reasonable.
- The 2021 Rezoning request is consistent with the comprehensive plan and land development regulations.
- “the issue of compatibility has been addressed with the reduction in density, enhanced setbacks and buffering requirements and conditions designed to reasonably mitigated the off-site impacts created by the construction and eventual use of the Property on the unique operations of Fox Lea Farm and the abutting property owners.”

Staff Findings: Rezoning is Consistent with Plan and LDC

Conclusions / Findings of Fact (Consistency with the Comprehensive Plan):

- Based upon the approved Vested Rights Petition No. 18-01VR, *the fact that no inconsistencies are being created with the LDR or the MUR future land use designations, review of the application for consistency with both the 2010 and 2017 Comprehensive Plans*, along with the fact that compliance is being maintained with the standards or the JPA/ILSBA Joint Planning agreement with Sarasota County, *the project may be found consistent with the City's Comprehensive Plan.*

Findings of Fact (Land Development Code):

- Compliance with the Land Development Code: **The Murphy Oaks PUD rezoning may be found consistent with the required Land Development Code Chapter 86** including regulations as provided in Section 86-130 pertaining to the PUD zoning district and Section 86-47(f) regarding consideration of zoning amendments.

Conclusion – questions

As both the City Staff and the Special Magistrate have found,

- *The Rezoning, as proposed and conditioned, is consistent with the Comprehensive Plan, including the compatibility requirement, and the land development regulations.*
- The use, density and characteristics of the development are consistent with the Comprehensive Plan
- As revised and conditioned, the Rezoning is compatible with adjacent and nearby property. All reasonable concerns about adverse impacts to – or from – Fox Lea Farm have been addressed.

Denying the Rezoning and Keeping the OUE-1 zoning is INCONSISTENT with the Comprehensive Plan.

The City Council should follow the law, the Comprehensive Plan, and the evidence and approve the Rezoning.

Compatibility

Compatibility is defined as the characteristics of different uses or activities or design which allow them to be located near or adjacent to each other. Some elements affecting compatibility include the following: height, scale, mass and bulk of structures, pedestrian or vehicular traffic, circulation, access and parking impacts, landscaping, lighting, noise, odor and architecture. **Compatibility does not mean “the same as.”** Rather, it refers to the sensitivity of development proposals in maintaining the character of existing development.

Comprehensive Plan – Transitional Policy

Strategy LU 4.1.1 - Transitional Language ... 2010 Plan Policy 8.2.

Land Use Compatibility Review Procedures. Ensure that the **character and design of infill and new development are compatible with existing neighborhoods**. Compatibility review shall include the evaluation of the following items with regard to annexation, rezoning, conditional use, special exception, and site and development plan petitions:

- A. Land use density and intensity.
- B. Building heights and setbacks.
- C. Character or type of use proposed.
- D. Site and architectural mitigation design techniques.

Mitigation of Potential Impacts

Potential incompatibility shall be mitigated through techniques including, but not limited to:

I. Providing open space, perimeter buffers, landscaping and berms.

➤ Landscaped perimeter buffers address any adverse functional or aesthetic impacts to other properties from the form, nature and size of the development.

J. Screening of sources of light, noise, mechanical equipment, refuse areas, delivery and storage areas.

➤ Extensive buffering , including walls, berm , landscaping ,and open space to the south.

K. Locating road access to minimize adverse impacts.

➤ Access only from Auburn Road to prevent or minimize any potential adverse impacts – NO access to/from Fox Lea Drive

L. Adjusting building setbacks to transition between different uses.

➤ N/A – the actual uses are buffered and lots are setback, so there is no need for additional building setbacks.

M. Applying step-down or tiered building heights to transition between different uses.

➤ Building heights limited to 1 story/25' to transition or prevent impacts to/from Fox Lea Farm and surrounding area.

N. Lowering density or intensity of land uses to transition between different uses.

➤ At 2.15 du/acre the density transitions between I-75 and Sawgrass, and between I-75/Border Road and Fox Lea Farm.

Developer's Agreement: Notice of Proximity for I-75 and Fox Lea Farm (drafted by Fox Lea) to inform residents and protect City and Fox Lea Farm;
Prohibitions against fireworks, drones, and open fires.

Considerations for Compatibility

Considerations for determining compatibility shall include, but are not limited to, the following:

E. Protection of single-family neighborhoods from the intrusion of incompatible uses.

N/A: The development does not intrude into any existing single-family neighborhoods. The proposed single-family uses are by definition compatible with other single family uses.

F. Prevention of the location of commercial or industrial uses in areas where such uses are incompatible with existing uses

N/A: The development does not propose commercial or industrial uses.

G. The degree to which the development phases out nonconforming uses in order to resolve incompatibilities resulting from development inconsistent with the current Comprehensive Plan.

The development eliminates existing agricultural use and zoning that is inconsistent with the Plan.

H. Densities and intensities of proposed uses as compared to the densities and intensities of existing uses.

The development is consistent and compatible with nearby residential densities and is less intense than the existing Fox Lea Farm non-residential use.