

Windham Response to Fox Lea Proposal

Amended Master Plan Conditions

3 – Construction and Staging Conditions.

B) **NO BURNING; MANAGEMENT OF CHIPPING.** The burning of land clearing material and debris is prohibited on the Property; in lieu of burning Developer shall utilize a wood chipper that is shielded by a berm as specified herein. The Developer shall create a 12-foot tall temporary berm in the area shown on Sheet 5 and shall position the wood chipper behind the berm for the purposes of minimizing the sound impact on Fox Lea Farm. The wood chipper shall be operated
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C) **CONSTRUCTION TRAFFIC.** Construction access to the site shall be from Auburn Road and shall be clearly marked by signage, and there shall be no use of Fox Lea Drive as access to or from the Property at any time.

Additional Ordinance Conditions – Windham will agree to add the following:

Note – Windham agrees to either retain Ordinance Condition # 6 or replace the current language of that condition with Fox Lea's proposed condition #4.

7) **Construction Screen.** Fox Lea Farm shall obtain three quotes for the installation, rental, maintenance and removal of up to 450 linear feet of 6' screening (at 90% opacity) on 12' posts (the Construction Screen) to be installed along the northern property line of Fox Lea Farm during land development and construction of the Property, and these quotes shall include all permitting costs necessary for installation of the construction screen (the "Construction Screen Quotes"). Fox Lea Farm shall present the quotes to the Developer no later than sixty (60) days after this ordinance becomes effective unless a longer period is agreed to by Developer. Developer shall thereafter deliver a check for the lowest bid to Fox Lea Farm within fourteen (14) days, and Fox Lea Farm shall immediately commence contracting and permitting for the installation of the Construction Screen. Construction plan approval for land clearing or grubbing, earthwork or any other site construction activity shall not be effective for sixty (60) days after the delivery of the check or until the Construction Screen is completely installed and secured on Fox Lea's property, whichever comes first.

8) Right-of-way for Fox Lea Drive. Developer shall support any application by Fox Lea Farm to vacate Fox Lea Drive and shall disclaim any rights in the northern half of the street.

9) Water Table Monitoring and Mitigation Plan. Fox Lea Farm has expressed concern over the Developer's dewatering activities associated with construction of the Property's stormwater management ponds, due to the fact that it will depress the water levels beneath Fox Lea Farm's Property and in their water supply pond. Because Fox Lea Farm relies upon stable soil moisture in their equestrian arenas and show rings and adequate water levels within its water supply pond, depressed water levels would compromise the safety of riders and horses. In March of 2019, the Developer's certified professional hydrogeologist performed a predictive ground water flow modeling evaluation using the Southwest Florida Water Management District (SWFWMD) District-Wide Regulatory Model version 3 (DWRMv3) to predict and model water table levels during the dewatering activities, the results of which are produced in the written "Technical Memorandum" dated March 27, 2019. In December 2020, the Developer's hydrogeologist updated the predictions to address the modified site plan and pond location (hereinafter the "Predictive Model"). To ensure that the dewatering activities do not adversely impact Fox Lea Farm, the Developer shall construct, operate and maintain a water table monitoring system, and shall avoid and mitigate all potential adverse impacts, as described below:

a) Water Table Dewatering Compliance Levels. The Predictive Model simulates and depicts model-projected water table levels before, throughout, and after completion of the Developer's dewatering activities associated with construction of its stormwater management ponds. Therefore, site-specific water table levels, derived from the Predictive Model, can be identified on the Developer's Property and Fox Lea Farm's Property at all times before, during, and after dewatering. The precise location of all monitoring wells and the staff gauge shall be identified at the time of installation, and at this time, the Developer shall identify the Predictive Model site-specific water table levels (the dewatering drawdowns) to be used for monitoring wells, which shall be located at points on and adjacent to Fox Lea Farm's Property where the Predictive Model identifies a potential draw down of two feet (2') or more. All of the Predictive Model site-specific water table levels shall be expressed at precision of one-tenth (0.10) foot and shall be certified by a licensed Professional Engineer or Geologist, registered in the State of Florida. Given that Fox Lea Farm utilizes its water supply pond for hydration of the equestrian arenas and show rings, the proposed water table monitoring wells are considered the most accurate determiners of depressed

water levels. Therefore, the Predictive Model's site-specific water table levels for all water table monitoring wells shall hereinafter be referred to collectively as the "Compliance Levels," and individually as the "Compliance Level." Upon certification and prior to initiating dewatering activities, the Developer shall provide the Compliance Levels to Fox Lea Farm. The Developer shall not allow water table measurements at any of the water table monitoring wells to be depressed below the Compliance Levels.

b) Monitoring System. The water table monitoring system shall be comprised of, at a minimum, water table monitoring wells, a staff gauge, pressure transducers with a telemetry system, and remote monitoring technology via the internet, whereas all the requisite details of components are further specified throughout all provisions below (hereinafter collectively referred to as the "Monitoring System"). The Monitoring System shall allow for manual measurements to be made without material interruption to the system components. The Developer shall bear all costs associated with the Monitoring System, including but not limited to design, permitting, installation, operation, and maintenance.

c) Timing and Authorization for Installation. The Monitoring System shall be in place, collecting water table level data, and operating in good working order, no less than two (2) weeks prior to the commencement of site construction work on the Property's stormwater ponds and shall remain in place for 180 days after the Property's stormwater ponds are constructed and filled to their design water levels, or until ground water levels at Fox Lea Farm's Property have returned to their pre-construction state, whichever is later (the "Monitoring Period"). The Developer shall operate and maintain the Monitoring System in good working order at all times and shall remove the Monitoring System at the end of the Monitoring Period. The Developer's engineer(s), consultant(s), subconsultant(s) and contractor(s) shall obtain verbal authorization from Fox Lea Farm's Agents prior to entering or performing any work on Fox Lea Farm's Property. All work authorized by Fox Lea Farm's Agents shall be performed in a manner that does not disturb or interfere with Fox Lea Farm's business operations or clients.

d) Water Table Monitoring Wells and Staff Gauge.

i) Number and Location of Water Table Monitoring Wells. Fox Lea hereby grants Developer such consents and easements on Fox Lea Farm's Property necessary to establish three (3) water table monitoring wells on Fox

Lea Farm's property at the locations identified on Exhibit "C" attached hereto (shown as Wells 1, 2 and 4).

ii) Specification of Water Table Monitoring Wells. The Developer shall construct the water table monitoring wells to meet all applicable standards set by American Society for Testing and Materials (ASTM) International, the Florida Department of Environmental Protection (FDEP), the SWFWMD, applicable Sarasota County regulations, and applicable City of Venice regulations, if any, respectively and if required by law. Each water table monitoring well shall be a minimum of two (2) inches in diameter and extend to a depth of at least 15 feet and no more than 17 feet below land surface (ft. BLS). Each water table monitoring well shall be constructed with 10 feet (ft.) of 10 slot PVC screen (0.01-in.) and, at a minimum, approximately 8-ft. of Schedule 40 PVC well casing. Each water table monitoring well shall have a lockable, metal protective casing extending approximately three (3) feet above land surface (ft. ALS) and a 2-ft. by 2-ft. concrete well pad. The water table monitoring wells shall be plumb and developed (pumped until discharge water is clear) to remove fine sediments that may have been introduced into the well screens during installation. A protective fence or bollards that ensure the safety and security of horses shall be installed around each water table monitoring well installed on Fox Lea Farm's Property. Following installation and development of every water table monitoring well, a Florida licensed land surveyor shall measure and provide elevations for each and every: (i) ground surface at the well pad; (ii) top of metal protective casing (lid down); and, (iii) top of PVC well casing at an identifiable notch.

iii) Staff Gauge. Fox Lea hereby grants the Developer such consents and easements on Fox Lea Farm's Property necessary to install a staff gauge on the northern shoreline of the water supply pond on Fox Lea Farm's Property, as shown on Exhibit "C" attached hereto (shown as location "S9"). The staff gauge(s) shall be constructed with five (5) ft. of two (2) inch diameter 10 slot PVC screen (0.01-in.) resting on the bottom of the pond where installed and clamped to a black steel pipe driven into the pond's bottom for vertical support. Following staff gauge installation, a Florida licensed land surveyor shall measure and provide the elevation for the top of PVC well screen at an identifiable notch.

e) Monitoring System Equipment, Technology and Use. The Developer shall install recording water level pressure transducers at each water table monitoring well and staff gauge along with a telemetry system. The telemetry system shall allow for the remote observation and collection of water

table level data without interfering with Fox Lea Farm's business operations or clients. The Developer shall install the Diver® system by Van Essen, or a similar system, that allows water table level measurements to be remotely monitored via the internet. The pressure transducers shall take hourly measurements and telemetry data shall be uploaded to the internet at a minimum of every three (3) hours. Water table levels shall be monitored and uploaded in this manner for the entire Monitoring Period, and all data collected shall be uploaded to and remain on the internet. The Developer shall also save the data to its hard drive for back up. For purposes of verifying the accuracy of the telemetry system measurements, the Developer's engineer(s) or hydrogeologist(s) shall take manual water table level measurements at each water table monitoring well and staff gauge on a bi-weekly basis throughout the entire Monitoring Period. If any of the telemetry system measurements differ by more than one-tenth (0.10) foot of the corresponding manual measurements, the Developer shall immediately take the following actions:

- i) Notify Fox Lea Farm's Agents of the Monitoring System measurement error(s);

- ii) Immediately fix and calibrate the Monitoring System until all telemetry measurements and corresponding manual measurements differ by no more than one-tenth (0.10) foot—however, the manual measurements used for comparison must be no more than two (2) days older than the most current corresponding telemetry measurements; and,

- iii) Correct all previously recorded data and save the same as prescribed herein.

f) Data Collection; Sharing and Notification Protocol. The Developer's engineer(s) shall monitor, collect, record, save, and share the data from the water table monitoring wells and staff gauge to all required parties, as specified herein. Access to the data and real-time viewing via internet of the water level measurements shall be provided to the site dewatering contractor, Fox Lea Farm's Agents, the Developer and its engineer(s). The telemetry system shall immediately (in real time) send a warning notification to the site dewatering contractor, Fox Lea Farm's Agents, and the Developer and its engineer(s) when the water table measurements at any of the water table monitoring wells or staff gauge first reach the following measurements:

- i) at or within one (1.0) foot above the Compliance Level;
- ii) one-half (0.5) of a foot above the Compliance Level; and

iii) one-tenth (0.10) of a foot below the Compliance Level.

g) Avoidance and Mitigation of Adverse Impacts. The parties agree that once a measured water level at any of the water table monitoring wells decreases to within one (1) foot above the Compliance Level, it indicates that the present dewatering rate is likely to cause water levels to continue to decrease if ongoing monitoring of dewatering rates does not occur. The intent of these provisions is only to require the site dewatering contractor to monitor and adjust dewatering rates, as necessary, so that all water levels do not continue to decrease to an Adverse Impact level. Therefore, so long as all measured water levels at all water table monitoring wells are greater than one (1) foot above the Compliance Level, continuous monitoring shall not be required.

h) Adverse Impact Defined. An "Adverse Impact" is deemed to occur whenever the measured water table level at any of the water table monitoring wells are greater than one-tenth (0.10) of a foot below the Compliance Level (i.e., one-fifteenth (0.15) of a foot below the Compliance level). At all times, the Developer should maintain water table levels at all water table monitoring wells at or above Compliance Levels in order to avoid an Adverse Impact.

i) Avoidance and Mitigation Requirements.

i) As soon as a measured water level at any of the water table monitoring wells are at or within one (1) foot above the Compliance Level, the site dewatering contractor shall continuously monitor conditions, water levels, and dewatering rates and be immediately available to take any actions necessary to avoid and mitigate adverse impacts.

ii) As soon as a measured water level any of the water table monitoring wells are less than one-half (0.5) foot above the Compliance Level, the site dewatering contractor shall immediately reduce the dewatering rate to correct water table levels so that measurements at all water table monitoring wells are at or above the Compliance Level.

iii) As soon as an Adverse Impact occurs (when the measured water level any of the water table monitoring wells is greater than one-tenth (0.10) of a foot below the Compliance Level), the site dewatering contractor shall immediately cease all dewatering activities until water levels return to a minimum of one-half (0.5) foot above the Compliance Level.

j) Enforcement. Upon the occurrence of an Adverse Impact prohibited under Sections h and i, Fox Lea Farm shall have the right to obtain an injunction

to halt the breach, as well as damages for any personal or economic loss incurred as a result of the Developer's or, including but not limited to, Developer's engineers, contractors, subcontractors, consultants, failure to comply with any of the requirements hereof. Fox Lea shall not be required to provide Developer prior notice or an opportunity to cure the breach prior to filing for judicial relief. This right of Fox Lea Farm's shall be cumulative and available for each and every occurrence of an Adverse Impact.

