

# MURPHY OAKS PUD CITY COUNCIL HEARING ON REVISED APPLICATION

August 28, 2019

## DEVELOPMENT TEAM

- Robert Lincoln, M.S.P., J.D., B.C.S. - Attorney, Planner
- Clint Cuffle, P.E. - WRA, LLC - Civil Engineer
- Salvatore DePaolis, P.E. – WRA - Civil Engineer (Water)
- Gary Walker, - EnSite, Inc. – Landscape Planner
- Herb Lawson - Windham Development, Inc.
- Gregg Singleton, P.E. – Windham Development, Inc.
- Joshua Gadowski, E.I. – Windham Development, Inc.

# CHANGES TO THE APPLICATION

## **Additional Traffic Improvements**

- Right hand turn - Edmondson to Auburn
- Left/Right hand turn--Auburn to Edmondson

**Auburn ROW** – decorative fence rather than PVC fence.

Conditions moved to private enforcement (with guarantees): Drones, Fireworks, Open Fires (post-development). Outdoor speaker condition modified to be enforceable.

**Notice to Buyers** – text is provided in Developer's Agreement– includes both Fox Lea and I-75.

Revised and simplified legal description for ordinance and Developer's Agreement.

Development standards addressing staff implementation concerns – street/cul de sac width and speed, well location, tree permits, utility location.

## **Buffer Along Fox Lea Drive**

- 5' Berm with 8' concrete wall
- Continuous Wax Myrtle Hedge to be allowed to grow naturally.
- 164 canopy trees on south side of berm
- Vegetation in ROW harmed by construction will be replaced.

**Pond** – location and depth modified to reduce groundwater impacts during construction.

**Groundwater Study** – no adverse impacts

**Stormwater Study** - no adverse impacts

**No construction burning** - Chipper north of center pond, with temporary berm..

## PROFFERED CHANGES TO ADDRESS FOX LEA SUGGESTED STIPULATIONS

- Clarify Ordinance and Narrative that development standards previously agreed or proffered clearly have force of stipulations.
  - Fox Lea Buffer standards
  - Chipper/no burning.
  - Limit development activities on southern part of property during peak-season weekends.
- Groundwater monitoring and mitigation plan before, during and after pond construction.
- Provision for Fox Lea Farms to appoint a licensed and insured contractor or engineer to inspect the property during construction.
- Provisions for developer to identify a construction manager, all contractors and subcontractors, and to ensure all contractors and subcontractors are informed about Fox Lea Farms.

# THE COMPREHENSIVE PLAN GOVERNS THE COUNCIL'S DECISION

Sec. 86-32. - **“No development order shall be issued under the provisions of the LDC unless determined to be consistent with the comprehensive plan.”** Applicant must “establish the manner in which the development proposal and/or requested change in land use is consistent with the comprehensive plan.”

Sec. 86-47 (g)(1) “The city council, after receiving the recommendation from the planning commission on a request to amend or supplement a district, may grant or deny such amendment or supplement and may make the granting conditional upon such restrictions, stipulations and safeguards as it may deem necessary to ensure compliance with the intent and purposes of the comprehensive plan.” ***No additional standards are provided.***

Sec. 86-120 (t) (5) “After a public hearing, the planning commission may recommend to city council that the PUD application be granted, subject to stated stipulations and conditions, or disapproved. In making its recommendation, the planning commission shall find that the plans, maps and documents submitted by the applicant and presented at the public hearing do or do not establish that the applicant has met the requirements for a PUD. City council shall thereafter give public notice and shall hold a public hearing to consider and act upon the recommendation of the planning commission and the rezoning application.” ***No additional standards are provided.***

**The Council must approve the petition if it is consistent with the Comprehensive Plan.**

## THE PROPOSED LAND USE AND DENSITY ARE CONSISTENT WITH THE COMPREHENSIVE PLAN

**Future Land Use Designation is “Low Density.”** Per LU Strategy 1.2.3, the gross density is 1 to 5 units per acre and implementing districts are RE, RSF1, RSF2, RSF3. PUD is permitted pursuant to prior vested rights determination.

### Part of Auburn Road **JPA Area 2.A – Subarea I**

- **Density of up to 3 units per acre.**
- **Residential uses permitted in Subarea I.**
- **Equestrian uses recognized for Subarea 2 – Fox Lea Farm property.**
- OUE-I is not an implementing zone district.
- OUE-I agricultural uses are NOT consistent with the Comprehensive Plan and JPA.
- OUE-I density (1 unit/5 acres) is NOT consistent with the Comprehensive Plan and JPA.
- Retaining the OUE-I Zone District violates the Comprehensive Plan.

**THE CITY LEGISLATIVELY DETERMINED THAT RESIDENTIAL DEVELOPMENT OF THE PROPERTY IS COMPATIBLE WITH THE FOX LEA FARM EQUESTRIAN USE BY ADOPTING THE COMPREHENSIVE PLAN AND JPA.**

## TRANSITIONAL POLICY 8.2 – SCOPE AND PURPOSE

**Ensure that the character and design of infill and new development are compatible with existing neighborhoods.**

Neighborhood: An integrated area related to the City of Venice and used to identify portions of the community and it may consist of residential districts, a school or schools, shopping facilities, religious buildings, and open spaces.

**Policy 8.2 does not apply to or protect commercial equestrian uses such as Fox Lea Farm.**

**Policy 8.2 addresses the “character and design” of new development, not issues such as construction impacts and techniques.**

# CHARACTER AND DESIGN - MURPHY OAKS

**Density:** 2.65 units/acre

Open Space: 20.09 acres/50.6%

Use: 105 Detached Single-Family Homes

Building height – 1 story; 25' max.

Min Lot Size – 6,050 sq ft

Setbacks - Front–20'; Side– 5'; Rear-10'

**Max coverage** (based on setbacks) – 60%

**ROW:** 50' ROW, 10' travel lanes, 2 sidewalk

**Site design:** driveway/access, buffering, stormwater and other aspects of the development limit or address any adverse affects on adjacent or nearby property.

**Access** - From Auburn Road, with left hand turn lane; no access to/from Fox Lea Drive

**Buffers:**

- Auburn Road: 50', winding sidewalk, 90% opacity, decorative fence
- Border Road: min 45.7' buffer, partial 6' fence
- I-75 - min 120.9' vegetated buffer with berm and 6' concrete wall
- Fox Lea Drive: 40' vegetated buffer with 5' berm and 8' concrete wall with wax myrtle hedge and 164 additional trees, followed by pond, for total of 179'. Protection for existing vegetation in ROW south of property line.

## THE DEVELOPMENT IS CONSISTENT WITH THE DENSITY AND CHARACTER OF NEARBY NEIGHBORHOODS/PUDS

<b>Development</b>	<b>Density</b>	<b>Character, design and other aspects of development</b>
Milano PUD	2.56±	SF lots (mixed) min 4,500 sft; attached 4,140; setbacks 20/5/10 no max building coverage; 43' wide ROW with 1 sidewalk
SJMR PUD	1.8±	SF lots (mixed) min 4,500 sft; attached 4,140; setbacks 20/5/10, no max building coverage; 43' wide ROW with 1 sidewalk
Waterford PUD	3.67±	Multiple phases with lots < 7,500 sft– Colony, Devonshire, Ashley Place, Turnberry Place; Berkshire Place, Palm Villas
Sawgrass	1.8±	Multiple phases with smaller lots: 116 lots < 7,500 sft; 83 under 7,000 sft.; 48 of 6,050 sft; 14 Villa lots; 50' ROW;
Woods	1.94	SF lots size 6,500, setbacks 20/5/10 no max coverage;
GCCF	4	SF detached min 4,500'; attached min 4,025 sft; no max lot coverage; setbacks 20/5/10; 43' ROW with 10' lanes and 1 sidewalk
Rustic Road	3.14	SF detached min 4,500; attached min 4,140; setbacks 20/5/10; no max coverage, ROW -45' with 10' lanes and 1 sidewalk



COMPATIBILITY AS  
DEFINED IN THE  
COMPREHENSIVE  
PLAN

**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.**

# COMPATIBILITY WITH FOX LEA FARM

- **Access:** Access drive on Auburn with left turn lane; no vehicular or pedestrian access to Fox Lea Drive; no sidewalk on Fox Lea Drive.
- **Stormwater:** No discharge from areas north of berm to Fox Lea Drive ditch; Study shows project has no adverse off-site impact in 25 year storm event, consistent with City/SWFWMD standards.
- **Groundwater:** Pond configuration changed to minimize impacts. No adverse impact from pond construction; monitoring and mitigation plan will be implemented.

## Mitigation of Potential Adverse Impacts:

- 40' landscaped buffer with 5' berm, 8' wall, trees and hedge, protection for existing trees in ROW, and stormwater pond.
- Best efforts to avoid weekend construction of horizontal improvements and roofs in-season
- Chipping rather than burning land clearing material
- Height limit to 1 story.
- No south-facing speakers on south houses
- No fireworks, drones, outdoor fires
- Notice of proximity/Fox Lea Activity (drafted by Fox Lea) to protect Fox Lea against future claims of nuisance.
- Proposed standards for inspection, communication and coordination during development and groundwater monitoring and mitigation.

## COMPREHENSIVE PLAN POLICY 8.2 – COMPATIBILITY REVIEW

Compatibility review shall include the evaluation of the following items with regard to ..., rezoning... petitions:

- A. Land use density and intensity. **Proposed densities are consistent with nearby PUDs and neighborhoods. Intensity is less than Fox Lea Farm, which is not a neighborhood.**
- B. Building heights and setbacks. **Building height limited to 1 story – less than other PUDs/nearby neighborhoods; setbacks are consistent with nearby neighborhoods and PUDs.**
- C. Character or type of use proposed – **Proposed detached single family uses are similar to and compatible with nearby neighborhoods and PUDs, and are less intense than the adjacent Fox Lea Farms commercial equestrian use.**
- D. Site and architectural mitigation design techniques. **The proposed site design and layout with pond along southern part of property, and extensive landscaped buffers along with height limits and lot location will mitigate any potential visual, auditory, or other impacts on nearby neighborhoods.**

**Based on these factors, the proposed development is compatible with existing neighborhoods and also with Fox Lea Farm.**

## POLICY 8.2: CONSIDERATIONS FOR DETERMINING COMPATIBILITY

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 and proposes single-family uses *that 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 are inconsistent with the Plan.**

H. Densities and intensities of proposed uses as compared to the densities and intensities of existing uses. **The proposed density is consistent and compatible with nearby neighborhoods. The proposed development is *less intense* than the existing Fox Lea Farm commercial equestrian use, which is not a neighborhood.**

**Based on these considerations, the proposed development is compatible with existing neighborhoods, and also with Fox Lea Farm.**

## POLICY 8.2 – MITIGATION

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

- I. Providing open space, perimeter buffers, landscaping and berms. The Development provides extensive landscaped perimeter buffers and berms address any adverse functional or aesthetic impacts between the development, Fox Lea Farm, and any other nearby neighborhood.**
- J. Screening of sources of light, noise, mechanical equipment, refuse areas, delivery and storage areas. To the extent the development creates any such impacts, they will be screened by buffers, including berms with walls and extensive landscaping and trees. Outdoor speakers prohibited on south side of southerly lots.**
- K. Locating road access to minimize adverse impacts. The access drive is on Auburn Road, with no vehicular or pedestrian access to Fox Lea Drive.**
- L. Adjusting building setbacks to transition between different uses. The proposed use is the same as nearby neighborhoods. The residential lots are set back from Fox Lea Drive by 179' with a landscaped buffer and stormwater pond to transition between the proposed residential use and Fox Lea Farms' commercial equestrian use.**

## POLICY 8.2 – MITIGATION OF POTENTIAL INCOMPATIBILITIES (CONT)

M. Applying step-down or tiered building heights to transition between different uses. **Building heights are limited to 1 story/25' to transition to/from Fox Lea Farm.**

N. Lowering density or intensity of land uses to transition between different uses. **There is no difference in use with respect to Sawgrass or Waterford that would require a transition. The proposed development is less intense than Fox Lea Farm, which requires no transition, especially given the other development standards and mitigation. The density was previously lowered from 118 to 105 dwelling units.**

**The proposed development is consistent with Policy 8.2 because any potential incompatibilities have been addressed through the Binding Development Concept Plan, the Landscape Plan, the Narrative Master Concept Plan and development standards, and the Developer's Agreement.**

## PLANNING COMMISSION FINDINGS – THE PROPOSED DEVELOPMENT IS CONSISTENT WITH THE COMPREHENSIVE PLAN

**The Planning Commission ... finds this petition consistent with the comprehensive plan,** in compliance with the land development code and with the affirmative findings of fact in the record, and recommends approval to city council of the **Murphy Oaks planned unit development zoning map amendment** Petition No. 17-16RZ with the following stipulations:

1. No access to Fox Lea Drive.
2. Purchaser of the properties be required to sign documents acknowledging the existence and location of Fox Lea Farm in the vicinity of the property being purchased.
3. All previous stipulations be included in the ordinance along with the ones stated, and the master plan be updated to conform with the final ordinance.
4. For any standard not addressed in the Murphy Oaks PUD the appropriate standard found in the city's land development code Chapters 86 and 122 will be applied.
5. Housing be limited to single story.

**The amended application and ordinance satisfy or improve on these conditions.**

## PLANNING STAFF CONCLUSIONS AND FINDINGS

**Concurrency:** Concurrency was met other than for transportation. The current proposal addresses additional transportation deficiencies and will pay mobility fees.

**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 JP/ILSBA Joint Planning agreement with Sarasota County, **the project may be found consistent with the City's Comprehensive Plan.**

**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.

## THE REVISED APPLICATION ONLY IMPROVES THE PROJECT'S COMPATIBILITY AND CONSISTENCY

**The Project will fund intersection improvements at Auburn/ Edmondson that will address existing deficiencies, and which could not be imposed by the City, as well as paying mobility fees.**

**Fox Lea Farm compatibility concerns were addressed with a 5' berm, 8' wall, additional landscaping/trees, and protection of vegetation in the Fox Lea Drive ROW.**

**Fox Lea Farm concerns regarding future resident complaints have been addressed through the notice of proximity.**

**Fox Lea Farm construction concerns such as ground water level impacts and monitoring, chipping land clearing debris, and coordination have been addressed.**

**Fox Lea and community concerns regarding stormwater impacts have been addressed by an engineering study demonstrating City and SWFWM standards will be met.**

**The project was compatible with the existing neighborhoods (and Fox Lea Farm) and consistent with the Comprehensive Plan when it came before the Council last November. It is only better now.**

## CONCLUSION

The proposed development, subject to the Binding Master Concept Plan, Landscape Plan, Master Plan Narrative and Developer's Agreement is compatible with the existing neighborhoods.

Even though Fox Lea Farm is not protected from incompatibility from the proposed development under Policy 8.2 or any other provision of the Comprehensive Plan, the proposed development mitigates any potential incompatibility between the residential use and Fox Lea Farm's commercial equestrian use.

**.The proposed development is consistent with the Comprehensive Plan. The existing OUE-I Zoning is not.**

**The Council therefore must approve the Petition.**

QUESTIONS?