



**Interoffice Memorandum**

**DATE:** March 10, 2020

**TO:** Mayor Jerry L. Demings  
-AND-  
Board of County Commissioners

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

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

**SUBJECT:** March 10, 2020 – Public Hearing  
Kathy Hattaway, Poulos and Bennett, LLC  
Horizon West – Village I - Serenade at Ovation Planned  
Development  
Case # LUP-18-10-354 / District 1  
(Related to RAG-19-11-049 - Consent Item)

The Horizon West - Village I - Serenade at Ovation Planned Development (PD) is located generally south of Flemings Road, and west of Avalon Road. The applicant is seeking to rezone the 156.84 gross acre subject property from A-1 (Citrus Rural District), A-2 (Farmland Rural District), and PD (Planned Development District) to PD (Planned Development District) in order to construct 291 attached and detached single-family dwelling units. The Horizon West Special Planning Area Land Use Map for Village I designates the subject property as Garden Home Mixed Use District and Village Home District. The request includes revising the land use district for a portion of PD Parcel 19 from Garden Home Mixed Use District to Village Home District. Additionally, six waivers from Orange County Code are requested relating to residential lot access via tracts or easements in lieu of a dedicated public street to the individual lots; to allow alley design as tracts instead of easements; to allow garage access from an alley tract instead of an easement; to allow garages accessed from tracts to use the same setbacks as if accessed from an easement; and to allow the project to obtain a Capacity Encumbrance Letter (CEL) upon the project becoming subject to the Village I Road Network Agreement.

On December 18, 2019, the Development Review Committee (DRC) recommended approval of the request, subject to conditions, with the exception of Condition 21(f), which is the waiver related to the CEL. On January 16, 2020, the Planning and Zoning Commission (PZC) recommended approval of the request, subject to conditions, with the exception of Condition 21(f). A community meeting was not required for this application. Finally, 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 PD/LUP may be found in the Planning Division for further reference.

**ACTION REQUESTED: Make a finding of consistency with the Comprehensive Plan (CP) and approve the Horizon West – Village I - Serenade at Ovation Planned Development / Land Use Plan (PD/LUP) dated “Received November 25, 2019”, subject to the conditions listed under the PZC Recommendation in the Staff Report. District 1**

Attachments  
JWW/EPR/nt

**GENERAL INFORMATION**

<b>APPLICANT</b>	Kathy Hattaway, Poulos & Bennett, LLC
<b>OWNER</b>	Spring Grove, LLC and BB Groves, LLC
<b>PROJECT NAME</b>	Horizon West – Village I – Serenade at Ovation Planned Development (PD)
<b>HEARING TYPE</b>	Planned Development / Land Use Plan (PD / LUP)
<b>REQUEST</b>	<b>A-1</b> (Citrus Rural District), <b>A-2</b> (Farmland Rural District), and <b>PD</b> (Planned Development District) to <b>PD</b> (Planned Development District)

*A request to rezone 155.4 gross acres from A-1 (Citrus Rural District) and A-2 (Farmland Rural District) to PD (Planned Development District) and transfer 1.44 acres from the Spring Grove - Jaffers PD into this PD, for a total of 156.84 acres, in order to construct 291 attached and detached residential dwelling units. The request also includes the following waivers from Orange County Code:*

1. A waiver from Section 34-152(c), to allow lots to front a mews, park, open space, etc. and have access via a tract or easement, in lieu of the requirement that each lot shall have a minimum access width of twenty (20) feet to a dedicated public paved street.

***Applicant Justification:*** *Orange County Code Section 38-1382(h)(6) provides for the incorporation of mews in project design where residential units have only rear access. Legal access to these lots will be through an ingress/egress tract shown on the plat.*

2. A waiver from Section 38-1382(h)(4), to allow alleys to be designed as a tract, in lieu of the requirement that they shall be designed as a private easement.
3. A waiver from Section 38-1384(g)(1) to allow garage access to be set back from an alley tract, in lieu of an easement.
4. A waiver from Section 38-1384(g)(2), to allow detached garages without access to a rear alley tract, including garages with an accessory dwelling unit, shall be located a minimum of five (5) feet from side and rear property lines,

and shall be no closer than ten (10) feet to any other detached structure on the same lot, in lieu of detached garages without access to a rear alley easement, including garages with an accessory dwelling unit, shall be located a minimum of five (5) feet from side and rear property lines, and shall be no closer than ten (10) feet to any other detached structure on the same lot.

5. A waiver from Section 38-1384(i)(2) to allow vehicular access to garages or other off-street parking to be from a rear alley tract, in lieu of an easement.

***Applicant Justification for Waivers 2-5:*** *The alleys are to be owned and maintained by the Home Owners Association (HOA). Placing them in a fee simple tract without underlying individual ownership allows for a clearer separation of ownership and maintenance responsibilities.*

6. A waiver from Orange County Code Section 30-551 is requested to allow the project to obtain a CEL upon the project becoming subject to the Village I Road Network Agreement, provided that all other requirements for obtaining a CEL have been met by the applicant. The foregoing is in lieu of allowing the project to obtain a CEL prior to the issuance of trips for the project under the Village I Road Network Agreement.

***Applicant Justification:*** *The Village I Road Network Agreement provides a process for securing transportation concurrency for the project. Because the Village I Road Network Agreement does not address concurrency for other facilities, such as schools, there needs to be a mechanism for the project to satisfy concurrency for these other facilities independently of the Village I Road Network Agreement.*

<b>LOCATION</b>	South of Flemings Road / West of Avalon Road
<b>PARCEL ID NUMBERS</b>	30-24-27-0000-00-003 (portion of) & 30-24-27-0000-00-028 (portion of)
<b>TRACT SIZE</b>	156.84 gross acres / 54.20 net developable acres
<b>PUBLIC NOTIFICATION</b>	The notification area for this public hearing was 1,500 feet [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. One thousand two hundred forty-nine (1,249) notices were mailed to those property owners in the surrounding area. A community meeting was not required for this application.

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**PROPOSED USE** Two hundred ninety-one (291) attached and detached residential dwelling units

**STAFF RECOMMENDATION**

**Development Review Committee – (December 18, 2019)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Horizon West – Village I - Serenade at Ovation Planned Development / Land Use Plan (PD/LUP), dated “November 25, 2019”, subject to the following conditions of approval:**

1. Development shall conform to the Horizon West – Village I - Serenade at Ovation Land Use Plan (LUP) dated "Received November 25, 2019," and shall comply with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. Accordingly, the PD may be developed in accordance with the uses, densities, and intensities described in such Land Use Plan, subject to those uses, densities, and intensities conforming with the restrictions and requirements found in the conditions of approval and complying with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. If the development is unable to achieve or obtain desired uses, densities, or intensities, the County is not under any obligation to grant any waivers or modifications to enable the developer to achieve or obtain those desired uses, densities, or intensities. In the event of a conflict or inconsistency between a condition of approval and the land use plan dated "Received November 25, 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 land use 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 the property is otherwise vested or exempt, the applicant must apply for and obtain a capacity encumbrance letter prior to construction plan submittal and must apply for and obtain a capacity reservation certificate prior to approval of the plat. Nothing in this condition, and nothing in the decision to approve this land use plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a capacity encumbrance letter or a capacity reservation certificate.
7. Pursuant to the BCC condition of approval on November 13, 2018, this project shall comply with the terms and conditions of the future Village I Roadway

Network Agreement, as approved by the BCC and as may be amended from time to time.

8. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) submittal and must be approved prior to Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) approval for any streets and/or tracts anticipated to be dedicated to the County and/or to the perpetual use of the public.
9. 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.
10. Approval of this plan does not constitute approval of a permit for the construction of a boat ramp. Any person desiring to construct a boat ramp shall apply to the Orange County Environmental Protection Division as specified in Orange County Code Chapter 15 Environmental Control, Article XV Boat Ramps, prior to installation, for an Orange County Boat Ramp Facility Permit, as well as to any other Orange County Division(s) for any other applicable permits.
11. All acreages identified as conservation areas and wetland buffers are considered approximate until finalized by a Conservation Area Determination (CAD) and a Conservation Area Impact (CAI) Permit. Approval of this plan does not authorize any direct or indirect conservation area impacts.
12. 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).
13. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
14. Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP). 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.
15. The developer shall be responsible for building master utilities transmission and collection infrastructure adequate to serve the project to accommodate the ultimate flows for the entire Village (SAP). Utilities infrastructure shall be built connecting to the build-out points of connection approved in the Master Utilities Plan (MUP).

16. A 5-year interim Master Utility Plan (MUP) for Village I must be approved prior to Construction Plan approval within this PD.
17. Prior to construction plan approval, all property owners within the Village I, excluding public entities, shall be required to sign an agreement between the parties addressing their proportionate share of funds for the costs of the offsite and onsite master utilities sized to Village requirements. Property owners may elect to use alternate financing in lieu of the private proportionate cost share agreement provided master utilities sized for Village requirements are constructed.
18. Tree removal/earthwork shall not occur unless and until construction plans for the first Preliminary Subdivision Plan and/or Development Plan with a tree removal and mitigation plan have been approved by Orange County.
19. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
20. 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 and up-to-date 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.
21. The following waivers from Orange County Code are granted:
  - a. A waiver from Section 34-152(c) to allow lots to front a mews, park, open space, etc. and have access via a tract or easement, in lieu of the requirement that each lot shall have a minimum access width of twenty (20) feet to a dedicated public paved street.
  - b. A waiver from Section 38-1382(h)(4) to allow alleys to be designed as a tract, in lieu of the requirement that they shall be designed as a private easement.
  - c. A waiver from Section 38-1384(g)(1) to allow garage access to be setback from an alley tract, in lieu of an easement.
  - d. A waiver from Section 38-1384(g)(2) to allow detached garages without access to a rear alley tract, including garages with an accessory dwelling unit, shall be located a minimum of five (5) feet from side and rear property lines, and shall be no closer than ten (10) feet to any other detached structure on the same lot, in lieu of detached garages without access to a rear alley easement, including garages with an accessory dwelling unit, shall be located a minimum of five (5) feet from side and rear property lines, and shall be no closer than ten (10) feet to any other detached structure on the same lot.



- e. A waiver from Section 38-1384(i)(2) to allow vehicular access to garages or other off-street parking to be from a rear alley tract, in lieu of an easement.
  
- f. A waiver from Orange County Code Section 30-551 to allow the project to obtain a CEL upon the project becoming subject to the Village I Road Network Agreement, provided that all other requirements for obtaining a CEL have been met by the applicant. The foregoing is in lieu of allowing the project to obtain a CEL prior to the issuance of trips for the project under the Village I Road Network Agreement.

**DRC recommends denial of Waiver 21(f) above**

## **IMPACT ANALYSIS**

### **Land Use Compatibility**

The proposed development program is compatible with existing development in the area, and would not adversely impact any adjacent properties.

### **Comprehensive Plan (CP) Consistency**

The subject property has an underlying Future Land Use Map (FLUM) designation of Village (V), indicating that it is within the Horizon West Special Planning Area. More specifically, the subject property is located within Horizon West Village I and is proposed as Garden Home Mixed Use District and Village Home District. The Garden Home Mixed Use District has a required density of four (4) dwelling units per net developable acre, and a maximum permitted density of eight (8) dwelling units per net developable acre with the use of Transfer of Development Rights (TDR) credits. The Village Home District has a required density of six (6) dwelling units per net developable acre, and a maximum permitted density of twelve (12) dwelling units per net developable acre with the use of Transfer of Development Rights (TDR) credits. The proposed PD zoning district and development program are consistent with the Village (V) FLUM designation and the following CP provisions:

**FLU1.4.1** states Orange County shall promote a range of living environments and employment opportunities in order to achieve a stable and diversified population and community.

**FLU1.4.2** states that Orange County shall ensure that land uses changes are compatible with and serve existing neighborhoods.

**GOAL FLU2** states that Orange County will encourage urban strategies such as infill development, coordinated land use and transportation planning, and mixed-use development, which promote efficient use of infrastructure, compact development and an urban experience with a range of choices and living options.

**GOAL FLU4** (Horizon West) states that it is Orange County's goal to ensure sustainable, quality development in Southwest Orange County to allow a transition from rural to urban uses while protecting environmental quality.

**OBJ FLU4.1** states that Orange County shall use a Village Land Use Classification to realize the long range planning vision for West Orange County created through the Horizon West planning process. The Village land use classification has been designed to address the need to overcome the problems associated with and provide a meaningful alternative to the leap-frog pattern of sprawl now occurring in western Orange and eastern Lake County; create a better jobs/housing balance between the large concentration of employment in the tourism industry and the surrounding land uses; create a land use pattern that will reduce reliance on the automobile by allowing a greater variety of land uses closer to work and home; and, replace piecemeal planning that reacts to development on a project by project basis with a long range vision that uses the Village as the building block to allow the transition of this portion of Orange County from rural to urban use through a specific planning process that uses a creative design approach to address regional, environmental, transportation, and housing issues.

**OBJ FLU8.2** states that compatibility will continue to be the fundamental consideration in all land use and zoning decisions. For purposes of this objective, the following polices shall guide regulatory decisions that involve differing land uses.

**FLU8.2.1** states that land use changes shall be required to be compatible with the existing development and development trend in the area. Performance restrictions and/or conditions may be placed on property through the appropriate development order to ensure compatibility. No restrictions or conditions shall be placed on a Future Land Use Map change.

**FLU8.2.2** states that continuous stretches of similar housing types and density of units shall be avoided. A diverse mix of uses and housing types shall be promoted.

**Community Meeting Summary**

A community meeting was not required for this request.

**SITE DATA**

<b>Existing Use</b>	Undeveloped Land / Farmland
<b>Adjacent Zoning</b>	N: PD (Planned Development District) (Spring Grove-Jaffers PD) (2013) A-1 (Citrus Rural District) (1957) A-2 (Farmland Rural District) (1957)
	E: A-1 (Citrus Rural District) (1957)
	W: PD (Planned Development District) (Spring Grove-Jaffers PD) (2013) Lake County

S: PD (Planned Development District) (Lake Austin PD)  
(2010)  
A-2 (Farmland Rural District) (1957)

**Adjacent Land Uses**

N: Undeveloped Land

E: Undeveloped Land

W: Undeveloped Land

S: Resort Hotel /  
Undeveloped Land

**APPLICABLE PD DEVELOPMENT STANDARDS**

Unless expressly waived by the Board of County Commissioners, development shall comply with all standards found in Section 38-1387 (Garden Home Mixed Use District and Village Home District) of the Village Planned Development Code.

**SPECIAL INFORMATION**

**Subject Property Analysis**

The applicant is seeking to rezone the 156.84 gross acres subject property from A-1 (Citrus Rural District), A-2 (Farmland Rural District), and PD (Planned Development District) to PD (Planned Development District) in order to construct 291 attached and detached single-family dwelling units. The Horizon West Special Planning Area Land Use Map for Village I designates the subject property as Garden Home Mixed Use District and Village Home District. The request includes revising the land use district for a portion of PD Parcel 19 from Garden Home Mixed Use District to Village Home District. Additionally, six waivers from Orange County Code are requested relating to residential lot access via tracts or easements in lieu of a dedicated public street to the individual lots; to allow alley design as tracts instead of easements; to allow garage access from an alley tract instead of an easement; to allow garages accessed from tracts to use the same setbacks as if accessed from an easement; and to allow the project to obtain a Capacity Encumbrance Letter (CEL) upon the project becoming subject to the Village I Road Network Agreement.

Given the 54.20 net developable acres and the Village Home District required density of 6.0 dwelling units per net developable acre and the Garden Home Mixed Use District required density of 4.0 dwelling units per net developable acre, the required residential yield is 262 dwelling units. The applicant is proposing to use twenty-nine (29) Transfer of Development Rights (TDR) credits internally within the proposed PD, increasing the development program to the proposed 291 dwelling units. A TDR agreement has been approved by staff and will be recorded prior to scheduling the public hearing for this rezoning with the Board of County Commissioners.

There are 7.48 acres of Adequate Public Facilities (APF) lands required with this application, with 1.15 acres of APF lands being dedicated for rights-of-way, which leaves an APF deficit of 6.33 acres. An APF Agreement (RAG-19-11-049) has been

submitted with this request to transfer 6.33 surplus APF acreage credits from the Withers PD (CDR-19-10-331) to cover the APF deficit.

In conjunction with this request, the applicant has submitted a change determination request (CDR-18-10-353) to transfer 1.44 acres of the Spring-Grove Jaffers PD into the Serenade at Ovation PD and revise the development tables based on the removal of the property.

**Comprehensive Plan (CP) Amendment**

The subject property has an underlying Future Land Use Map (FLUM) designation of Village (V), indicating that it is within the Horizon West Special Planning Area. More specifically, the subject property is located within Horizon West Village I and is currently proposed as Garden Home Mixed Use District and Village Home District. The proposed use is consistent with these designations and all applicable CP provisions; therefore, a CP amendment is not necessary.

**Rural Settlement**

The subject property is not located in a Rural Settlement.

**Joint Planning Area (JPA)**

The subject property is not located in a Joint Planning Area.

**Overlay District Ordinance**

The subject property is not located in an Overlay District.

**Airport Noise Zone**

The subject property is not located in an Airport Noise Zone.

**Environmental**

Orange County Conservation Area Determination CAD-18-09-138 was completed for this property with a certified wetland boundary survey approved on May 3, 2019. This determination is binding for a period of five years.

Development of the subject property shall comply with all state and federal regulations regarding wildlife and plants listed as imperiled (endangered, threatened, or species of special concern). The applicant is responsible for determining the presence of listed species and obtain any required habitat permits from the U.S. Fish and Wildlife Service (USFWS) and/or the Florida Fish & Wildlife Conservation Commission (FWC).

**Transportation / Concurrency**

On November 13, 2018 the Board of County Commissioners accepted a Term Sheet for Village I. Per the County's Comprehensive Plan Policy FLU4.3.10, the Roadway Network Agreement, which must substantially conform with the Term Sheet, must be signed by the owners of a majority of the undeveloped acreage in Village I and approved by the BCC prior to approval of the first Preliminary Subdivision Plan and/or Development Plan in Village I, with the exception of any project that has a Capacity Encumbrance Letter issued prior to November 13, 2018. On January 28, 2020, the BCC approved the Horizon West Village I Road Network Agreement which provides for the dedication of right-of-way, completion of design, engineering, permitting, mitigation and construction of four-laning of C.R. 545 (Avalon Road) and Flemings Road.

**Water / Wastewater / Reclaimed Water**

	<u>Existing service or provider</u>
Water:	Orange County Utilities
Wastewater:	Orange County Utilities
Reclaimed:	Orange County Utilities

**Schools**

Orange County Public Schools has indicated that there is sufficient capacity and a Capacity Enhancement Agreement (CEA) is not required for this project.

**Parks and Recreation**

Orange County Parks and Recreation reviewed the request, but did not identify any issues or concerns.

**Code Enforcement**

There are no outstanding Code Enforcement violation on the subject property.

**Specific Project Expenditure Report and Relationship Disclosure Forms**

The original Specific Project Expenditure Report and Relationship Disclosure Form are currently on file with the Planning Division.

**PLANNING AND ZONING COMMISSION (PZC) FINDINGS**

The staff report was presented to the PZC with the recommendation that they make a finding of consistency with the Comprehensive Plan and recommend approval of the Serenade at Ovation Planned Development (PD) Land Use Plan, subject to twenty one (21) conditions, with the exception one condition, condition 21(f), which is a waiver related to the CEL process.

Staff indicated that one thousand two hundred forty-nine (1,249) notices were mailed to surrounding property owners within a buffer of 1,500 feet from the subject property, with zero (0) commentaries received in favor of the request and zero (0) commentaries received in opposition. The applicant was present for the hearing and concurred with staff's recommendation. No members of the public spoke at the hearing.

After a brief discussion, a motion was made by Commissioner Dunn to find the request be consistent with the Comprehensive Plan and recommend APPROVAL of the Horizon West – Village I - Serenade at Ovation PD Land Use Plan, subject to the twenty one (21) conditions listed under the DRC Recommendation except for the waiver related to the CEL process. Commissioner Velazquez seconded the motion, which then carried on a 5-0 vote.

**Motion / Second** *Jimmy Dunn / Diane Velazquez*

**Voting in Favor** *Jimmy Dunn, Diane Velazquez, Eddie Fernandez, Gordon Spears, and JaJa Wade*

**Voting in Opposition** *None*

Absent

*Carlos Nazario*

*Mohammed Abdallah declared a conflict of interest*

## **PZC RECOMMENDED ACTION**

**Planning and Zoning Commission (PZC) Recommendation – (January 16, 2020)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Horizon West – Village I - Serenade at Ovation Planned Development / Land Use Plan (PD/LUP), dated “November 25, 2019”, subject to the following conditions of approval:**

1. Development shall conform to the Horizon West – Village I - Serenade at Ovation Land Use Plan (LUP) dated "Received November 25, 2019," and shall comply with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. Accordingly, the PD may be developed in accordance with the uses, densities, and intensities described in such Land Use Plan, subject to those uses, densities, and intensities conforming with the restrictions and requirements found in the conditions of approval and complying with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. If the development is unable to achieve or obtain desired uses, densities, or intensities, the County is not under any obligation to grant any waivers or modifications to enable the developer to achieve or obtain those desired uses, densities, or intensities. In the event of a conflict or inconsistency between a condition of approval and the land use plan dated "Received November 25, 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 land use 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 the property is otherwise vested or exempt, the applicant must apply for and obtain a capacity encumbrance letter prior to construction plan submittal and must apply for and obtain a capacity reservation certificate prior to approval of the plat. Nothing in this condition, and nothing in the decision to approve this land use plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a capacity encumbrance letter or a capacity reservation certificate.
7. Pursuant to the BCC condition of approval on November 13, 2018, this project shall comply with the terms and conditions of the future Village I Roadway Network Agreement, as approved by the BCC and as may be amended from time to time.
8. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) submittal and must be approved prior to Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) approval for any streets and/or tracts anticipated to be dedicated to the County and/or to the perpetual use of the public.

9. 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.
10. Approval of this plan does not constitute approval of a permit for the construction of a boat ramp. Any person desiring to construct a boat ramp shall apply to the Orange County Environmental Protection Division as specified in Orange County Code Chapter 15 Environmental Control, Article XV Boat Ramps, prior to installation, for an Orange County Boat Ramp Facility Permit, as well as to any other Orange County Division(s) for any other applicable permits.
11. All acreages identified as conservation areas and wetland buffers are considered approximate until finalized by a Conservation Area Determination (CAD) and a Conservation Area Impact (CAI) Permit. Approval of this plan does not authorize any direct or indirect conservation area impacts.
12. 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).
13. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
14. Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP). 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.
15. The developer shall be responsible for building master utilities transmission and collection infrastructure adequate to serve the project to accommodate the ultimate flows for the entire Village (SAP). Utilities infrastructure shall be built connecting to the build-out points of connection approved in the Master Utilities Plan (MUP).
16. A 5-year interim Master Utility Plan (MUP) for Village I must be approved prior to Construction Plan approval within this PD.
17. Prior to construction plan approval, all property owners within the Village I, excluding public entities, shall be required to sign an agreement between the parties addressing their proportionate share of funds for the costs of the offsite and onsite master utilities sized to Village requirements. Property owners may elect to use alternate financing in lieu of the private proportionate cost share agreement provided master utilities sized for Village requirements are constructed.



18. Tree removal/earthwork shall not occur unless and until construction plans for the first Preliminary Subdivision Plan and/or Development Plan with a tree removal and mitigation plan have been approved by Orange County.
19. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
20. 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 and up-to-date 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.
21. The following waivers from Orange County Code are granted:
  - a. A waiver from Section 34-152(c) to allow lots to front a mews, park, open space, etc. and have access via a tract or easement, in lieu of the requirement that each lot shall have a minimum access width of twenty (20) feet to a dedicated public paved street.
  - b. A waiver from Section 38-1382(h)(4) to allow alleys to be designed as a tract, in lieu of the requirement that they shall be designed as a private easement.
  - c. A waiver from Section 38-1384(g)(1) to allow garage access to be setback from an alley tract, in lieu of an easement.
  - d. A waiver from Section 38-1384(g)(2) to allow detached garages without access to a rear alley tract, including garages with an accessory dwelling unit, shall be located a minimum of five (5) feet from side and rear property lines, and shall be no closer than ten (10) feet to any other detached structure on the same lot, in lieu of detached garages without access to a rear alley easement, including garages with an accessory dwelling unit, shall be located a minimum of five (5) feet from side and rear property lines, and shall be no closer than ten (10) feet to any other detached structure on the same lot.
  - e. A waiver from Section 38-1384(i)(2) to allow vehicular access to garages or other off-street parking to be from a rear alley tract, in lieu of an easement
  - f. A waiver from Orange County Code Section 30-551 to allow the project to obtain a CEL upon the project becoming subject to the Village I Road Network Agreement, provided that all other requirements for obtaining a CEL have been met by the applicant. The foregoing is in lieu of allowing the project to obtain a CEL prior to the issuance of trips for the project under the Village I Road Network Agreement.

**PZC recommends denial of Waiver 21(f) above**