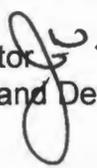




Interoffice Memorandum

DATE: February 11, 2020

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

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

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

SUBJECT: March 10, 2020 – Public Hearing
Kathy Hattaway, Poulos and Bennett, LLC
Horizon West – Village I - Withers Planned Development
Case # CDR-19-10-331 / District 1
(Related to APF-19-12-412 - Consent Item)

The Horizon West – Village I - Withers Planned Development (PD) is located generally east of Avalon Road, north of Hartzog Road, and south of Western Way. The existing PD development program allows for 814 residential units, 10,000 square feet of commercial uses, an Adequate Public Facilities (APF) Park, an Elementary School, and a Middle School.

Through this PD substantial change, the applicant is seeking to revise the unit count and density for PD Parcels 4, 5, and 6; to update the APF table to reflect transfers to the Parcel 1 PD (LUP-19-02-052), Serenade PD (LUP-18-10-354), and Cross PD (LUP-18-12-410); to update the Transfer of Development Rights table to reflect a transfer to the Parcel 1 PD; to update waivers 1-6 to reference PD Parcel 13; and to request two additional waivers to allow shared access between single-family and multi-family residential; 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. A community meeting was not required for this request.

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 substantial change to the Horizon West – Village I - Withers Planned Development / Land Use Plan (PD/LUP) dated “Received November 25, 2019”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1

Attachments
JWW/EPR/nt

CASE # CDR-19-10-331

Commission District: # 1

GENERAL INFORMATION

APPLICANT Kathy Hattaway, Poulos and Bennett, LLC

OWNER Withers, LLC and Columnar Partnership Holding I, LLC

PROJECT NAME Horizon West – Villlage I – Withers Planned Development

PARCEL ID NUMBER(S) 29-24-27-0000-00-001, 29-24-27-0000-00-003, 29-24-27-0000-00-004, 29-24-27-0000-00-008, 29-24-27-0000-00-009, 29-24-27-0000-00-010, 29-24-27-0000-00-017, and 30-24-27-0000-00-011

TRACT SIZE 320.75 gross acres

LOCATION Generally east of Avalon Road, north of Hartzog Road, and south of Western Way.

REQUEST A PD substantial change to revise the unit count and density for PD Parcels 4, 5, and 6; to update the APF table to reflect transfers to the Parcel 1 PD (LUP-19-02-052), Serenade PD (LUP-18-10-354), and Cross PD (LUP-18-12-410); to update the Transfer of Development Rights table to reflect a transfer to the Parcel 1 PD; to update waivers 1-6 to reference PD Parcel 13; and to request two additional waivers to allow shared access between single-family and multi-family residential, and to allow the project to obtain a Capacity Encumbrance Letter (CEL) upon the project becoming subject to the Village I Road Network Agreement.

The applicant has requested the following waivers from Orange County Code:

1. A waiver from Section 34-152(c), for PD Parcels 4, 5, 11, 13, and 17, 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), for PD Parcels 4, 5, 11, 13, and 17, 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), for PD Parcels 4, 5, 11, 13, and 17, 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), for PD Parcels 4, 5, 11, 13, and 17, 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), for PD Parcels 4, 5, 11, 13, and 17, 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 Section 30-714(c) to allow the project to proceed beyond 5% of the approved PD entitlements, which 5% threshold is identified in the APF Agreement as 40 dwelling units (attached or detached); provided, however, that prior to said 5% threshold being reached or exceeded: (A) the approximately 5.81 acres of Future APF Right-of-Way have been conveyed to the County or to an escrow agent who is obligated to release a deed conveying such right-of-way to the County, in accordance with that certain Hartzog Road Right-of-Way Agreement recorded at ORB 9712/4850, as amended, and as affected by that certain First Amendment to Agreement Concerning Hartzog Road Right-of-Way Agreement recorded at ORB 11021/4154, as amended; (B) the approximately 0.98 acres of APF ROW have been conveyed to the County or placed into escrow, pursuant to an escrow agreement acceptable to the County; and (C) the approximately 5.0 acre APF Park has been conveyed to the County or placed into escrow, pursuant to an escrow agreement acceptable to the County.

Applicant Justification: *The school sites cannot be conveyed unless and until the School Board of Orange County requests such conveyances. The timing of conveyance will be addressed in the Capacity Enhancement Agreement for this PD*

7. A waiver from Orange County Code Section 38-1258(g), for PD Parcels 11, 13, and 17, to allow shared access for multi-family and single-family residential and to allow multi-family residential to directly access a right-of-way serving platted single-family residential development, in lieu of the requirement that multi-family development shall not directly access any right-of-way serving platted single-family residential. This waiver is external to the Withers PD.

Applicant Justification: *Multi-family development is supposed to adhere to the compatibility standards in Orange County Code Section 38-1258. However, to promote a mix of land uses and facilitate new urbanism development patterns, Code Section 38-1389(d)(3)f.1 states that waivers from the standard listed in Code Section 38-1258 should be considered at the time of the land use plan approval. The separation of access between multi-family and single-family residential is contrary to new urbanism and creating a mix of land uses. New urbanism is a core design principle in Village I. By allowing shared access for multi-family and single-family residential, development will be more consistent with Village I principles as well as allow interconnected design between Parcels 21 and 23 in Village I.*

8. 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.*

PUBLIC NOTIFICATION A notification area extending beyond seven hundred (700) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Forty-nine (49) notices were

mailed to those property owners in the notification buffer area. A community meeting was not required for this application

IMPACT ANALYSIS

Special Information

The Horizon West – Village I - Withers PD was originally approved on November 12, 2019, for 814 residential units, 10,000 square feet of commercial uses, an APF Park, an Elementary School, and a Middle School.

Through this PD Change Determination Request (CDR), the applicant is seeking to revise the unit count and density for PD Parcels 4, 5, and 6; to update the APF table to reflect transfers to the Parcel 1 PD (LUP-19-02-052), Serenade PD (LUP-18-10-354), and Cross PD (LUP-18-12-410); to update the Transfer of Development Rights table to reflect a transfer to the Parcel 1 PD; to update waivers 1-6 to reference PD Parcel 13; and to request two additional waivers to allow shared access between single-family and multi-family residential, and to allow the project to obtain a Capacity Encumbrance Letter (CEL) upon the project becoming subject to the Village I Road Network Agreement.

Running concurrently with this request will be APF Agreements to transfer 8.39 APF acreage credits (APF-19-07-237) to the Spring Grove – Jaffers PD, to transfer 1.90 APF acreage credits (APF-19-11-363) to the Parcel 1 PD, to transfer 1.25 APF acreage credits (APF-19-10-345) to the Cross PD, and to transfer 6.33 APF acreage credits to the Serenade at Ovation PD (RAG-19-11-049).

Land Use Compatibility

The proposed PD substantial change would not adversely impact any adjacent properties or result in an incompatible land use pattern.

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 currently designated Village Home District (VHD), which allows for a required density of six (6) dwelling units per net developable acre, Townhome District (THD), which allows for a required density of eight (8) dwelling units per net developable acre, and Neighborhood Center (NC) which allows for commercial development. Additionally, the property includes school and APF Park designations. The proposed Change Determination Request (CDR) is consistent with the above designations and all applicable CP provisions; therefore, a CP amendment is not necessary.

Overlay Ordinance

The subject property is not located within an Overlay District.

Rural Settlement

The subject property is not located within a Rural Settlement.

Joint Planning Area (JPA)

The subject property is not located within a JPA.

Environmental

Wetlands and surface waters amounting to 104.7 acres are located on site, as shown on the plan, including a large portion of Lake Gifford. Orange County Conservation Area Determination #CAD-16-05-049 was completed for this project with a certified wetland boundary survey approved on September 12, 2016. No wetland impacts are proposed with this request

The applicant is responsible for addressing any adverse impacts, including secondary impacts, to surface waters or wetlands that may occur as a result of development of the site. Protective measures include but are not limited to: 25-foot minimum undisturbed upland buffer along the wetland boundary, signage, and pollution abatement swales upland of the buffer if adjacent to surface waters and if drainage is not diverted to treatment. Clearly show and label all the protective measures employed to prevent adverse impacts in PSP/DP and permit applications.

This project site has a prior agricultural land use that may have resulted in soil and/or groundwater contamination due to spillage of petroleum products, fertilizer, pesticide or herbicide. Prior to the earlier of platting, demolition, site clearing, grading, grubbing, review of mass grading or construction plans, the applicant shall provide documentation to ensure compliance with the Florida Department of Environmental Protection (FDEP) Regulation 62-777 Contaminant Cleanup Target Levels, and any other contaminant cleanup target levels found to apply during further investigations, to the Orange County Environmental Protection and Development Engineering Divisions.

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.

The Hartzog Road Right-of-Way Agreement was approved by the BCC on June 3, 2008 and recorded at OR Book/Page 9712/4850. This agreement follows two prior agreements and realigns Hartzog Road through the Developer's properties to CR 545 Avalon Road north of the previously contemplated alignment. Under the terms of the agreement, the Developers will dedicate Right-of-Way for the re-aligned Hartzog Road and design the roadway for a four-lane roadway then construct the first two lanes of the roadway. Road impact fee credits will be provided for the design and construction of the portion of the road beyond the first two lanes. The owners shall also receive a certain number of vested trips for participation in the roadway agreement. Currently the design is complete, however no Right-of-Way has been dedicated and construction has not started.

Community Meeting Summary

A community meeting was not required for this request.

Schools

A Capacity Enhancement Agreement (CEA) application (OC-19-026) was approved by OCPS on September 24, 2019.

Parks and Recreation

Orange County Parks and Recreation staff reviewed the Change Determination Request but did not identify any issues or concerns.

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

ACTION REQUESTED

Development Review Committee (DRC) Recommendation – (December 18, 2019)

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

1. Development shall conform to the Horizon West – Village I - Withers 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, or any other development order, if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
 4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this 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. 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.

7. Pursuant to the BCC's acceptance of the Village I Term Sheet on November 13, 2018, this project will be subject to the terms and conditions of the future Village I Roadway Network Agreement, as approved by the Board and, as may be amended from time to time.
8. The following waivers from Orange County Code are requested:
 - a. A waiver from Section 34-152(c), for PD Parcels 4, 5, 11, 13, and 17, 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), for PD Parcels 4, 5, 11, 13, and 17, 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), for PD Parcels 4, 5, 11, 13, and 17, 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), for PD Parcels 4, 5, 11, 13, and 17, 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), for PD Parcels 4, 5, 11, 13, and 17, 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 Section 30-714(c) to allow the project to proceed beyond 5% of the approved PD entitlements, which 5% threshold is identified in the APF Agreement as 40 dwelling units (attached or detached); provided, however, that prior to said 5% threshold being reached or exceeded: (A) the approximately 5.81 acres of Future APF Right-of-Way have been conveyed to the County or to an escrow agent who is obligated to release a deed conveying such right-of-way to the County, in accordance with that certain Hartzog Road Right-of-Way Agreement recorded at ORB 9712/4850, as amended, and as affected by that certain First Amendment to Agreement Concerning Hartzog Road Right-of-Way Agreement recorded at ORB 11021/4154, as amended; (B) the approximately 0.98 acres of APF ROW have been conveyed to the County or placed into escrow, pursuant to an escrow agreement acceptable to the County; and (C) the approximately 5.0 acre APF Park has been conveyed to the County or placed into escrow, pursuant to an escrow agreement acceptable to the County.
 - g. A waiver from Orange County Code Section 38-1258(g), for PD Parcels 11, 13, and 17, to allow shared access for multi-family and single-family residential and to allow multi-family residential to directly access a right-of-way serving platted

single-family residential development, in lieu of the requirement that multi-family development shall not directly access any right-of-way serving platted single-family residential. This waiver is external to the Withers PD.

9. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated November 12, 2019, shall apply:
 - a. The following Education Condition of Approval shall apply:
 1. Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of September 24, 2019.
 2. Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Capacity Enhancement Agreement, the County shall immediately cease issuing building permits for any residential units in excess of the 15 residential units allowed under the zoning existing prior to the approval of the PD zoning. The County may again begin issuing building permits upon Orange County Public Schools' written notice to the County that the developer is no longer in breach or default of the Capacity Enhancement Agreement. The developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, shall indemnify and hold the County harmless from any third party claims, suits, or actions arising as a result of the act of ceasing the County's issuance of residential building permits.
 3. Developer, and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, agrees that it shall not claim in any future litigation that the County's enforcement of any of these conditions are illegal, improper, unconstitutional, or a violation of developer's rights.
 4. Orange County shall be held harmless by the developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Capacity Enhancement Agreement.
 5. Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.
 - b. The Owner shall convey the school site(s) as required by the Adequate Public Facilities (APF) agreement and Capacity Enhancement Agreement (CEA), as may be amended; failure to comply shall authorize OCPS to request that Orange County discontinue the issuance of any building permits, certificates of occupancy, or any other approvals associated with this PD.
 - c. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a capacity encumbrance letter prior to plat approval 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.

- d. The Applicant shall comply with the terms and conditions of the Hartzog Road Right-of-Way Agreement recorded at Official Records Book/Page 9712/4850, Public Records of Orange County, Florida, as may be amended from time to time.
- e. 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.
- f. 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.
- g. 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.
- h. 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).
- i. No activity will be permitted on the site that may disturb, influence, or otherwise interfere with: areas of soil or groundwater contamination, or any remediation activities, or within the hydrological zone of influence of any contaminated area, unless prior approval has been obtained through the Florida Department of Environmental Protection (FDEP) and such approval has been provided to the Environmental Protection Division of Orange County. An owner/operator who exacerbates any existing contamination or does not properly dispose of any excavated contaminated media may become liable for some portion of the contamination pursuant to the provisions in section 376.308, F.S.
- j. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.

- k. Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP) for Village I. 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.
- l. 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.
- m. 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).
- n. 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.
- o. A 5-year interim Master Utility Plan (MUP) for Village I must be approved prior to Construction Plan approval within this PD.
- p. Pole signs and billboards shall be prohibited. Ground and Fascia signs shall comply per Chapter 31.5 and Section 38-1755(o) of the School Siting Regulations.
- q. Tree removal/Earthwork shall not occur unless and until construction plans for the first Preliminary Subdivision and/or Development Plan with a tree removal and mitigation plan have been approved by Orange County.
- r. 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.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION *(November 12, 2019)*

Upon a motion by Commissioner VanderLey, seconded by Commissioner Moore, and carried by all members voting AYE by voice vote, the BCC approved the rezoning request Case # LUP-18-10-355 to rezone eight (8) parcels containing 320.75 gross acres from A-1 and A-2 to PD, in order to construct 814 residential units, 10,000 square feet of commercial uses, and future conveyance of an Adequate Public Facility (APF) park, a middle school, and an elementary school, subject to the conditions of approval listed under the Planning and Zoning Commission recommendation in the Staff Report; further, approved modification to condition of approval # 8; and further, approved and executed the Adequate Public Facilities Agreement for Horizon West Village I Withers PD by and between Withers, LLC, Columnar Partnership Holding I, LLC, Orange County, and The School Board of Orange County, Florida.