



Special Hearts Farm is Consistent with the Comprehensive Plan and Compatible with the Area

FISHBACK ♦ DOMINICK

ESTABLISHED 1935

ATTORNEYS AND COUNSELORS AT LAW

Rick Geller, Esq.

All Renderings
are Conceptual



(5) RESIDENCES

PASTURE

RETENTION POND

TRACTOR BARN

CARETAKER'S HOUSE

SPLASH PAD/ SHADE COVERING

ANIMAL BARN

PASTURE

AGRICULTURE WORK AND TRAINING CENTER EVENT BARN
3,500 SF

AGRICULTURE TRAINING FACILITY
15,000 SF

PASTURE

GARDEN / ORCHARD

All Renderings are Conceptual



(5) RESIDENCES

PASTURE

RETENTION POND

TRACTOR BARN

CARETAKER'S HOUSE

SPLASH PAD/
SHADE COVERING

ANIMAL BARN

PASTURE

PASTURE

AGRICULTURE
WORK AND
TRAINING CENTER
EVENT BARN
3,500 SF

AGRICULTURE
TRAINING
FACILITY
15,000 SF

PASTURE

The PD Land Use Plan maintains the sense of place where agricultural uses including farming continue, preserve views, open spaces and rural character of the property.

Staff Report, 12th page, para. 2.

All Renderings
are Conceptual



**ORANGE COUNTY
FLORIDA**

**COMPREHENSIVE PLAN
2010 - 2030
GOALS, OBJECTIVES & POLICIES**

ADOPTED: MAY 19, 2009
AMENDED: JANUARY 10, 2023
THROUGH ORDINANCE 2023-04
EFFECTIVE: MARCH 4, 2023

PREPARED BY:
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Institutional FLU is Allowed in the Rural Service Area, including in Rural Settlements

FLU1.1.4

specific policies within OBJ FLU6.2.) Also, Institutional and Educational designations may be located within the Rural Service Area on a limited basis as may be expressly allowed by other goals, objectives and/or policies in this Comprehensive Plan. (Amended 11/17, Ord. 2017-19)

Institutional (INST)	Institutional uses include public and private utilities, facilities, structures and lands that serve a public or quasi-public purpose. Public schools that have been designated Institutional may continue to maintain that designation.	2.0 FAR
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Staff Report: Consistent with at least 17 Policies and Objectives



ORANGE COUNTY FLORIDA

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Additionally, the request is consistent with the following CP provisions:

FLU1.1.4 (A) states INST Future Land Use Map designations may be located within the Rural Service Area (RSA) on a limited basis and includes facilities that serve a quasi-public purpose.

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

FLU6.1.4 states Institutional uses, whether operated by a local government or private enterprise, while allowed in the Rural Service Area shall not be an impetus for additional urban development in the Rural Service Area.

FLU6.1.6 states that Orange County shall promote agribusiness to accommodate such uses vegetable and fruit packaging, ornamental horticulture operations, fish culture, and other new and innovative agribusiness and support functions.

FLU6.1.12 states Orange County shall continue to promote the long term viability of agricultural uses, and agribusiness itself, as an economic asset.

FLU6.1.13 states Orange County will support the creation and availability of fresh food initiatives and efforts, including local farmer markets, community vegetable gardens, and other small scale agricultural efforts that promote local sustainability.

FLU6.2.3 states that development proposals consisting of over 10% of the overall acreage of the Rural Settlement *or greater than 25 residential units* within a Rural Settlement shall have final approval as a Planned Development. The Planned

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FLORIDA

COMPREHENSIVE PLAN
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Development shall reflect the intended rural character consistent with the criteria listed in Future Land Use Policies FLU6.2.4 and FLU6.2.5

FLU6.2.4 states that the County may use the Planned Development designation to ensure new development within the Rural Settlement contributes to the community's sense of place. These criteria shall include, but not be limited to, the following:

A. Designs for new roads, and alterations to existing roads, should ensure the physical impact on the natural and historic environment is kept to a minimum;

B. New roads or road improvements shall be designed to accommodate the anticipated volume and nature of traffic, but pavement shall be kept as narrow as safety allows while encouraging equestrian, bicycle, pedestrian, and other non-motorized, alternative means of transportation, preservation of wildlife corridors and habitat, and aesthetically pleasing landscape treatment; and,

C. New buildings and structures shall be located where their construction or access does not cause substantial modification to the topography and natural resources.

D. Provide for increased setbacks along roadways to preserve views, open space, and rural character; and provide guidelines for lot layout and cluster development for residential development to maintain open space and rural character.

Staff Report: Consistent with at least 17 Policies and Objectives



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FLORIDA

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FLU6.2.5 states that the permitted densities and intensities of land use within the Rural Settlements shall maintain their rural character. Factors to be considered shall include lot size, open space and views, tree canopy, building location and orientation, and compatibility with existing land uses. Density and Floor Area Ratio (FAR) calculation shall be defined as the language specified in Future Land Use Element Policy FLU1.1.2(B).

E1.2 states Orange County shall promote continuing education efforts to foster a workforce with the latest skills.

Special Hearts Farm in collaboration with Orange County Public Schools (OCPS) has created a “true transition opportunity” for students with disabilities to train and continue performing meaningful jobs once they age out of school. The Special Hearts Farm provides adult day training, supported employment, and entrepreneur business opportunities relating to farming and gardening experiences. The participants are trained to perform jobs, including livestock care, woodworking, gardening, and making goat milk soap.

E1.2.2 states the County shall support existing higher education program with more non-degree training and continuing education.

The Special Hearts Farm OCPS Transition program allows students the opportunity to continue the Adult Day Training/Supported Employment Program when they age out of school. Seasonal events will be operated and staffed in part by the participants for additional job training and pay.

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H1.7 states that Orange County shall continue to promote and facilitate housing production, to serve the population with special needs including but not limited to Physically or developmentally disabled persons.

OS1.3.6 states that non residential uses permitted within the Rural Service Area shall be limited to neighborhood and low-intensity commercial uses, including small offices, institutional uses, agricultural uses, public parks and public conservation lands.

Special Hearts is consistent with this policy and is located within the Wekiva Study Area, a minimum of 25% open space must be provided.

FLU8.1.1 states that the zoning and future land use correlation shall be used to determine consistency with the Future Land Use Map. Land use compatibility, the location, availability and capacity of services and facilities, market demand, and environmental features shall also be used in determining which specific zoning district is most appropriate. Density is restricted to the maximum and minimum allowed by the Future Land Use Map designation regardless of zoning.

OBJ FLU8.2 states that compatibility will continue to be the fundamental consideration in all land use and zoning decisions.

FLU8.2.1 states that land use changes shall be required to be compatible with 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.

FLU8.2.11 states that compatibility may not necessarily be determined to be a land use that is identical to those uses that surround it. Other factors may be considered, such as the design attributes of the project, its urban form, the physical integration of a project and its function in the broader community, as well its contribution toward the Goals and Objectives in the CP. The CP shall specifically allow for such a balance of considerations to occur.



WOODWORKING



ANIMAL CARE



GOAT MILK SOAPMAKING



GARDENING



HARVESTING



FARMER'S MARKET

Why Special Hearts Farm is perfect for Avalon

- We are a **FARM**
- We are **FARMERS**
- We require **AG LAND**
- We raise **LIVESTOCK**
- We grow, harvest **CROPS**
- We are good neighbors
- We will create little traffic
- We will not impact schools
- We will not cause crime
- We are a non-profit, not a developer



We will have a **POSITIVE** impact on the Avalon Rural Community



Staff Report: Consistent with at least 17 Policies and Objectives



ORANGE COUNTY
FLORIDA

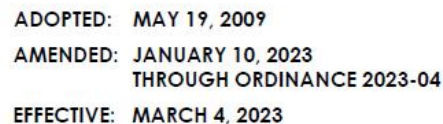
OBJ H1.7

Orange County shall continue to promote and facilitate housing production, to serve the population with special needs including but not limited to farmworkers, senior citizens, those afflicted with AIDS/HIV, the homeless, and physically or developmentally disabled persons.

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OS1.3.6 states that non residential uses permitted within the Rural Service Area shall be limited to neighborhood and low-intensity commercial uses, including small offices, institutional uses, agricultural uses, public parks and public conservation lands.

Special Hearts is consistent with this policy and is located within the Wakiva Study Area.



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FLU8.2.1 states that land use changes shall be required to be compatible with 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.

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2010 - 2030
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Community Residential Homes “shall be permitted”



F. A Community Residential Home (CRH) is defined in §419.001(1)(a), Florida Statutes as “a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile

FLU1.1.2

ORANGE COUNTY
FLORIDA

COMPREHENSIVE PLAN
2010 - 2030
GOALS, OBJECTIVES & POLICIES

Community Residential Homes “shall be permitted”



- (1) A CRH that serves six (6) or fewer residents, which otherwise meets the definition of a CRH, shall be deemed a noncommercial, residential use and shall be permitted in any residential or rural/agricultural Future Land Use (FLU) designation or zoning district.



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FLU1.1.2

Protection for the Avalon Rural Settlement

“We believe this particular land use will not proliferate within the rural settlement. This will not serve as a precedent in the Lake Avalon Rural Settlement to be a green light for another application to be justified for compatibility purposes.”

Alberto Vargas (Planning Division Manager)

Planning & Zoning Board hearing, Aug. 15, 2024

Special Hearts Farm CANNOT lawfully “open the door” to any urban uses in the Rural Settlement

ORANGE COUNTY
FLORIDA

FLU6.1.4

Institutional uses, such as wastewater treatment and landfill facilities, whether operated by a local government or private enterprise, while allowed in the Rural Service Area shall not be an impetus for additional urban development in the Rural Service Area. (Policy 2.3.2)

ADOPTED: MAY 19, 2009
AMENDED: JANUARY 10, 2010
THROUGH OR
EFFECTIVE: MARCH 4, 2010

The proposed Future Land Use Map designation is also consistent with **Future Land Use Element Policy FLU6.1.4**, which states Institutional uses, whether operated by a local government or private enterprise, while allowed in the Rural Service Area shall not be an impetus for additional urban development in the Rural Service Area. One of the

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Staff Report, 12th page, top para.



ORANGE COUNTY
FLORIDA

COMPREHENSIVE PLAN
2010 - 2030

GOALS, OBJECTIVES & POLICIES

“It is presumed that persons will observe the law and we cannot assume that they will violate the law....”

Atlantic C.L.R. Co. v. Mack, 57 So. 2d 447, 452 (Fla. 1952)

FLU6.1.4


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AMENDED: JANUARY 16, 2020
THROUGH ORDINANCE 2023-04

EFFECTIVE: MARCH 4, 2023

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ORANGE COUNTY
FLORIDA

COMPREHENSIVE PLAN
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To deny an application based on an assumption that the County will violate the law would be speculative, arbitrary, and irrational...and unlawful

FLU6.1.4

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The PD Sets Appropriate Development Standards

Special Hearts Farm has reduced its proposed Development Program by 40% to compromise with the Avalon community.

50 overnight farmers reduced to 30;
5,000 s.f. Event Barn reduced to 3,500 sq. ft.
25,000 s.f. Agricultural Training Center reduced to 15,000 s.f.



The PD Sets Appropriate Development Standards

- Up to 6 APD clients per Community Residential Home, all homes totaling no more than 8,000 square feet, “which shall be permitted” per FLU 1.1.2.
- Dedicates 25 feet to Orange County for Avalon Road;
- One waiver request to allow grass parking for the Farmer’s Market one day per month;
- <0.05 FAR (Rural Settlements allow 0.15 FAR)
- Development limited to the specific Special Hearts Farm LUP;



Special Hearts Farm Appreciates Staff's Strong Recommendation of APPROVAL

STAFF RECOMMENDATION

PLANNING

Future Land Use Map Amendment

Make a finding of consistency with the Comprehensive Plan and recommend **ADOPTION** of the requested Institutional (INST) Future Land Use Map (FLUM) designation.

Rezoning

Development Review Committee – (June 12, 2024)

Make a finding of consistency with the Comprehensive Plan and recommend **APPROVAL** of the Special Hearts Farm Planned Development / Land Use Plan (PD/LUP), dated “Received July 15, 2024”, subject to the following conditions, including one (1) waiver from Orange County Code:

LPA/PZC Unanimous Support

- **“A great service to our community, to our citizens, to our families that have special needs. To say it shouldn’t be allowed in a rural settlement is embarrassing. ... I think you would welcome it with open arms. ... It would not be detrimental to the Lake Avalon Rural Settlement.”**
- SHF **“adds value to the Rural Settlement over time.”**
- **“I am extremely supportive of Special Hearts’ mission. ... They’re learning skills that could help them be employed. ... What you are doing is an amazing thing. You’re right, it’s a benefit to the community; it’s a benefit to Avalon.”**
- **“I feel very strongly that this is an incredible organization and I feel equally strongly that it belongs right where they’re proposing. This is the perfect place. ... This is compatible. This is a consistent use. ... These are people who really need to be here. And families who need them to be here. ... It’s protecting the rural character in the settlement.”**

LPA/PZC Unanimous Support

- “What SHF is doing is an amazing thing and it will benefit Avalon.”
- **“This is such a wonderful project. ... This is a benefit to the community. ... And it’s very unique. It’s basically a farm. ... I would really like to see this project go forward in this location.”**
- **“This property is a much better location than the blueberry farm.”**
- “We all need purpose. We all need meaning. Persons who are less abled...need purpose and meaning in their lives. ... Special Hearts provides this... **This is a good place for this non-profit...** Both dreams can co-exist and everyone be happy.”
- **“Approving this does not automatically allow other institutional uses in a rural settlement.”**
- **“This is a perfect spot.”**

Special Hearts Farm's Requests:

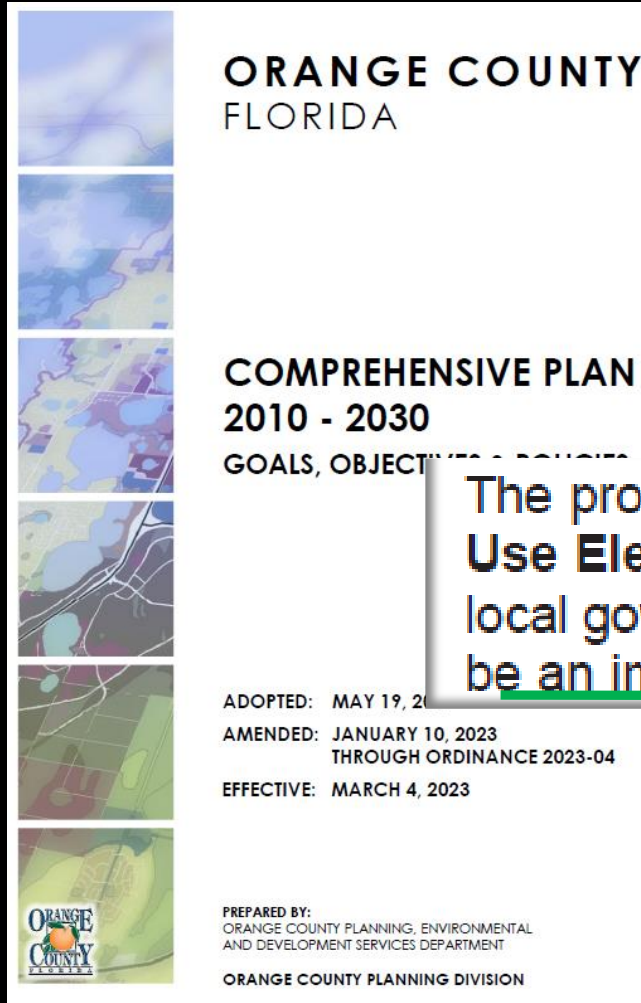
(1) Find the applications consistent with the Comprehensive Plan, compatible with the area; and

(2) **ADOPT** the applications for INST future land use and PD zoning per the LUP, PZC conditions & new conditions 1-5.



Reserve for Rebuttal

Special Hearts Farm CANNOT lawfully “open the door” to other INST uses in the Rural Settlement



The proposed Future Land Use Map designation is also consistent with Future Land Use Element Policy FLU6.1.4, which states Institutional uses, whether operated by a local government or private enterprise, while allowed in the Rural Service Area shall not be an impetus for additional urban development in the Rural Service Area. One of the

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FLU6.1.4

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Staff Report, p. 49

Proposed Vision 2050

DRAFT Amendment for Avalon Rural Settlement

(Planning Staff has not vetted)



ORANGE COUNTY
FLORIDA

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Any property designated for institutional use shall not be considered as a basis for further institutional designations or to justify any other non-residential uses or any other increase in residential density.

Additional Conditions

- Eight Additional Conditions presented to SHF last Wednesday for the first time in a meeting with the District Commissioner and Planning Staff;
- Not vetted by the DRC;
- Not vetted by the PZC;
- None appear in the Staff Report;
- Regardless, SHF accepts 5 of the 8 Additional Conditions.

Additional Conditions Accepted by SHF

1. If a traffic study warrants it, a left turn lane from Avalon Road southbound as well as a right turn lane from Avalon Road northbound shall be shown on the development plan and constructed prior to commencement of the proposed use.
2. Building height shall be limited to one (1) story.
3. There shall be a minimum required building setback of 150 ft. from the western property boundary.
4. Outdoor amplification devices such as speakers shall be prohibited.
5. The training facility shall be limited to a maximum of 50 students and 20 staff, and the Residential Care shall be limited to 30 residents.

Additional Conditions Declined by SHF

6. Special Hearts Farm shall not be open to the public except for special events, which shall be limited to no more than twelve (12) per year. Special Events shall not exceed the capacity of the event barn and dedicated parking spaces. Special Events shall be limited to events for the Special Heart Farm organization and not for lease to other entities. Special Events shall otherwise adhere to Section 38-79(39) of Orange County Code, as amended.
 - Unreasonable, unconstitutional infringement on right to assemble;
 - We know of no other PD with such a restriction.
 - Family members cannot visit their “special farmer” loved ones or to consider enrollment? SHF cannot have school and church groups visit? What about vendors? What about members of the public who may wish to visit who may become donors or otherwise support the organization?
 - As to Special Events, redundant of Condition 18.

Additional Conditions Declined by SHF

7. A shade tree shall be provided an average of 50 feet in distance on-center around the perimeter of the property.
 - The entire perimeter of an 18 acre site is not reasonable for a non-profit;
 - We are unaware of another farm with this requirement in Orange County and/or in Avalon;
 - Shade trees will eventually block sunlight needed for crops, gardens, orchards, citrus trees, and grasses needed for livestock grazing
 - Shade trees will block sunlight needed by the adjacent nursery to the north.

Additional Conditions Declined by SHF

- **A fence, rural in character and no less than fifty (50) percent transparent, and of either a split-rail, paddock, picket, or other rural or equestrian styles as approved by the Planning Manager, shall be provided around the perimeter of the property. All animal enclosure areas shall be fenced.**
 - The requirement is unreasonable for a non-profit, especially for the entire perimeter of an 18 acre property.
 - No other farms have this entire perimeter requirement.
 - LARS Overlay requires non-agricultural office and commercial development to have such fencing only along frontage.
 - Special Hearts will comply with the Code with respect to fencing.

Community Residential Homes “shall be permitted”



- (1) A CRH that serves six (6) or fewer residents, which otherwise meets the definition of a CRH, shall be deemed a noncommercial, residential use and shall be permitted in any residential or rural/agricultural Future Land Use (FLU) designation or zoning district.

FLU1.1.2

Community Residential Homes “may be contiguous to one another.”



Fla. Stat. § 419.001 Site selection of community residential homes.—

(1)(d) “Planned residential community” means a local government-approved, planned unit development that is under unified control, is planned and developed as a whole, has a minimum gross lot area of 8 acres, and has amenities that are designed to serve residents with a developmental disability as defined in s. 393.063 but that shall also provide housing options for other individuals. The community shall provide choices with regard to housing arrangements, support providers, and activities. The residents’ freedom of movement within and outside the community may not be restricted. For the purposes of this paragraph, local government approval must be based on criteria that include, but are not limited to, compliance with appropriate land use, zoning, and building codes. A planned residential community may contain two or more community residential homes that are contiguous to one another. A planned residential community may not be located within a 10-mile radius of any other planned residential community.

Community Residential Homes “may be contiguous to one another.”



Fla. Stat. § 419.001 Site selection of community residential homes.—

(4) **Community residential homes**, including homes of six or fewer residents which would otherwise meet the definition of a community residential home, which are **located within a planned residential community** are not subject to the proximity requirements of this section and **may be contiguous to each other**. A planned residential community must comply with the applicable local government’s land development code and other local ordinances. A local government may not impose proximity limitations between homes within a planned residential community if such limitations are based solely on the types of residents anticipated to be living in the community.

Community Residential Homes “may be contiguous to one another.”



Fla. Stat. § 419.001 Site selection of community residential homes.—

(12) Nothing in this section requires any local government to adopt a new ordinance if it has in place an ordinance governing the placement of community residential homes that meet the criteria of this section. **State law on community residential homes controls over local ordinances**, but nothing in this section prohibits a local government from adopting more liberal standards for siting such homes.

Special Hearts Farm Asked for a Continuance and Exhausted Efforts to Apply for a Special Exception

PLANNING AND ZONING COMMISSION (PZC) PUBLIC HEARING SYNOPSIS

Local Planning Agency (LPA)/ Planning and Zoning Commission (PZC) Public Hearing Summary – (August 15, 2024)

Following the staff and Applicant presentations, public comment and discussion, the applicant requested a postponement of the public hearing. No vote was needed. During the public hearing, the Commission raised concerns about the request to change the Future Land Use designation from Rural Settlement 1/5 (RS 1/5) to Institutional (INST). The LPA/PZC recommended that the applicant team meet with staff to discuss alternative processes, such as a Special Exception, to determine the best path forward.

Special Hearts Farm Sunshine Meeting Summary (August 30, 2024)

(Included Ass't County Attorney)

A Sunshine Meeting was subsequently held on August 30, 2024, with members of the Development Review Committee. Zoning staff restated that under the Orange County Zoning Code, the proposed use constitutes a Residential Care Facility (SIC 8361), which is not permitted by right or by Special Exception in the A-1 Zoning District, or any Zoning Districts consistent with the Rural Settlement 1/5 Future Land Use Designation. Zoning Manager

The County Will Not Accept Special Hearts Farm's Application for a Special Exception


From: Jim Hall <jimhall@halldsi.com>
Sent: Wednesday, September 4, 2024 9:41 AM
To: Moreau, Jennifer C <Jennifer.Moreau@ocfl.net>
Subject: Special Hearts Farms

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

After numerous discussions, as we understand it, the Special Hearts Farm is not eligible for a Special Exception. In fact, an application for a Special Exception could not even be accepted by your staff. Please reply to confirm our understanding.

Thank you.

Jim Hall, MURP, BLA
Balancing Creativity with Practicality

Hall Development Services Inc. 

1302 Osprey Avenue | Orlando | Florida | 32803
407.257.9235 | HallDSi.com

The County Will Not Accept Special Hearts Farm's Application for a Special Exception

From: Moreau, Jennifer C <Jennifer.Moreau@ocfl.net>

Sent: Thursday, September 5, 2024 10:29 AM

To: Jim Hall <jimhall@halldsi.com>

Cc: Jones, Taylor S <Taylor.Jones@ocfl.net>

Subject: RE: Special Hearts Farms

Hi Jim,

Yes, you are correct. A portion of the proposed uses of the site (residential care facility and vocational school) are not permitted by right or by special exception under Orange County Code. We cannot accept an application for a use that is not permitted at all in the current zoning district.

Please let me know if you have any questions or need anything else from me.

Thanks,

Jennifer Moreau, AICP

Manager, Zoning Division

Planning, Environmental and Development Services Department

201 S. Rosalind Avenue, First Floor

Orlando, FL 32801

Division - 407-836-3111

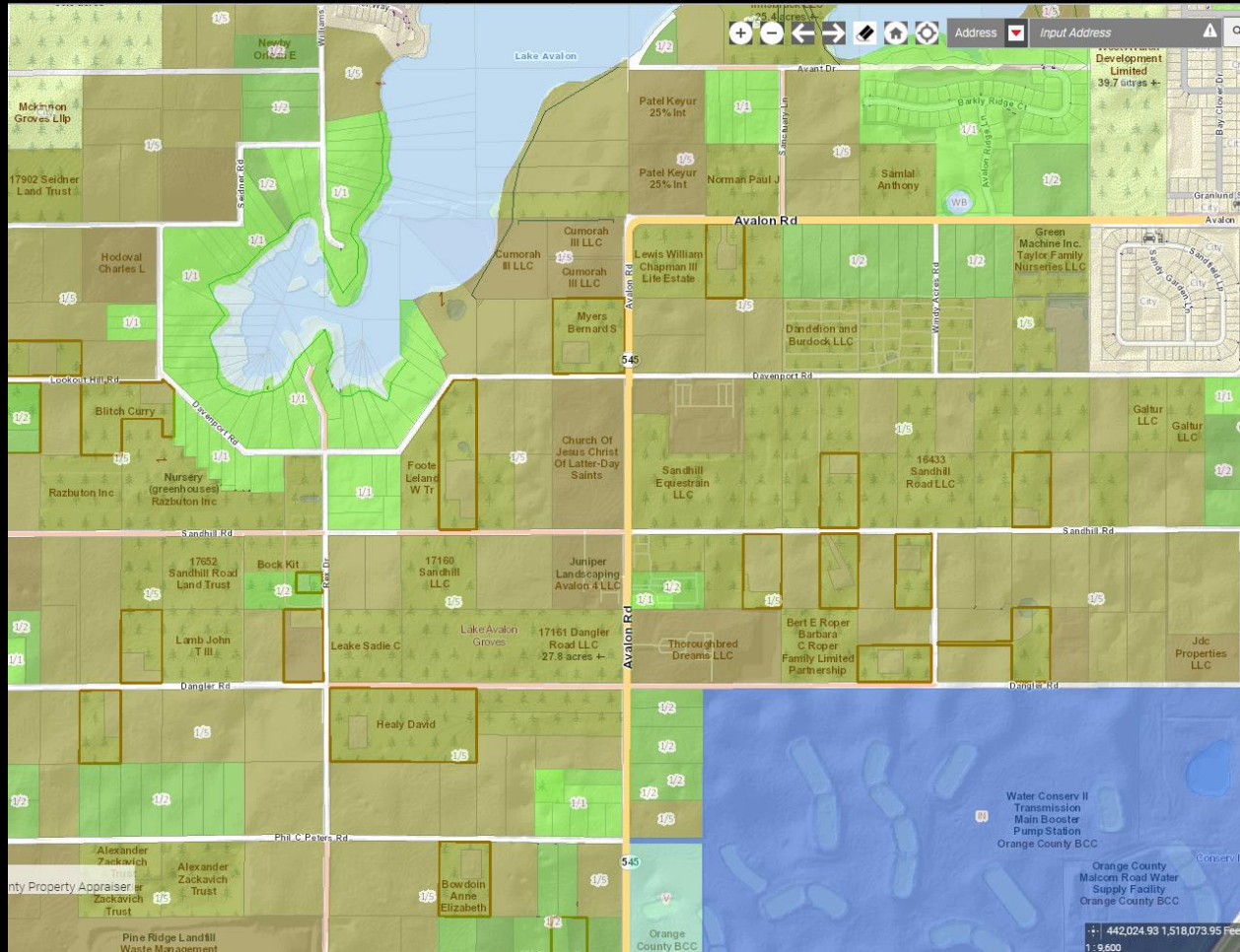
Office - 407-836-5856

Fax - 407-836-9611

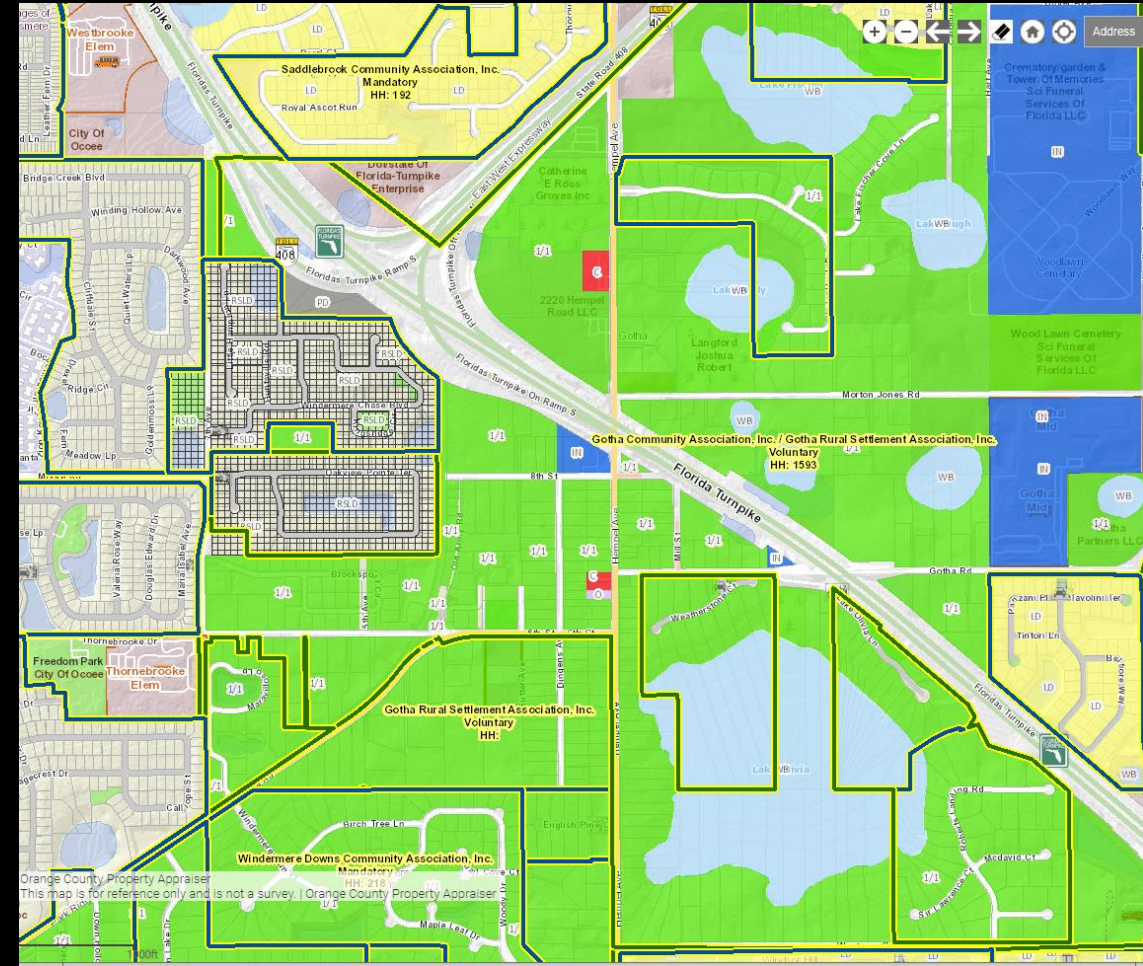
[//www.ocfl.net/zoning](http://www.ocfl.net/zoning)

INST Land Use for Special Hearts Farm
will NOT turn Avalon into Gotha

Gotha Has Zero RS 1/5 Land Use – Avalon Is Not Gotha



Avalon – Brown – 1 unit/5 acres

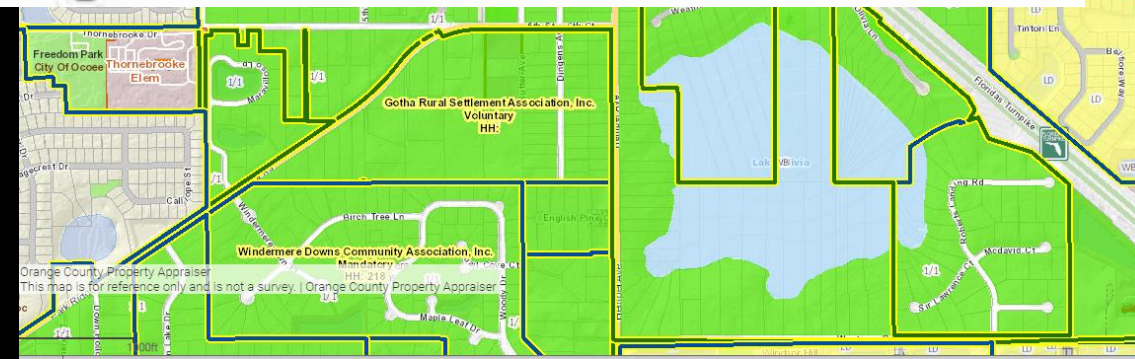


Gotha – Green = 1 unit/acre

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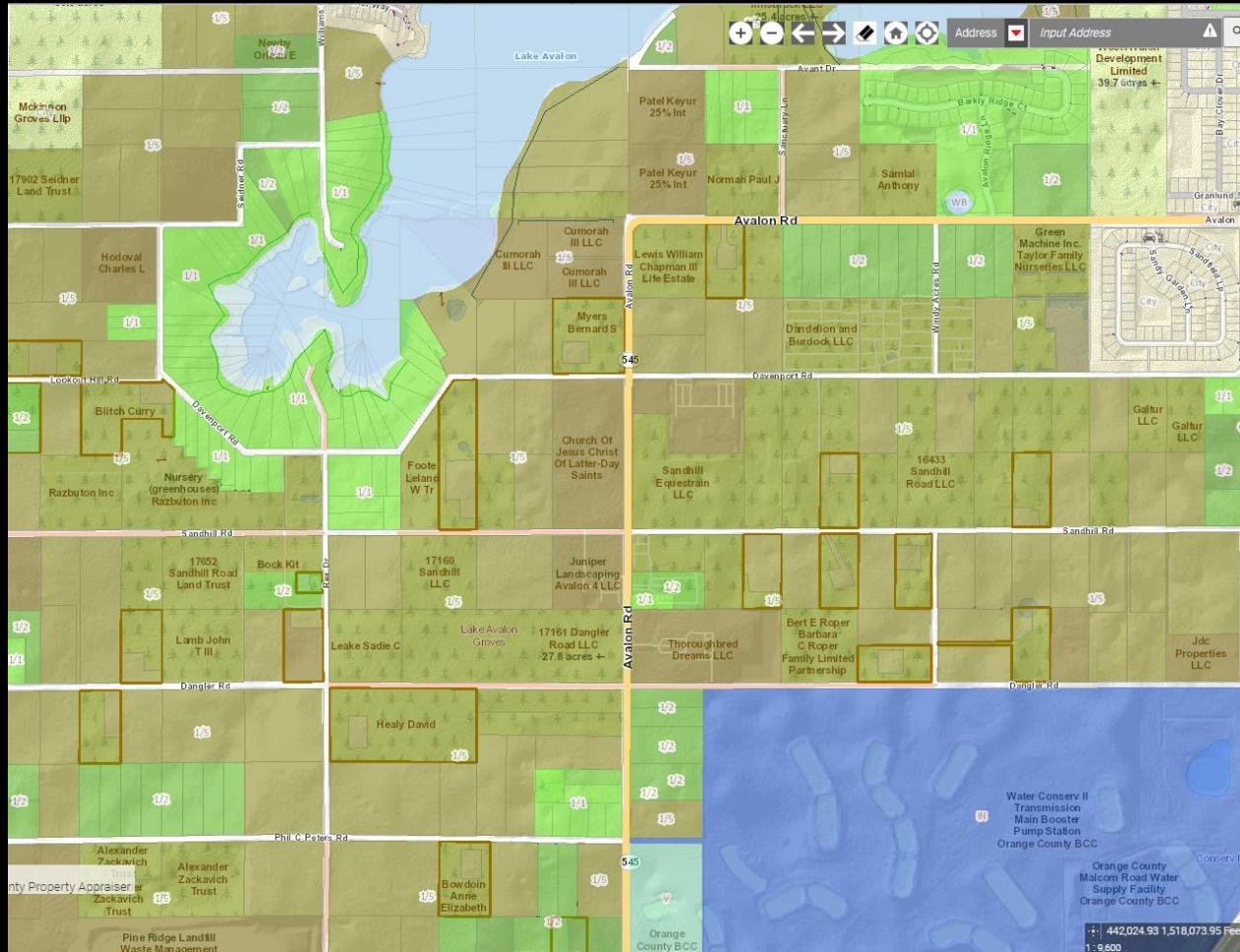
Located in the Lake Avalon Rural Settlement, the Future Land Use Map designation of Rural Settlement 1/5 (RS 1/5) recognizes and preserves existing development patterns, provides for a rural residential lifestyle, and manages the transition of rural areas near



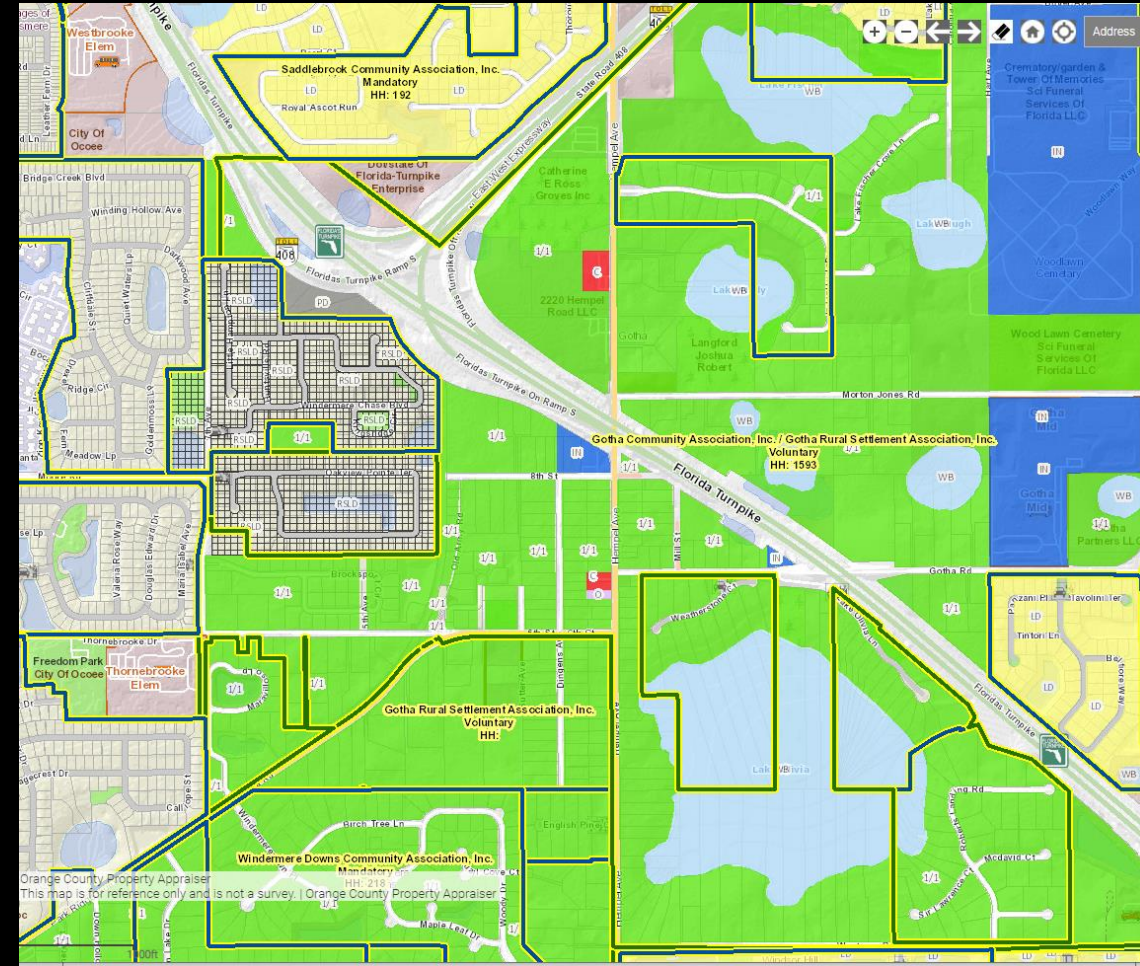
Avalon – Brown – 1 unit/5 acres

Gotha – Green = 1 unit/acre

Special Hearts Farm will Create Zero School Capacity for Residential Development in Avalon



Avalon – Brown – 1 unit/5 acres



Gotha – Green = 1 unit/acre

Special Events

Special event shall mean an event held partially or entirely outdoors on private property, **promoted or advertised to the public** (regardless of whether an admission fee is or will be charged), **attended or expected to be attended by one hundred (100) or more people at any point in time** during the event, and is unlike or beyond the scope of customary or usual activities associated with the site or zoning district upon which the event is taking place, **including**, but not limited to, an exhibition, a celebration, a party, a festival, a concert, a ceremony, a show, a rally, a parade, a carnival, **a farmer's market**, or any other semi-frequent or one-time event taking place within a defined area. For purposes of this chapter, **a special event shall not include an open air market**, seasonal tent sales, or non-seasonal tent sales, as defined by this chapter.