



**Interoffice Memorandum**

**DATE:** March 11, 2022

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

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

**CONTACT PERSON:** **Joe Kunkel, P.E., DRC Chairman**  
**Development Review Committee**  
**Public Works Department**  
**(407) 836-7971**

**SUBJECT:** April 5, 2022 – Public Hearing  
Eric Warren, Poulos & Bennett, LLC  
Withers Planned Development / Village I Parcels 3, 4, 5, 6, & 8  
Preliminary Subdivision Plan  
Case # CDR-21-05-156 / District 1

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of December 1, 2021, to approve the Withers Planned Development (PD) / Village I Parcels 3, 4, 5, 6, & 8 Preliminary Subdivision Plan (PSP), generally located north of Hartzog Road and east of Avalon Road, remove previously permitted 50' lots within Phase 2 and replace with 60' lots. Phase 2 will be divided into proposed Phases 2 and 3. In addition, a waiver from Orange County Code Section 38-1387.1(a)(10) is requested to allow a 14' building separation between townhomes in lieu of 20'.

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 PSP may be found in the Planning Division for further reference.

**ACTION REQUESTED:** **Make a finding of consistency with the Comprehensive Plan and approve the Withers PD / Village I Parcels 3, 4, 5, 6, & 8 PSP dated "Received February 10, 2022", subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1**

JVW/JK/ijh  
Attachments

**CASE # CDR-21-05-156**

Commission District # 1

**1. REQUEST**

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of December 1, 2021, to approve the Withers Planned Development (PD) / Village I Parcels 3, 4, 5, 6, & 8 Preliminary Subdivision Plan (PSP), generally located north of Hartzog Road and east of Avalon Road, remove previously permitted 50' lots within Phase 2 and replace with 60' lots. Phase 2 will be divided into proposed Phases 2 and 3. In addition, a waiver from Orange County Code Section 38-1387.1(a)(10) is requested to allow a 14' building separation between townhomes in lieu of 20'.

**2. PROJECT ANALYSIS**

- A. Location: North of Hartzog Road / East of Avalon Road
- B. Parcel ID: 29-24-27-0000-00-001, 29-24-27-0000-00-010, 29-24-27-0000-00-017
- C. Total Acres: 160.17 gross acres
- D. Water Supply: Orange County Utilities
- E. Sewer System: Orange County Utilities
- F. Schools: Water Spring ES - Enrollment: 1,301 / Capacity: 791  
Water Spring MS - Enrollment: 513 / Capacity: 706  
Horizon HS - Enrollment: 1,354 / Capacity: 1,950
- G. School Population: 167
- H. Parks: Horizon West Regional Park - 8.5 Miles
- I. Proposed Use: 434 Single Family Residential Units (Attached & Detached)
- J. Site Data: Development shall comply with all standards found in the Withers Planned Development.
- K. Fire Station: 32 - 14932 East Orange Lake Boulevard
- L. Transportation: The Board of County Commissioners approved of the Village I Horizon West Road Network Agreement C.R. 545 Avalon Road and Flemings Road ("Agreement") on January 28, 2020 as recorded in Orange County records document number 20200109451 by and among Shutts & Bowen, LLP; Spring Grove, LLC; BB Groves, LLC; Withers, LLC; Columnar

Partnership Holding I, LLC; KRPC Hartzog, LLC; SP Commercial Investors, LLC; Thomas J. Karr, Jr. and Tami G. Karr; Donald R. Allen, Jr. and Patricia A. Allen; Titan-Liberty Lake Underhill Joint Venture; Village I 545, LLC; Spring Grove Properties, LLC; Cantero Holdings, LLC; Cantero Holdings, LLC (Series 3); Cantero Holdings, LLC (Series 4); Lake Dennis, LLC; M/I Homes of Orlando, LLC; KHOV Winding Bay II, LLC and Orange County which provides for the dedication of right-of-way, design, engineering, permitting, mitigation and construction of four-laning of C.R. 545 (Avalon Road) from Schofield Road to Hartzog Road and four-laning of Flemings Road from C.R. 545 (Avalon Road) west to the County line. Concurrency Vesting shall be provided based on achieved thresholds of construction of the road improvements. Conveyance shall be by general warranty deed (either in fee simple for road right-of-way or perpetual easement for shared use stormwater ponds), upon completion and approval by County of the DE&P for any segments of Improvements. The Owner will receive Road Impact Fee Credits in Road Impact Fee Zone 4 for right-of-way conveyances. In addition, the owners will require cash reimbursement for right-of-way beyond the original 70-foot APF right-of-way anticipated for Flemings Road. An appraisal was performed to determine the fair market value for the cash reimbursement. The Agreement anticipates a cost contribution in the amount of \$31,707.134.00 as identified on Exhibit A-3 within the Agreement. The proposed improvements to C.R. 545 (Avalon Road) and Flemings Road will provide an equivalent value of infrastructure to Orange County.

The Hartzog Road Right-of-Way Agreement was approved by the BCC on 6/3/2008 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.

Based on the Concurrency Management database (CMS) dated May 24, 2021, there are multiple failing roadway segments within the project's impact area. Avalon Road, from Hatzog Road to Flamingo Crossings Boulevard (2 segments) are failing segments. This information is dated and subject to change.

**M. EPD**

Habitat- Development of the subject property shall comply with all state and federal regulations regarding wildlife and plants listed as imperiled species (endangered, threatened, or species of special concern). The applicant is responsible to determine the presence of these concerns and to verify and obtain, if necessary, any required habitat permitting of the U.S. Fish and Wildlife Service (USFWS) and the Florida Fish & Wildlife Conservation Commission (FWC).

Fugitive Dust - No person shall cause, let, suffer, allow, or permit the emissions of unconfined particulate matter from any activity, including vehicular movement; transportation of materials; construction, alteration, demolition or wrecking; or industrially related activities, such as loading, unloading, storing, or handling; without taking reasonable precautions to prevent such emissions including but not limited to application of water, dust suppressants, planting of vegetation, point of activity controls (hoods, filters, etc) and other measures. Reference Orange County Code Chapter 15 Environmental Control, Article III Air Quality Control, Division 2 Rules, Section 15-89.1 Air Pollution Prohibited 15-89.1(b) Unconfined emissions of particulate matter and 15-89.1(b)(2) Reasonable Precautions and defined in the Florida Department of Environmental Protection 62-296.320(4)(c) for Unconfined Emissions of Particulate matter adopted by Orange County Code 15-90 Adoption of state and federal rules by reference.

Erosion Control - Use caution to prevent erosion during construction along the boundary of the property, into wetlands and buffers, and into all drainage facilities and ditches. Construction will require Best Management Practices (BMPs) for erosion control. Minimize the extent of area exposed at one time, apply perimeter controls where necessary, and perform maintenance checks every seven (7) days and after every 1/2 inch rain. The construction entry area shall be designed to prevent trucks from tracking soil onto local roads and the affected storm drainage system shall be protected as indicated in 34-250(g). This may require periodic street sweeping.

### **3. COMPREHENSIVE PLAN**

The subject property has an underlying Future Land Use Map (FLUM) designation of Village (V). The subject property is designated PD (Planned Development) on the Zoning Map, which is consistent with the FLUM Designations.

### **4. ZONING**

PD (Planned Development District) (Withers LUP)

### **5. REQUESTED ACTION:**

Approval subject to the following conditions:

1. Development shall conform to the Withers PD Land Use Plan; Orange County Board of County Commissioners (BCC) approvals; Village I Parcels 3,4,5,6 & 8 Preliminary Subdivision Plan dated "Received February 10, 2022," and to the conditions of approval listed below. Development based upon this approval shall comply with all applicable federal, state, and county laws, ordinances, and regulations, which are incorporated herein by reference, except to the extent any applicable county laws, ordinances, or regulations are expressly waived or modified by these conditions, or by action approved by the BCC, or by action of the BCC. In the event of a conflict or inconsistency between a condition of approval of this preliminary subdivision plan and the preliminary subdivision plan dated "Received February 10, 2022," 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 preliminary subdivision 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. The project 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.

7. A waiver from Orange County Code Section 38-1387.1(a)(10) to allow a fourteen (14) foot building separation between townhomes in lieu of twenty (20) feet is hereby granted.
  
8. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated April 7, 2020, shall apply:
  - a. The Project shall comply with the terms and conditions of that certain Developer's Agreement for Hartzog Road Realignment recorded at Official Records Book/Page 7385/1519, Public Records of Orange County, Florida, as may be amended.
  
  - b. 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. Unless the property is otherwise vested or exempt, the applicant shall be subject to school concurrency and required to go through the review process prior to platting.
  
  - c. 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.
  
  - d. 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.
  
  - e. 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)
  
  - f. Prior to commencement of any earth work or construction, if one acre or more of land will be disturbed, the developer shall provide a copy of the completed National Pollutant Discharge Elimination System (NPDES) Notice of Intent (NOI) form for stormwater discharge from

construction activities to the Orange County Environmental Protection Division, NPDES Administrator. The original NOI form shall be sent to the Florida Department of Environmental Protection by the developer.

- g. Prior to issuance of any certificate of completion, all storm drain inlets shall have metal medallion inlet markers installed. Text on the marker shall read "No Dumping, Only Rain in the Drain." Specification detail will be provided within all plan sets. Contact the National Pollutant Discharge Elimination System (NPDES) Supervisor at the Orange County Environmental Protection Division for details.
- h. The site shall be stabilized following grubbing, clearing, earth work or mass grading to establish a dense stand of grass, or shall incorporate other approved Best Management Practices, on all disturbed areas if development does not begin within 7 days. Final stabilization shall achieve a minimum of seventy percent (70%) coverage of the disturbed land area and shall include a maintenance program to ensure minimum coverage survival and overall site stabilization until site development. Prior to clearing or grubbing, or approval of mass grading or constructions plans a letter of credit or cash escrow acceptable to the County shall be submitted to guarantee the required site stabilization and maintenance of all disturbed areas. The County Engineer shall establish the amount of the letter of credit or cash escrow.
- i. Unless a Conservation Area Impact (CAI) permit is approved by Orange County consistent with Orange County Code Chapter 15, Article X, "Wetland Conservation Areas", prior to Construction Plan approval, no conservation area or buffer encroachments shall be permitted. Approval of this plan does not authorize any direct or indirect conservation area impacts.
- j. 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.



- k. Pursuant to the BCC's acceptance of the Village I Term Sheet on November 13, 2018, this project shall comply with the terms and conditions of the Village I Horizon West Road Network Agreement recorded at Doc# 20200109451, Public records of Orange County, Florida, as may be amended from time to time.
- l. A Utilities Developer Agreement related to the oversizing of utility mains included in this PSP may be required. The need for an agreement and the terms of the agreement will be determined based on the MUP for this PSP. Agreements must be approved by the BCC prior to construction plan approval.
- m. Where public gravity main will be located within in alleyways, the distance from structure to structure shall be a minimum of 38 feet. To meet this requirement, the Side and Rear Setbacks for affected lots on the PSP shall be a minimum of 19 feet from the centerline of the alley, based on the utility configuration shown in the PSP.
- n. The plat and the Conditions, Covenants, and Restrictions (CC&Rs) for this project shall notify homeowners of the following: Homeowners own and maintain their individual water and reclaimed water services which extend to their homes from public water and reclaimed water meters located adjacent to public road right-of-way and/or public utility easements. The owners of the affected lots shall be granted access to HOA-owned tracts for the purpose of maintaining their water and reclaimed water services.
- o. A 5-year interim Master Utility Plan (MUP) for Village I must be approved prior to Construction Plan approval within this PD.
- p. 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.
- q. 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.

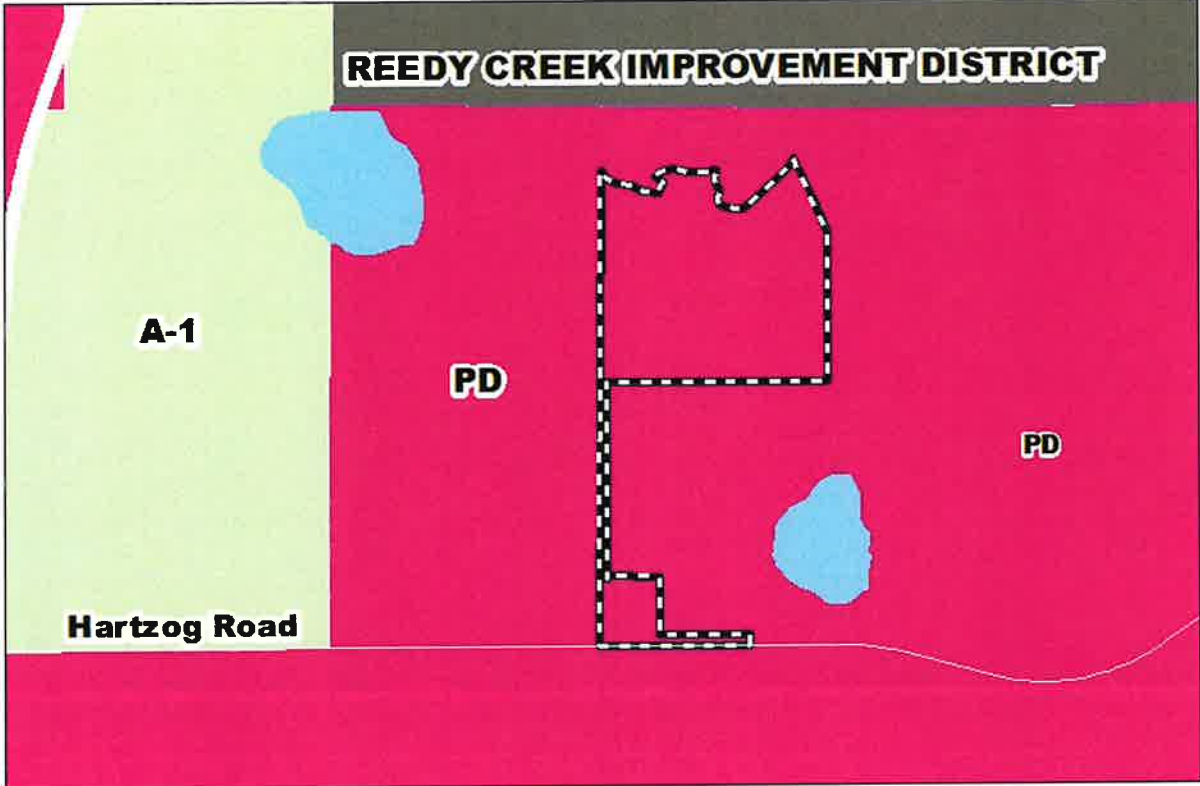
- r. In order to comply with the intent of Section 177.091(18), F.S., lot numbers at plat must be consecutive and consistent with the PSP. Failure to meet this requirement may require a change to the PSP and may delay approval of the plat.
  
- s. New streets which are an extension of or in alignment with existing streets shall bear the same name as that borne by such existing streets.
  
- t. Pole signs and billboards shall be prohibited. All other signage shall comply with Chapter 31.5 of the Orange County Code.
  
- u. Roads and drainage system(s), including any retention pond(s), will be owned and maintained by Orange County with a Municipal Service Benefit Unit (MSBU) established for stormwater system functionality. Routine maintenance, if not provided by the Homeowners' Association, shall be the responsibility of the County.
  
- v. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any Construction Plan submittal and must be approved prior to Construction Plan approval for any streets and/or tracts anticipated to be dedicated to the County and/or to the perpetual use of the public.
  
- w. A mandatory pre-application/sufficiency review meeting for the plat shall be required prior to plat submittal, but after approval of the site construction plans. The applicant shall resolve, to the County's satisfaction, all items identified in the pre-application/ sufficiency review meeting prior to formal submittal of the plat to the County.
  
- x. A Municipal Service Benefit Unit (MSBU) shall be established for the standard operation and maintenance of street lighting inventory including leasing, fuel, and energy costs for this project. Street lighting fixtures, poles, and luminaries used in this project shall be selected from the approved inventory list supplied by the Orange County Comptroller. Street lighting fixtures, poles, and luminaries used in this project shall be supplied and installed by the utility company that services the area of the project, as authorized by law or agreement, and thereafter maintains the street lighting inventory. The developer shall obtain approval of the street lighting fixtures, poles, and luminaries from the Orange County Comptroller Special Assessments Department via a "Letter of Commitment" prior to the installation of the street lighting fixtures, poles, and luminaries and prior to the plat being recorded by Orange County Comptroller Official Records section. All installation costs and street lighting

operational costs prior to the effective date of the MSBU approval by the Orange County Board of County Commissioners shall be the sole responsibility of the developer.

- y. The stormwater management system shall be designed to retain the 100-year/24-hour storm event onsite, unless documentation with supporting calculations is submitted which demonstrates that a positive outfall is available. If the applicant can show the existence of a positive outfall for the subject basin, then in lieu of designing for the 100-year/24-hour storm event, the developer shall comply with all applicable state and local stormwater requirements and regulations. An emergency high water relief outfall shall be provided to assure overflow does not cause flooding of surrounding areas.
- z. Aggregation/reconfiguration of various ownerships shall occur prior to plat submittal.
- aa. The applicant shall conduct a study for this phase to determine the Normal High Water Elevation of the existing waterbody (SW-6) prior to construction plan approval.
- bb. The following waivers from Orange County Code are granted:
  - 1. A waiver from Section 34-152(c), to allow lots to front a mew, park, open space, etc. in lieu of the requirement that each lot shall have a minimum access width of twenty (20) feet to a dedicated public paved street
  - 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 setback from an alley tract in lieu of an easement
  - 4. A waiver from Section 38-1384(g)(2), to allow the reference to pertain to an alley tract in lieu of an easement
  - 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
  - 6. A waiver from Section 38-1384(b)(4)a, to provide a public pedestrian and open space tract in lieu of a street to provide a block break.

Zoning Map

CDR-21-05-156



Subject Property



Subject Property

**Zoning Map**

ZONING: PD (Planned Development District)  
 (Withers LUP)

APPLICANT: Eric Warren, Poulos & Bennett, LLC

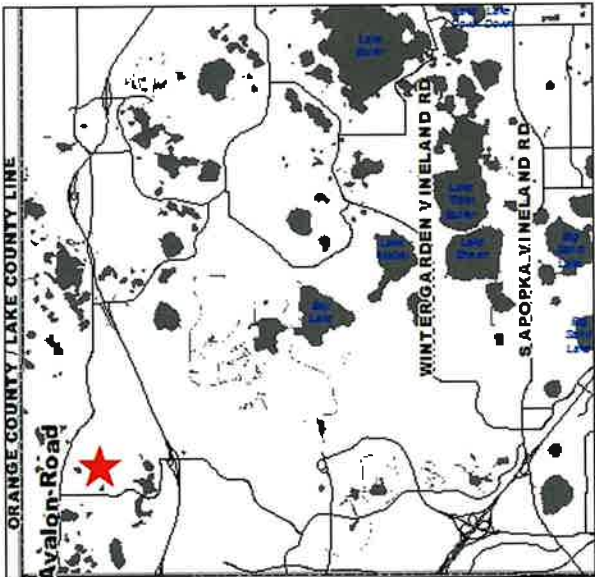
LOCATION: North of Hartzog Road/  
 East of Avalon Road

TRACT SIZE: 160.17 gross acres

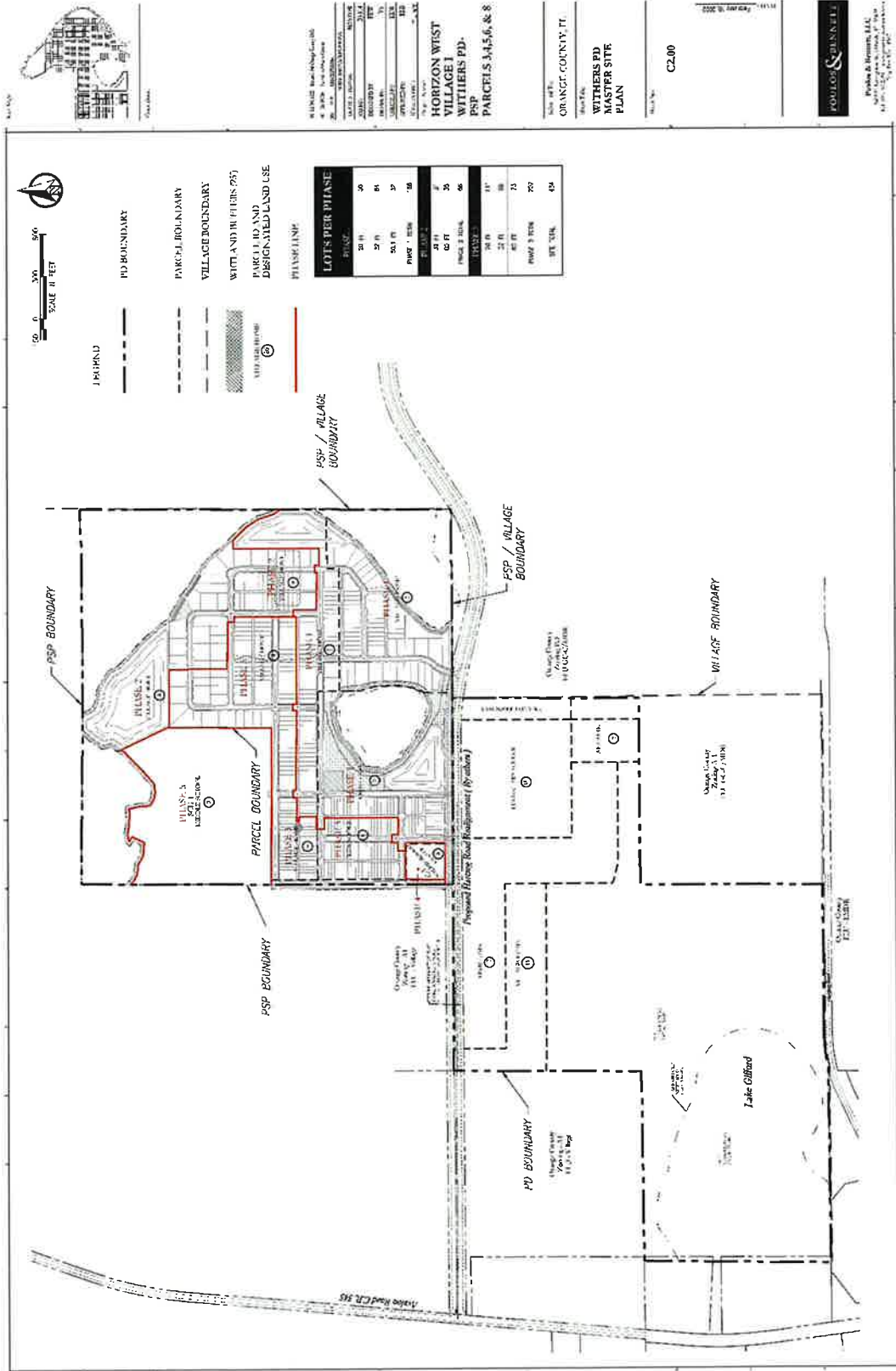
DISTRICT: # 1

S/T/R: 29-24-27

1 inch = 750 feet



# Site Plan Sheet





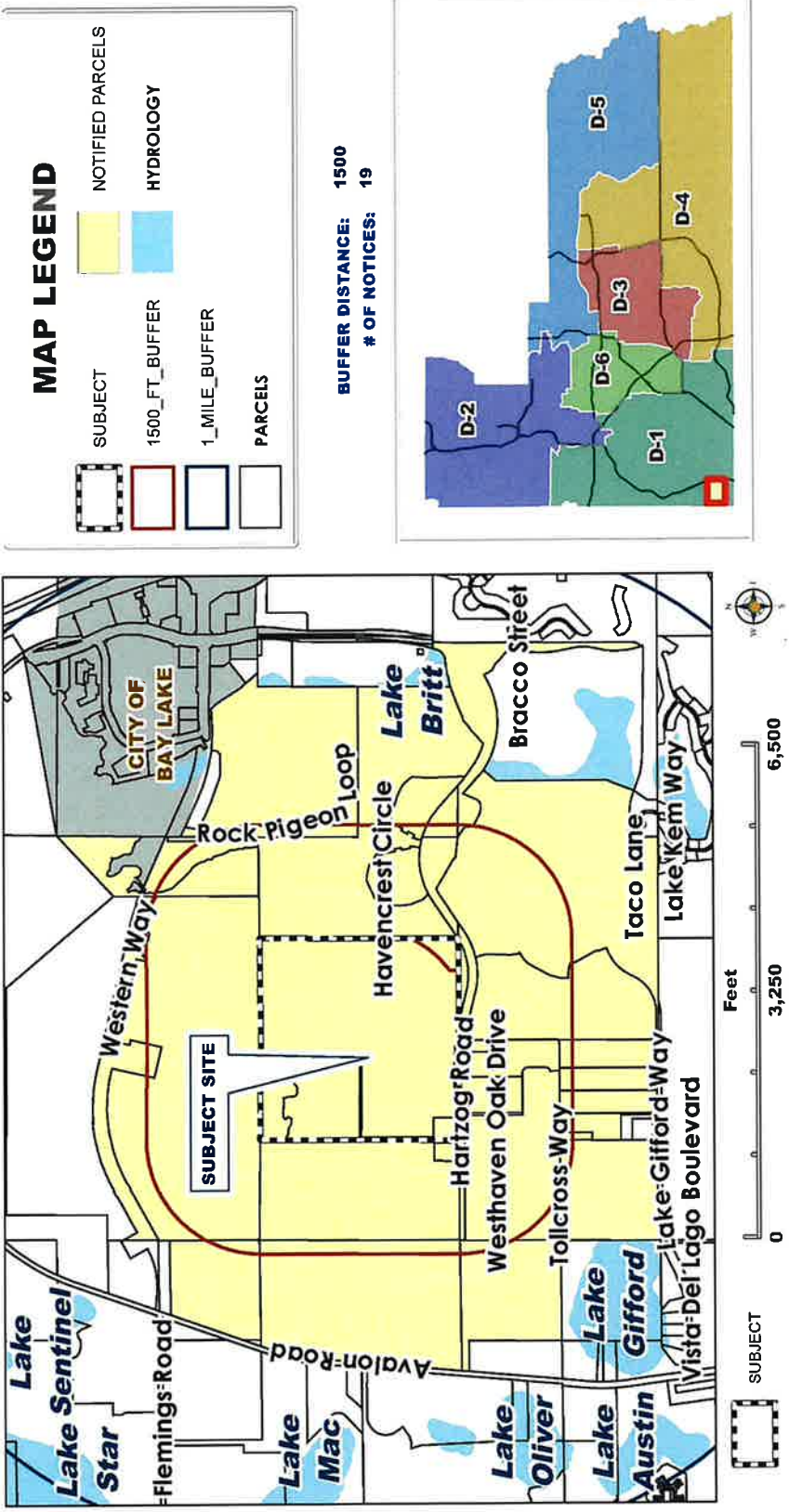


# Notification Map

S:\Business Systems\Board Administrations\SUBSTANTIAL CHANGE\2022\DRC\Withers PD Village | Pcls 3, 4, 5, 6, & 8 PSP\_CDR-21-05-1561

## Public Notification Map

Withers PD Village | Pcls 3, 4, 5, 6, & 8 PSP\_CDR-21-05-156



### MAP LEGEND

	SUBJECT		NOTIFIED PARCELS
	1500_FT_BUFFER		HYDROLOGY
	1_MILE_BUFFER		
	PARCELS		

BUFFER DISTANCE: 1500  
 # OF NOTICES: 19

