



**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 *JVW*

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

**SUBJECT:** March 10, 2020 – Public Hearing  
Kathy Hattaway, Poulos and Bennett, LLC  
Horizon West – Village I – Parcel 1 Planned Development  
Case # LUP-19-02-052 / District 1  
(Related to APF-19-11-363 - Consent Item)  
(Related to CAI-16-08-034 - Consent Item)

The Horizon West – Village I – Parcel 1 Planned Development (PD) is located generally west of County Road 545, north of Flemings Road, and south of Water Spring Boulevard. The applicant is seeking to rezone the 37.04 gross acre subject property from A-1 (Citrus Rural District) to PD (Planned Development District) in order to construct 300 multi-family residential dwelling units. No waivers from Orange County Code are requested.

On December 18, 2019, the Development Review Committee (DRC) recommended approval of the request, subject to conditions. On January 16, 2020, the Planning and Zoning Commission (PZC) recommended approval of the request, subject to conditions. A community meeting was not required for this application.

Finally, the required Specific Project Expenditure Report and Relationship Disclosure Forms have been completed in accordance with the requirements of Article X, Chapter 2, Orange County Code, as may be amended from time to time, and copies of these and the PD/LUP may be found in the Planning Division for further reference.

**ACTION REQUESTED: Make a finding of consistency with the Comprehensive Plan (CP) and approve the Horizon West – Village I - Parcel 1 Planned Development / Land Use Plan (PD/LUP) dated “Received August 14, 2019”, subject to the conditions listed under the PZC Recommendation in the Staff Report. District 1**

Attachments  
JVW/EPR/nt

**GENERAL INFORMATION**

<b>APPLICANT</b>	Kathy Hattaway, Poulos & Bennett, LLC
<b>OWNER</b>	Spring Grove Properties, LLC
<b>PROJECT NAME</b>	Horizon West – Village I – Parcel 1 Planned Development (PD)
<b>HEARING TYPE</b>	Planned Development / Land Use Plan (PD / LUP)
<b>REQUEST</b>	<b>A-1</b> (Citrus Rural District) <b>to</b> <b>PD</b> (Planned Development District)  <i>A request to rezone 37.04 gross acres from A-1 (Citrus Rural District) to PD (Planned Development District) in order to construct 300 multi-family residential dwelling units.</i>
<b>LOCATION</b>	Generally located west of County Road 545, north of Flemings Road, and south of Water Spring Boulevard.
<b>PARCEL ID NUMBERS</b>	18-24-27-0000-00-009 (portion of)
<b>TRACT SIZE</b>	37.04 gross acres / 18.41 net developable acres
<b>PUBLIC NOTIFICATION</b>	The notification area for this public hearing was 1,200 feet [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Three hundred seventy-six (376) notices were mailed to those property owners in the surrounding area. A community meeting was not required for this application.
<b>PROPOSED USE</b>	300 Multi-Family Residential Dwelling Units

**STAFF RECOMMENDATION**

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

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Horizon West – Village I - Parcel 1 Planned Development / Land Use Plan (PD/LUP), dated “Received August 14, 2019”, subject to the following conditions:**

1. Development shall conform to the Horizon West – Village I - Parcel 1 Land Use Plan (LUP) dated "Received August 14, 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 August 14, 2019," the condition of approval shall control to the extent of such conflict or inconsistency.

2. This project shall comply with, adhere to, and not deviate from or otherwise conflict with any verbal or written promise or representation made by the applicant (or authorized agent) to the Board of County Commissioners ("Board") at the public hearing where this development received final approval, where such promise or representation, whether oral or written, was relied upon by the Board in approving the development, could have reasonably been expected to have been relied upon by the Board in approving the development, or could have reasonably induced or otherwise influenced the Board to approve the development. In the event any such promise or representation is not complied with or adhered to, or the project deviates from or otherwise conflicts with such promise or representation, the County may withhold (or postpone issuance of) development permits and / or postpone the recording of (or refuse to record) the plat for the project. For purposes of this condition, a "promise" or "representation" shall be deemed to have been made to the Board by the applicant (or authorized agent) if it was expressly made to the Board at a public hearing where the development was considered and approved.
3. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this land use plan to promptly disclose to the County any changes in ownership, encumbrances, or other matters of record affecting the property that is subject to the plan, and to resolve any issues that may be identified by the County as a result of any such changes. Developer / Applicant acknowledges and understands that any such changes are solely the Developer's / Applicant's obligation and responsibility to disclose and resolve, and that the Developer's / Applicant's failure to disclose and resolve any such

changes to the satisfaction of the County may result in the County not issuing (or delaying issuance of) development permits, not recording (or delaying recording of) a plat for the property, or both.

5. Property that is required to be dedicated or otherwise conveyed to Orange County (by plat or other means) shall be free and clear of all encumbrances, except as may be acceptable to County and consistent with the anticipated use. Owner / Developer shall provide, at no cost to County, any and all easements required for approval of a project or necessary for relocation of existing easements, including any existing facilities, and shall be responsible for the full costs of any such relocation prior to Orange County's acceptance of the conveyance. Any encumbrances that are discovered after approval of a PD Land Use Plan shall be the responsibility of Owner / Developer to release and relocate, at no cost to County, prior to County's acceptance of conveyance. As part of the review process for construction plan approval(s), any required off-site easements identified by County must be conveyed to County prior to any such approval, or at a later date as determined by County. Any failure to comply with this condition may result in the withholding of development permits and plat approval(s).
6. The project shall comply with the terms and conditions of that certain Adequate Public Facilities agreement for Village I Parcel 1 as approved by the BCC on MM DD, YYYY, as may be amended from time to time.
7. 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.
8. 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 future Village I Roadway Network Agreement, as approved by the BCC and as may be amended from time to time.
9. 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.
10. 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).
11. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.

12. A 5-year interim Master Utility Plan (MUP) for Village I must be approved prior to Construction Plan approval within this PD.
13. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water, wastewater, and reclaimed water systems have been designed to support all development within the PD, and that construction plans are consistent with an approved and up-to-date Master Utility Plan for Village I.
14. 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.
15. Prior to construction plan approval, all property owners within 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.
16. The developer shall be responsible for building master utilities transmission and collection infrastructure adequate to serve the PD and 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 Village I Master Utility Plan (MUP).
17. Tree removal/earthwork shall not occur unless and until construction plans for the first Preliminary Subdivision Plan and/or Development Plan with a tree removal and mitigation plan have been approved by Orange County.
18. Short term/transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater.
19. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.

## **IMPACT ANALYSIS**

### **Land Use Compatibility**

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

**Comprehensive Plan (CP) Consistency**

The subject property has an underlying Future Land Use Map (FLUM) designation of Village (V), indicating that it is within the Horizon West Special Planning Area. More specifically, the subject property is located within Horizon West Village I and is designated Apartment District (APT). The Apartment District has a required density of sixteen (16) dwelling units per net developable acre and a maximum permitted density of twenty-five (25) dwelling units per net developable acre with the use of Transfer of Development Rights (TDR) credits. The proposed PD zoning district and development program are consistent with Village (V) FLUM designation and the following CP provisions:

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

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

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

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

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

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

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

**Community Meeting Summary**

A community meeting was not required for this request.

**SITE DATA**

<b>Existing Use</b>	Undeveloped Land / Farmland
<b>Adjacent Zoning</b>	N: PD (Planned Development District) (Springhill PD) (2013) E: PD (Planned Development District) (Spring Grove-Northeast PD) (2015) W: PD (Planned Development District) (Springhill PD) (2013) S: A-1 (Citrus Rural District) (1957)
<b>Adjacent Land Uses</b>	N: Single Family Residential and Wetland E: Single Family Residential and Wetland W: Wetland S: Concrete processing facility and Wetland

**APPLICABLE PD DEVELOPMENT STANDARDS**

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

**SPECIAL INFORMATION**

**Subject Property Analysis**

The applicant is seeking to rezone the 37.04 gross acre subject property from A-1 (Citrus Rural District) to PD (Planned Development District) in order to construct three hundred (300) multi-family residential dwelling units. The Horizon West Special Planning Area Land Use Map for Village I designates the subject property as Apartment District (APT). The proposed development program is consistent with that designation. The subject property is bounded by a large wetland area to the north, west, and south, and the Spring Grove-Northeast PD to the east, which is approved for 326 attached and detached residential dwelling units.

This request includes an internal transfer of six (6) Transfer of Development Rights (TDR) credits and a transfer of seventy-three (73) TDR credits from the Withers PD (CDR-19-10-331) to the Parcel 1 PD. In addition, running concurrent with this request is an APF Agreement to transfer 1.90 APF acreage credits (APF-19-11-363) from the Withers PD (CDR-19-10-331) to the Parcel 1 PD.



**Comprehensive Plan (CP) Amendment**

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

**Rural Settlement**

The subject property is not located in a Rural Settlement.

**Joint Planning Area (JPA)**

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

**Overlay District Ordinance**

The subject property is not located in an Overlay District.

**Airport Noise Zone**

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

**Environmental**

A Class I wetland that extends offsite is located onsite, as shown on the plan. Orange County Conservation Area Determination CAD-15-06-068 was completed for this property, with a certified wetland boundary survey approved on September 24, 2015. This determination is binding for a period of five years. A Conservation Area Impact Permit application, CAI-16-08-034, was submitted to remove 1.2 acres of the Class I wetland on the site. CAI-16-08-034 needs to be reviewed by the BCC concurrently with this request.

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

**Transportation / Concurrency**

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

**Water / Wastewater / Reclaim**

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

**Schools**

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

**Parks and Recreation**

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

**Code Enforcement**

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

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

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

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

The staff report was presented to the PZC with the recommendation that they make a finding of consistency with the Comprehensive Plan and recommend approval of the Horizon West – Village I – Parcel 1 Planned Development (PD) Land Use Plan, subject to nineteen (19) conditions.

Staff indicated that three hundred seventy-six (376) notices were mailed to surrounding property owners within a buffer of 1,200 feet from the subject property, with zero (0) commentaries received in favor of the request and ten (10) commentaries received in opposition. The reasons for opposition were impacts to the wetland and conservation area and opposition to apartments adjacent to the existing single-family homes. However, these responses were due to confusion with the public hearing notice. The 37 acre subject property is part of a larger 228-acre parcel, which includes the wetland/conservation area. The notice showed the boundary of the entire parcel, once it was clarified that the request only includes the property on Avalon Road, and will be significantly buffered from the single-family homes, most responders dropped their opposition. The applicant was present for the hearing and concurred with staff's recommendation. Three (3) members of the public spoke at the hearing in opposition to the request, for the same reasons cited in the opposition commentaries.

After a brief discussion regarding the boundary and wetland impacts, a motion was made by Commissioner Dunn to find the request consistent with the Comprehensive Plan and recommend APPROVAL of the Horizon West – Village I – Parcel 1 PD Land Use Plan, subject to the nineteen (19) conditions. Commissioner Wade seconded the motion, which then carried on a 5-0 vote.

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<b>Motion / Second</b>	<i>Jimmy Dunn / JaJa Wade</i>
<b>Voting in Favor</b>	<i>Jimmy Dunn, JaJa Wade, Eddie Fernandez, Gordon Spears, and Diane Velazquez</i>
<b>Voting in Opposition</b>	<i>None</i>
<b>Absent</b>	<i>Carlos Nazario</i>  <i>Mohammed Abdallah declared a conflict of interest</i>

**PZC RECOMMENDED ACTION**

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

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Horizon West – Village I - Parcel 1 Planned Development / Land Use Plan (PD/LUP), dated “Received August 14, 2019”, subject to the following conditions:**

1. Development shall conform to the Horizon West – Village I - Parcel 1 Land Use Plan (LUP) dated "Received August 14, 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 August 14, 2019," the condition of approval shall control to the extent of such conflict or inconsistency.
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condition, a "promise" or "representation" shall be deemed to have been made to the Board by the applicant (or authorized agent) if it was expressly made to the Board at a public hearing where the development was considered and approved.

3. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this land use plan to promptly disclose to the County any changes in ownership, encumbrances, or other matters of record affecting the property that is subject to the plan, and to resolve any issues that may be identified by the County as a result of any such changes. Developer / Applicant acknowledges and understands that any such changes are solely the Developer's / Applicant's obligation and responsibility to disclose and resolve, and that the Developer's / Applicant's failure to disclose and resolve any such changes to the satisfaction of the County may result in the County not issuing (or delaying issuance of) development permits, not recording (or delaying recording of) a plat for the property, or both.
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6. The project shall comply with the terms and conditions of that certain Adequate Public Facilities agreement for Village I Parcel 1 as approved by the BCC on March 10, 2020, as may be amended from time to time.
7. 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.

8. 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 future Village I Roadway Network Agreement, as approved by the BCC and as may be amended from time to time.
9. 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.
10. 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).
11. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
12. A 5-year interim Master Utility Plan (MUP) for Village I must be approved prior to Construction Plan approval within this PD.
13. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water, wastewater, and reclaimed water systems have been designed to support all development within the PD, and that construction plans are consistent with an approved and up-to-date Master Utility Plan for Village I.
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15. Prior to construction plan approval, all property owners within 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.
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18. Short term/transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater.
19. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.