



Interoffice Memorandum

DATE: October 8, 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 Eric P. Raasch,
Planning Division Jr., AICP
(407) 836-5523

Digitally signed by Eric P. Raasch, Jr., AICP
Date: 2020.10.08 12:10:06 -04'00'

SUBJECT: October 27, 2020 – Public Hearing
Applicant: Kathy Hattaway, Poulos & Bennett, LLC
Horizon West Village H Parcels 12A and 12B Planned
Development
Case # CDR-20-05-128 / District 1

The Horizon West Village H Parcels 12A and 12B Planned Development (PD) is generally located south of Flamingo Crossings Boulevard and east of Avalon Road. The existing PD development program allows for 89 attached single-family dwelling units and 340 multi-family dwelling units.

Through this PD substantial change, the applicant is seeking to split Parcel 12B into two parcels, 12B and 12C, change the land use from Townhome to Village Center on new Parcel 12C, allocate 100,000 square feet of non-residential uses to Parcel 12C for a self-storage facility, reduce the townhome units from 89 to 84 units, and add a 0.23 acre upland greenbelt tract. Additionally, one waiver related to building separation requirements is associated with this request.

On September 23, 2020, the Development Review Committee (DRC) recommended approval of the request, subject to conditions. A community meeting was required for this request as summarized in the staff report.

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 H Parcels 12A and 12B Planned Development / Land Use Plan (PD/LUP) dated “Received September 4, 2020”, subject to the conditions listed under the DRC Recommendation in the Staff Report.
District 1

Attachments
JVW/EPR/nsw

CASE # CDR-20-05-128

Commission District: # 1

GENERAL INFORMATION

APPLICANT Kathy Hattaway, Poulos & Bennett, LLC

OWNER Titan Western Beltway, LLC

PROJECT NAME Horizon West Village H Parcels 12A and 12B Planned Development

PARCEL ID NUMBER(S) 08-24-27-0000-00-006 (affected parcel only)

TRACT SIZE 34.60 gross acres (overall PD)
15.74 gross acres (affected parcel only)

LOCATION Generally located south of Flamingo Crossings Boulevard and east of Avalon Road.

REQUEST A PD substantial change to split Parcel 12B into two (2) parcels, 12B and 12C, change the land use from Townhome to Village Center on new Parcel 12C, allocate 100,000 square feet of non-residential uses to Parcel 12C for a self-storage facility, reduce the townhome units from 89 to 84 units, and add a 0.23 acre upland greenbelt tract. In addition, the applicant has requested the following waiver from Orange County Code:

1. A waiver from Section 38-1387.1(a)(10) to allow a fourteen (14) foot building separation between interior townhome buildings, in lieu of twenty (20) feet.

Applicant Justification: Per Code Section 38-1387.1(a)(9)(b), side setbacks for townhome end units are seven (7) feet which results in only fourteen (14) feet being required between townhome buildings. Compliance with Code Section 38-1387.1(a)(10) would require twenty (20) feet between buildings. This waiver is consistent with existing Horizon West construction and previously granted waivers. Moreover, this waiver is limited to interior building side setbacks and does not affect the Side Street Setback of ten (10) feet.

PUBLIC NOTIFICATION A notification area extending beyond eight hundred (800) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Five hundred twenty-one (521) notices were mailed to those property owners in the notification buffer area. A community meeting was required for this request as summarized in this report below.

IMPACT ANALYSIS

Special Information

The Horizon West Village H Parcels 12A and 12B PD was originally approved April 9, 2019 and currently includes entitlements for 89 attached single-family dwelling units and 340 multi-family dwelling units.

Through this PD substantial change, the applicant is seeking to split Parcel 12B into two (2) parcels, 12B and 12C, change the land use from Townhome to Village Center on new Parcel 12C, allocate 100,000 square feet of non-residential uses to Parcel 12C for a self-storage facility, reduce the townhome units from 89 to 84 units, and add a 0.23 acre upland greenbelt tract.

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) and is designated Apartment District (APT) and Townhome District (TH) on the Special Planning Area map. Through this request, the applicant is proposing to amend a portion of the Townhome District (TH) to Village Center (VC) District. The request is consistent with the applicable policies within the Comprehensive Plan.

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

Environmental Protection Division (EPD) staff has reviewed the proposed request, but did not identify any issues or concerns.

Transportation / Concurrency

A Village H Horizon West Road Network Agreement for C.R. 545 among Orange County and D.R. Horton, Inc. ("DRH"); Avalon Properties, Ltd. ("Avalon"); Horizon West Properties ("HWP"); HAP, Inc. ("HAP"); Titan Western Beltway, LLC ("Titan"); Hanover Hickory Nut, LLC, ("Hanover"); Zanzibar Properties, LLC ("Zanzibar"); and Seidel West I, LLC ("Seidel"). DRH, Avalon, HWP, HAP, Titan, Hanover, Zanzibar, and Seidel are collectively referred to herein as "Signatory Owners" was approved by the Board of County Commissioners on 2/12/2013 and recorded at OR Book/Page 10525/6172. The Village H Horizon West Road Network Agreement provides for the dedication of right-of-way, design, engineering, permitting, mitigation and construction of C.R. 545 to four lanes in four phases according to specific trip allocations and performance thresholds. Concurrency Vesting shall be provided pursuant to Table 1 based on achieved thresholds of the road improvements. Conveyance shall be by general warranty deed

at no cost to the County prior to each phase of roadway construction. The Signatory Owners will receive Road Impact Fee Credits in Road Impact Fee Zone 4 for the lesser of (a) 95% of the actual, reasonable unreimbursed sums incurred by Signatory Owners for permitting, design, mitigation, inspection and construction expense exclusive of enhanced landscaping and street lighting or (b) 60% of the countywide average total cost of road construction per lane mile. This agreement was negotiated based on the approved Horizon West Global Road Term Sheet.

Community Meeting Summary

An in-person community meeting was unable to be held due to current COVID-19 health restrictions. An informational presentation was made available to the public on Wednesday, September 9, 2020 and remained available until the date of the Board meeting. At the time this staff report was drafted, staff had received four (4) resident responses in opposition. Concerns expressed in these responses included visual intrusions, negative impacts on property values, light and noise pollution, increased crime, impacts on the quality of life for residents, and compatibility with the vision of Horizon West.

Schools

A formal capacity determination exists for this request (OC-20-128) and expires on December 5, 2020. Capacity is available to serve this project.

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 – (September 23, 2020)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Horizon West Village H Parcels 12A and 12B Planned Development / Land Use Plan (PD/LUP), dated “September 4, 2020”, subject to the following conditions:

1. Development shall conform to the Horizon West Village H Parcels 12A & 12B Planned Development dated "Received September 4, 2020," 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 September 4, 2020," 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. The project shall comply with the terms and conditions of that certain Village H Horizon West Road Network Agreement approved on February 12, 2013 and recorded at OR Book/Page 10525/6172 Public Records of Orange County, Florida, as may be amended.
7. Construction plans for residential and commercial development within this PD, submitted after January 31, 2021, shall not be approved until the APF Utility tract(s) (water and wastewater) and 50-foot access & utility easement are conveyed to Orange County Utilities.
8. A waiver from Orange County Code Section 38-1387.1(a)(10) is granted to allow a fourteen (14) foot building separation between interior townhome buildings, in lieu of twenty (20) feet.
9. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated April 9, 2019 shall apply:
 - a) The project contains 429 unvested units that are subject to the County's school capacity policy (a/k/a the "Martinez Doctrine".) The developer has acquired from D.R. Horton school capacity credits established under the Capacity Enhancement Agreement by and between D.R. Horton and the School Board dated August 18, 2006 (CEA #05-030). The Developer shall comply with all provisions of CEA #05-030.

Upon the County's receipt of written notice from OCPS that the developer is in default or breach of the Capacity Enhancement Agreement, the County shall immediately cease issuing building permits for any unvested units. 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 cessation of the County's issuance of residential building permits resulting from such notification from OCPS. 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. 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 OCPS over any interpretation or

provision of the Capacity Enhancement Agreement. 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.

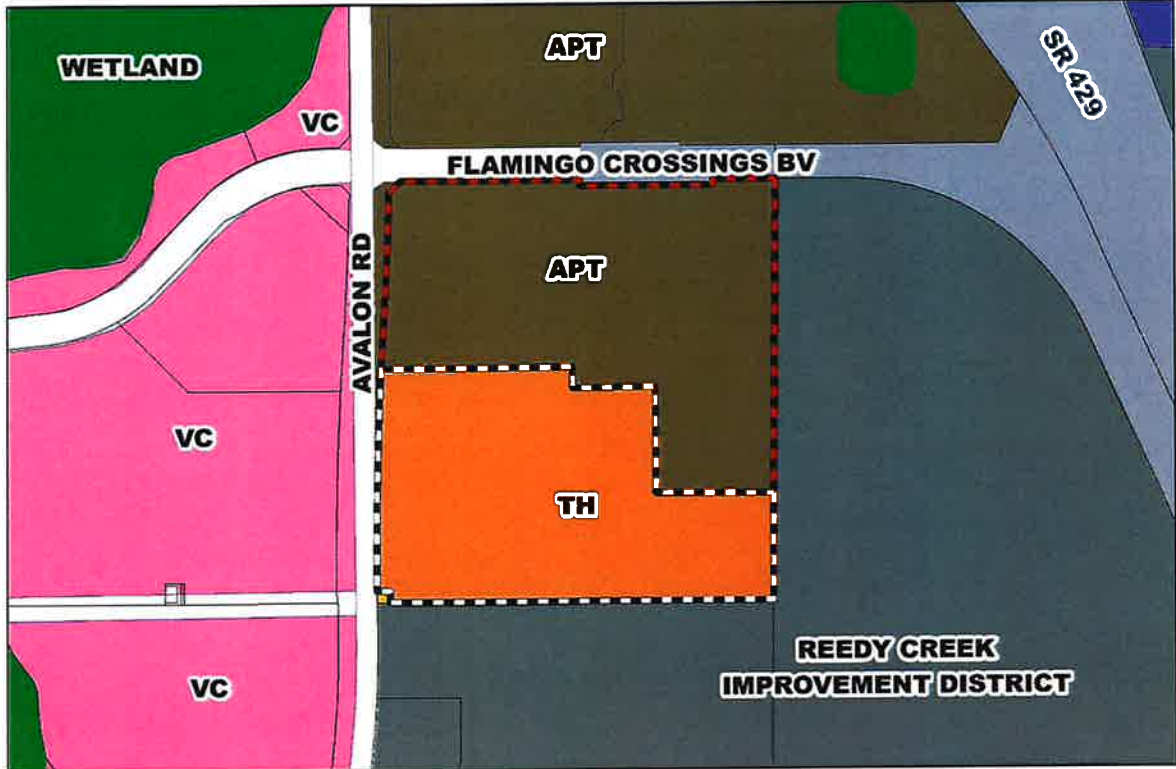
- b) As proof of satisfaction of the project's transportation concurrency obligations, and in compliance with that certain Village H Road Network Agreement recorded at O.R. Book 10525, Page 6172, Public Records of Orange County, Florida, the developer must provide a valid Assignment of Vested Trips document together with the applicable Confirmation Letter issued by Orange County, concurrently with or prior to Preliminary Subdivision Plan/Development Plan submittal. In addition, the Preliminary Subdivision Plan and each subsequent Development Plan must show a legend with trip allocations by parcel identification number and phase of the development.
- c) 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.
- d) Prior to construction plan approval, all property owners within Village H, 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.
- e) Construction plans within this PD shall be consistent with approved and up-to-date Master Utility Plans (MUPs) for the PD and the Village. The MUP and amendments to the approved PD-level and Village MUPs shall be submitted to Orange County Utilities at least thirty (30) days prior to construction plan submittal and must be approved prior to construction plan approval.
- f) The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to rate resolutions and ordinances.
- g) 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 F & H Master Utility Plan (MUP).
- h) Pole signs and billboards shall be prohibited. All other signage shall comply with Chapter 31.5 of the Orange County Code.

- i) 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.
- j) Short term/transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater.
- k) 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).
- l) 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.
- m) The following waivers from Orange County Code are granted:
 - 1. 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.
 - 2. A waiver from Section 38-1384(g)(1) to allow garage access to be setback from an alley tract, in lieu of an easement.
 - 3. 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.
 - 4. A waiver from Section 38-1258(a), for Parcel 12A, to allow multi-family residential buildings located within ten (10) feet of single-family zoned property to be constructed up to five-stories and 65 feet in height, in lieu of the requirement that multi-family buildings within one hundred (100) feet of a single-family zoned property be restricted to a single-story height.
 - 5. A waiver from Section 38-1258(c), for Parcel 12A, to allow multi-family buildings located within ten (10) feet of a single-family zoned property to be constructed up to five-stories and 65 feet in height, in lieu of the requirement that multi-family buildings located within one hundred and fifty (150) feet of single-family zoned property shall not exceed three (3) stories (forty (40) feet) in height.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION *(April 9, 2019)*

Upon a motion by Commissioner VanderLey, seconded by Commissioner Moore, and carried by all present members voting AYE by voice vote, the Board approved the request to rezone 34.60 gross acres from A-1 (Citrus Rural District) to PD (Planned Development District) in order to construct 89 attached single-family dwelling units and 340 multi-family dwelling units, subject to conditions.

CDR-20-05-128



 Subject Property
 PD Boundary

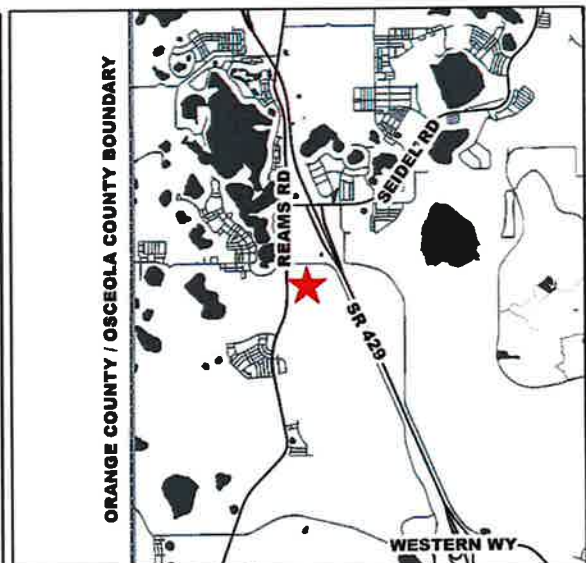


 Subject Property

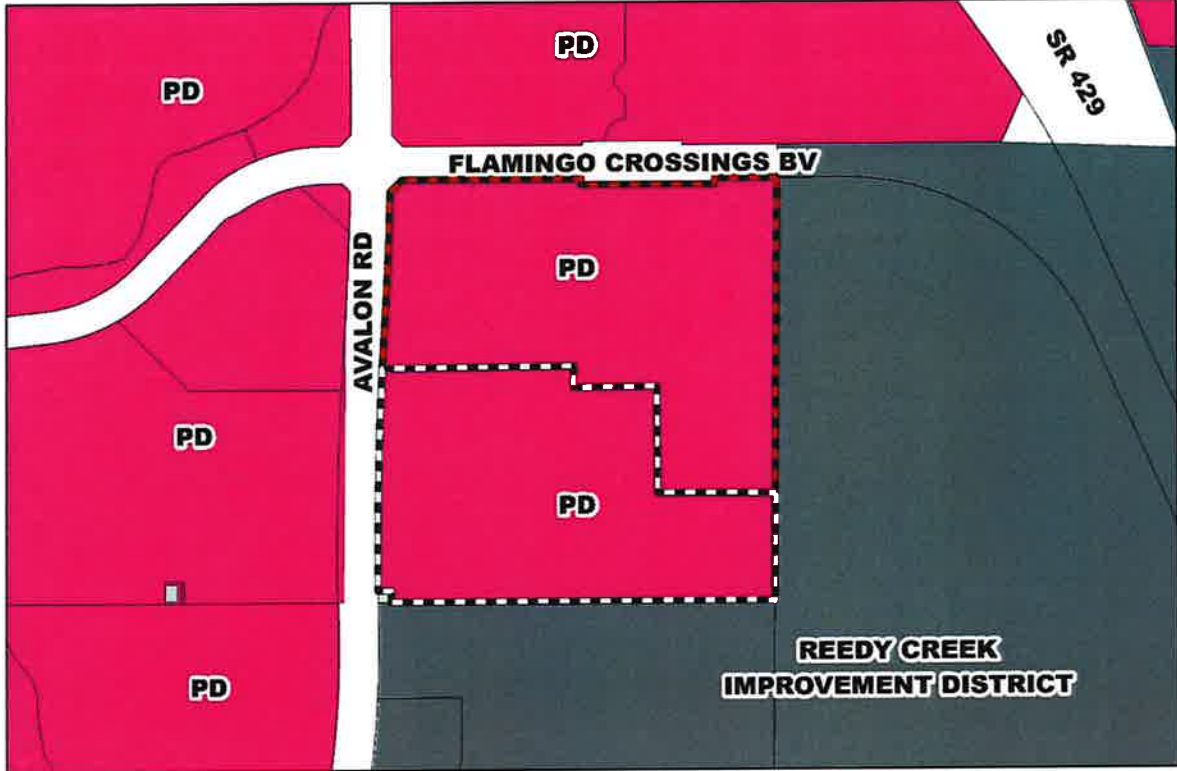
Future Land Use Map

FLUM: Village (V)
APPLICANT: Kathy Hattaway, Poulos & Bennett, LLC.
LOCATION: Generally located south of Flamingo Crossings Boulevard and east of Avalon Road.
TRACT SIZE: 34.60 gross acres (overall PD)
 15.74 gross acres (affected parcel only)
DISTRICT: # 1
S/T/R: 08/24/27

1 inch = 450 feet



CDR-20-05-128



 Subject Property
 PD Boundary



 Subject Property

Zoning Map

ZONING: PD (Planned Development District)

APPLICANT: Kathy Hattaway, Poulos & Bennett, LLC.

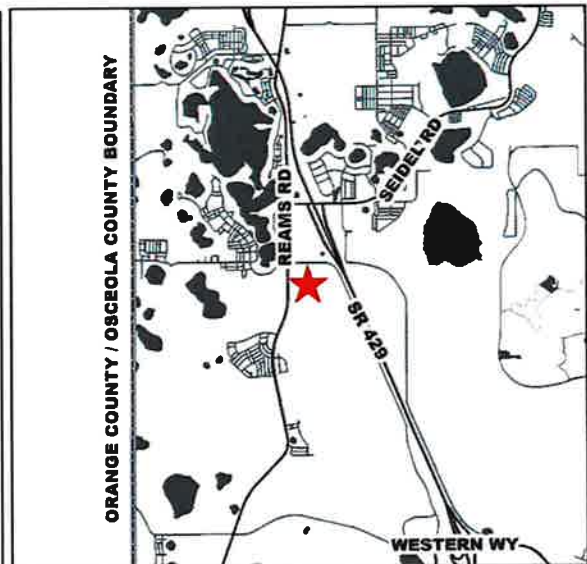
LOCATION: Generally located south of Flamingo Crossings Boulevard and east of Avalon Road.

TRACT SIZE: 34.60 gross acres (overall PD)
 15.74 gross acres (affected parcel only)

DISTRICT: # 1

S/T/R: 08/24/27

1 inch = 450 feet



Horizon West Village H Parcels 12A and 12B PD / LUP (Cover Sheet)

Planned Development/Land Use Plan Amendment



for Horizon West Village H Parcels 12A & 12B PD

CDR 20-05-128
 Orange County, FL

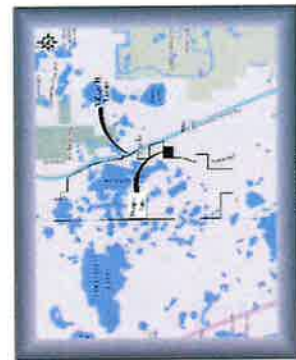
Sheet No.	Sheet Title	Sheet Date
1	Site Plan	08/24/20
2	Site Plan	08/24/20
3	Site Plan	08/24/20
4	Site Plan	08/24/20
5	Site Plan	08/24/20

Parcel Id. No.:
 08-24-27-0000-00-006*
 08-24-27-0000-00-041

Parcel Affected By This CDR Application

Applicant:
 Poulos & Bennett C/O Kinny Highway
 2602 E. Lantigua Street
 Orlando, Florida 32803
 407-687-2594

Owner:
 Titan Western Railway, LLC
 2281 Lee Road, Suite 204
 Winter Park, Florida 32789



LEGAL DESCRIPTION
 The part of the Northwest 1/4 of the Southeast 1/4 of Section 8, Township 24 South, Range 27 East, long South of Planning Road and East of Vinton Road, Orange County, Florida

LESSOR: Kinny Highway, LLC, 2602 E. Lantigua Street, Orlando, Florida 32803. AS TO BE ON THE PART OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 8, TOWNSHIP 24 SOUTH, RANGE 27 EAST, IN THE COUNTY OF ORANGE, FLORIDA, AS SHOWN ON THE PLAT OF THE PLANNED DEVELOPMENT/LAND USE PLAN AMENDMENT FOR PARCELS 12A AND 12B, PAGES 12-13.

LESSOR: Kinny Highway, LLC, 2602 E. Lantigua Street, Orlando, Florida 32803. AS TO BE ON THE PART OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 8, TOWNSHIP 24 SOUTH, RANGE 27 EAST, IN THE COUNTY OF ORANGE, FLORIDA, AS SHOWN ON THE PLAT OF THE PLANNED DEVELOPMENT/LAND USE PLAN AMENDMENT FOR PARCELS 12A AND 12B, PAGES 12-13.

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Prepared by:
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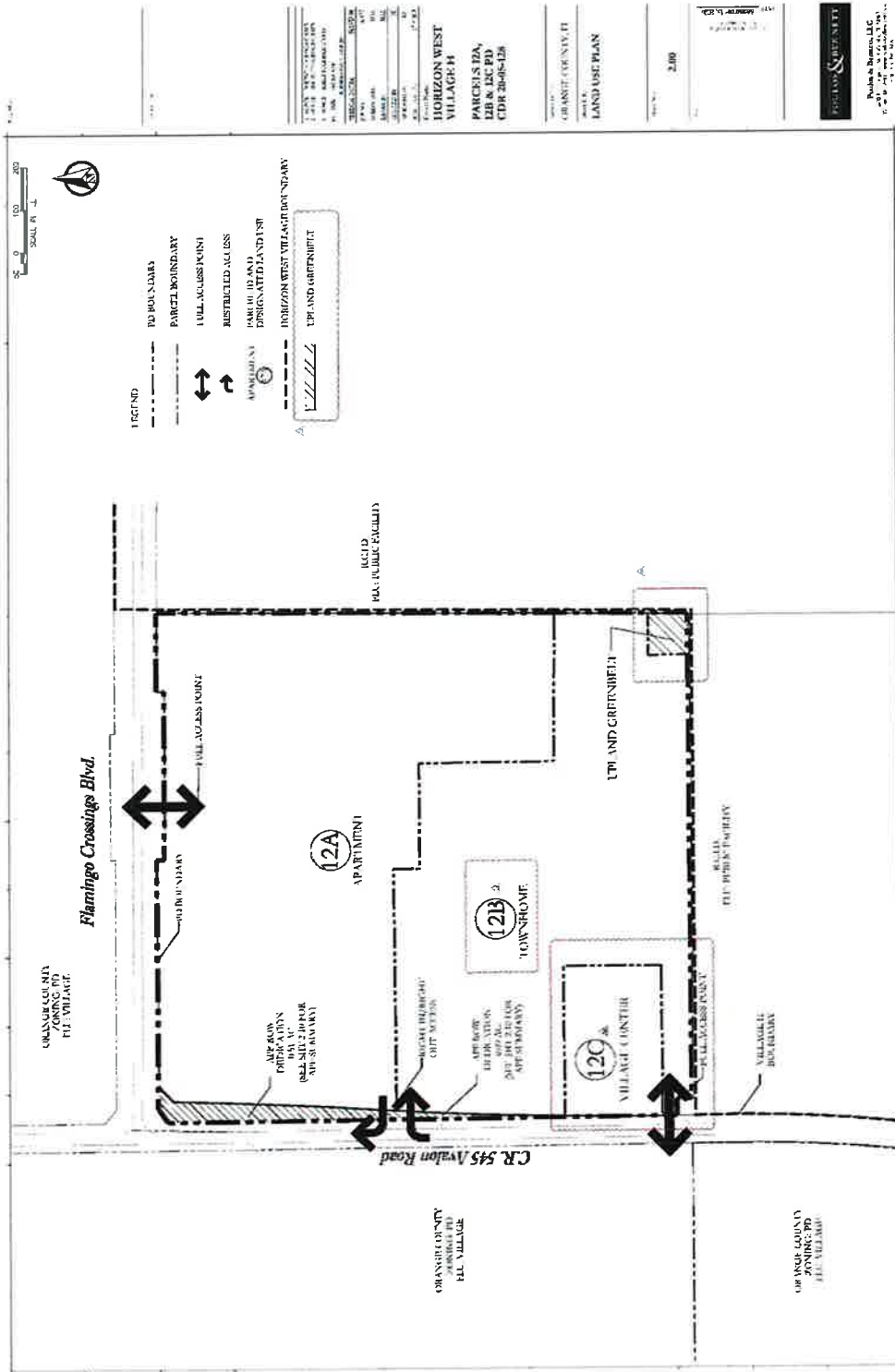
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Prepared by:
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RECEIVED
 By DRC Office at 11:43 am, Sep 04, 2020

POULOS & BENNETT
 PLANNING CONSULTANTS
 2602 E. LANTIGUA STREET
 ORLANDO, FLORIDA 32803
 407-687-2594

Horizon West Village H Parcels 12A and 12B PD / LUP



Notification Map

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