



Interoffice Memorandum

September 27, 2023

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

FROM: Andres Salcedo, P.E., Acting Director
Planning, Environmental and Development
Services Department

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

A handwritten signature in blue ink that reads "Andres".

SUBJECT: October 10, 2023 – Public Hearing
Adam Smith, P.E., VHB, Inc.
Waterleigh Planned Development / Phase 5 Preliminary
Subdivision Plan
Case # CDR-23-02-042 / District 1

The Waterleigh Planned Development (PD) / Phase 5 Preliminary Subdivision Plan (PSP) is located west of County Road 545, east of the County Line, and south of Water Spring Boulevard. This PSP was originally approved by the Board on January 10, 2023, to subdivide 172.28 acres to construct 9 single-family residential units and 15 future development tracts and infrastructure.

Through this PSP substantial change, the applicant is requesting to add 277 single-family residential dwelling units (210 detached, 67 attached, replacing previously approved Future Development tracts) for a total of 286 units. The applicant is also requesting one waiver from Orange County Code Section 38-1384 (i)(4) to allow lots greater 50' in width that front neighborhood squares and parks to be front loaded in lieu of access from a rear alley or from a rear-yard garage. (Lots 3-18, 21-23, 50, 55-62, & 192). The waiver is being requested in order to preserve natural features and provide cohesive characteristics of the neighborhood, including, matching surrounding structures.

On August 23, 2023, the Development Review Committee (DRC) recommended approval of the substantial change request, subject to conditions. Condition of Approval #14 requires the lots subject to the waiver to have a front porch that complies with the requirements of Section 38-1384(d), and the width of any garage shall not exceed 50% of the front façade. A community meeting was not required for this request.

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

ACTION REQUESTED: Make a finding of consistency with the Comprehensive Plan and approve the substantial change to the Waterleigh PD / Phase 5 PSP dated “Received July 21, 2023”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1

AS/JK/le
Attachments

1. GENERAL INFORMATION

Applicant: Adam Smith, VHB, Inc.

Owner: D R Horton, Inc.

Project Name: Waterleigh Planned Development (PD) /
Phase 5 Preliminary Subdivision Plan
(PSP)

Hearing Type: Preliminary Subdivision Plan (PSP)

Request: To add 277 single-family residential dwelling units (210 detached, 67 attached, replacing previously approved Future Development tracts) for a total of 286 units. The request also includes the following waiver from Orange County Code:

1. A waiver from Orange County Code Section 38-1384 (i)(4) is requested to allow lots greater than 50' in width that front neighborhood squares and parks (lots 3-18, 21-23, 50, 55-62, & 192) to be front loaded in lieu of having access from a rear alley or from a rear-yard garage.

2. GENERAL INFORMATION

A. Overview: This project is within the Waterleigh PD, which has been approved for 3,570 residential units and 301,004 square feet of non-residential uses. The subject property is designated Garden Home District and is the final phase of the Waterleigh PD. The Phase 5 Preliminary Subdivision Plan was originally approved January 10, 2023, for nine (9) single family residences, 15 future tracts, and infrastructure.

This request is to amend the previously approved PD to subdivide 15 future development tracts in order to create 277 single-family residential dwelling units (consisting of 210 detached and 67 attached) for a total of 286 units. One waiver is requested from Orange County Code to allow certain lots greater 50' in width that front neighborhood squares and parks to be front loaded in lieu of access from a rear alley or from a rear-yard garage. All lots with requested waivers have conservation features located behind the home. The DRC added a condition of approval requiring the lots subject to this waiver to have a front porch that complies with the requirements of Section 38-1384(d), and the width of any garage shall not exceed 50% of the front façade.

- B. Location: West of County Road 545, east of the County Line, and south of Water Spring Boulevard
- C. Parcel ID: 07-24-27-0000-00-003
- D. Total Acres: 172.28 gross acres
- E. Water Supply: Orange County Utilities
- F. Sewer System: Orange County Utilities
- G. Schools: **Water Spring ES**
Enrollment: 1,246 / Capacity: 725
Water Spring MS
Enrollment: 772 / Capacity: 1,238
Horizon HS
Enrollment: 2,312 / Capacity: 2,627
- H. School Population: 114
- I. Parks: Deputy Scott Pine Community Park - 5 Miles

- J. Proposed Use: 286 Single-Family Residential Dwelling Units
- K. Site Data: Maximum Building Height: 45'
Minimum Living Area: 1000 SF
Minimum Lot Width: 22'
Building Setbacks: Front 15' Side 0/4' Rear 20/14' Side Street 10' NHWE 50'
- L. Fire Station: 44 - 16990 Porter Road
- M. Public Notification: The notification area for this public hearing extended beyond One thousand five hundred (1,500) feet. Chapter 30-40(c)(3)(a) of Orange County Code requires the owners of the property within three hundred (300) feet of the subject property to be notified at least 10 days prior to the date of the hearing. Two hundred twenty-three (223) notices were mailed to those property owners in the mailing area.
- N. Community Meeting Summary: A community meeting was not required for this request.
- O. Transportation: The project shall comply with the terms and conditions of that certain Village H 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.
- Existing / Valid transportation capacity entitlements not found. This development will be required to meet transportation concurrency requirements through the Terms of the approved Village H Road Network Agreement.
- Based on the Concurrency Management database (CMS) dated 2/15/2023, there are multiple failing roadway segments within the project's impact area. Old YMCA Road, from Lake Hickory Nut Drive to

Avalon Road, Seidel Road, from Lake County Line to Avalon Road, and Valencia Parkway, Schofield Road to Old YMCA Road are failing. This information is dated and subject to change.

- P. Environmental Protection Division: An Orange County Conservation Area Impact (CAI) permit CAI-19-08-046-MM was approved on 4/20/2021. This plan will comply with all related permit conditions of approval.

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).

Use caution to prevent erosion during construction along the boundary of the property, into surface waters, 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. This may require periodic street sweeping. Reference OC Code Chapter 34 Subdivision Regulations, Article VII Stormwater Management, Division 2 General Design Criteria, Sec. 250 Open Drainage Facilities, (g).

No construction, clearing, filling, alteration or grading is allowed within or immediately adjacent to a conservation area or easement (includes the conservation area and the wetland setback/buffer) without first obtaining a Conservation Area Impact (CAI) permit approved by the county and obtaining other applicable jurisdictional agency permits. Reference OC Code Chapter 15, Article X Wetland Conservation Areas.

Q. Comprehensive Plan:

The Waterleigh PD is located in the Horizon West Special Planning Area and has an underlying Future Land Use Map (FLUM) designation of Village-Horizon West (V) on the Future Land Use Map. It is located in Village H. The property affected by this proposed change is located in the Garden Home, Open Space/Greenbelt, and Wetland land use districts.

R. Zoning:

PD (Planned Development)

3. REQUESTED ACTION:

Approval subject to the following conditions:

1. Development shall conform to the Waterleigh PD Land Use Plan; Orange County Board of County Commissioners ("Board") approvals; Phase 5 Preliminary Subdivision Plan dated "Received July 21, 2023," 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 July 21, 2023," 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. If applicable, an Acknowledgement of Contiguous Sustainable Agricultural Land pursuant to Section 163.3163, Florida Statutes, must be executed and recorded in the Public Records of Orange County, Florida, prior to final approval of this plan and a copy of such Acknowledgment shall be submitted with all future permit applications for this project.
7. Prior to approval of any plans that require filling within the 100-year flood zone, such as Site Construction Plans or Mass Grading Excavation/Fill permit or the like, the applicant must obtain the required permit(s) and approval(s) from the Orange County Floodplain Administrator authorizing any fill pursuant to Chapter 19, Orange County Code.
8. In accordance with FEMA requirements, a Letter of Map Change (LOMC) may be required from the owner/engineer. New development within the 100-year floodplain where no established Base Flood Elevations (BFE) have been identified must perform a study to establish the BFE prior to construction plan review and approval. Compensation storage must be provided for all floodwater displaced by development within 100-year floodplain in accordance with Orange County Ordinance 2021-37, and as may be amended from time to time.
9. Any surface waters identified on USDA Soils map and/or Orange County FLUCS map that are not already named will need to be labeled & named, and NHWE provided prior to site construction plan approval. A Lake Fact Sheet will need to be approved and published prior to any site construction plan approval.
10. If it is anticipated that retaining wall(s) will be designed and constructed, it shall be noted on the preliminary subdivision plan, and the following provision must be incorporated into the Declaration of Covenants, Conditions, and Restrictions (CC&Rs): For the proposed retaining wall(s), the CC&Rs shall reflect all lots served by such retaining wall and a reserve fund for maintenance, repair, and capital replacement of the retaining wall shall be established and funded with the creation of the HOA; removal of this section from the CC&Rs is prohibited unless approved by the Orange County Board of County Commissioners. Coincident with platting, the developer shall record in the public records the CC&Rs governing the lots and addressing the HOA responsibilities for the annual maintenance and

any necessary repairs of the retaining wall. The CC&Rs shall require the establishment and maintenance of two HOA accounts for:

- 1.) Annual routine maintenance of the retaining wall, including an engineers report to be submitted to the HOA on a three year cycle.
- 2.) Capital-repair/replacement of the retaining wall based on a 50-year life cycle.

Initial funding of the accounts shall be approved by County Engineer, or their designee, and on the basis of a professional engineer's estimate for the above referenced accounts.

11. Prior to any plat associated with this Preliminary Subdivision Plan (PSP) being deemed sufficient for review, the Master Drainage Plan/Report for the entire PD area must be updated to be consistent with Section 34-229, Orange County Code, and must be submitted and approved as a separate E-plan.
12. The project shall comply with the terms and conditions of that certain Village H 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.
13. Pursuant to Article XII, Chapter 30, Orange County Code, unless documentation to the County's satisfaction has been provided proving that a property is exempt or vested, each property must apply for and obtain concurrency. Unless required at a different time (by agreement, condition of approval, etc.), residential properties must obtain concurrency prior to approval of the plat; non-residential properties that are required to plat must obtain concurrency for any lot with an assigned use prior to approval of the plat (lots without an assigned use shall be labeled as "future development") and non-residential properties that are not required to plat must obtain concurrency prior to obtaining the first building permit. Concurrency may be obtained earlier than plat or building permit, but it is ultimately the responsibility of the applicant to obtain concurrency, including any proportionate share agreement, as applicable, in a timely fashion. Should an applicant wait to obtain concurrency until later in the development process, the County will not be responsible for any delays caused by the applicant's failure to obtain concurrency in a timely fashion.
14. Houses on lot numbers 3-18, 21-23, 50, 55-62, & 192 shall be required to have a front porch that complies with the requirements of Section 38-1384(d), and the width of any garage shall not exceed 50% of the front façade.

15. A waiver from Orange County Code Section 38-1384 (i)(4) is granted to allow lots greater than 50' in width that front neighborhood squares and parks (lots 3-18, 21-23, 50, 55-62, & 192) to be front loaded in lieu of having access from a rear alley or from a rear-yard garage.

16. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated January 10, 2023, shall apply:
 - a. 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.

 - b. 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 re-application/ sufficiency review meeting prior to formal submittal of the plat to the County.

 - c. 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, including mowing, beyond that provided by the County, shall be the responsibility of the Homeowners' Association.

 - d. 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.

- e. 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.
- f. 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.
- 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. 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.
- i. Motorized boats, jet skis, or other motorized watercraft (of any kind) are prohibited within the wetlands/surface waters of Waterleigh Phase 5. The Plat for Waterleigh Phase 5 shall contain a conspicuous note specifying such prohibition and the covenants, conditions, and restrictions (CC&Rs) shall contain a provision notifying homeowners of such prohibition.
- j. 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.

- k. 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.
- l. The applicant / owner has an affirmative obligation to expressly notify potential purchasers, builders, and/or tenants of this development, through an appropriate mechanism, including a conspicuous note on the plat and/or a recorded restrictive covenant, as applicable, that the lakefront lots within Waterleigh Phase 5 do not have riparian rights on surface waters within Phase 5 and will have to obtain an access easement from the Homeowners Association (HOA) in order to apply for any boat dock, boardwalk, observation pier, fishing pier, community pier or other similar permanently fixed or floating structures. Docks with motorized watercraft mooring are prohibited.
- m. 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.
- n. 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).
- o. If fire department access cannot be reached within 50 ft. of an exterior door to the interior of the building, an approved automatic fire sprinkler system shall be required, allowing an increase to 150 ft.

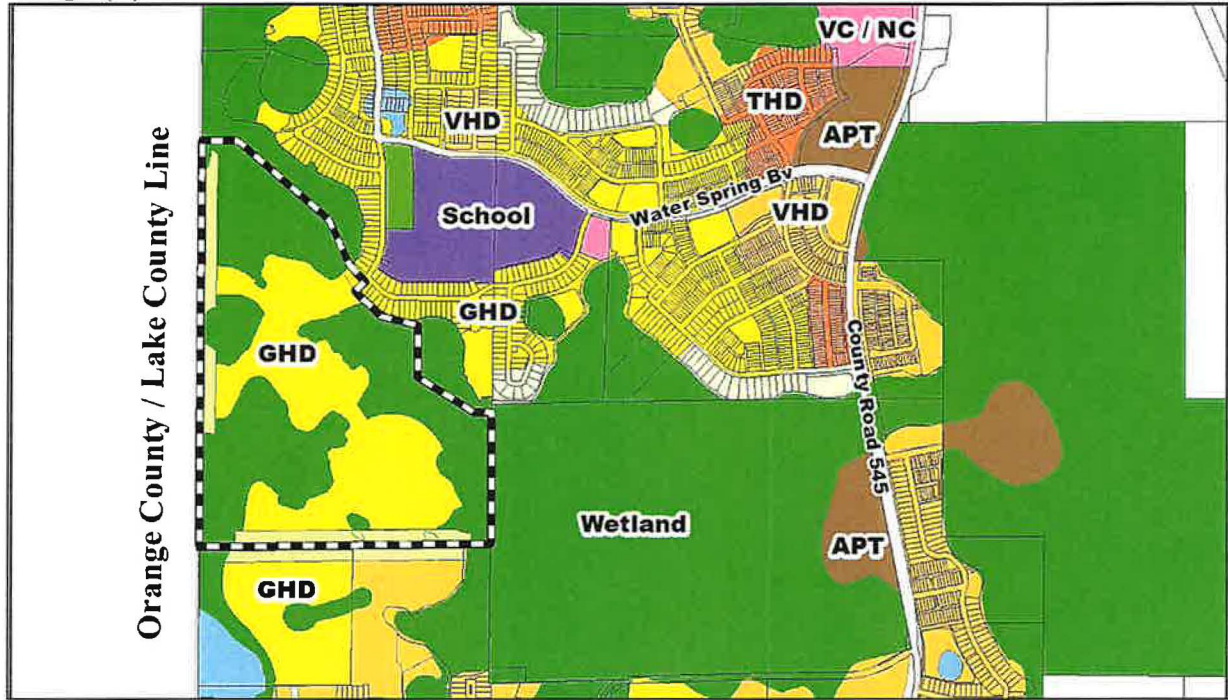
- p. A Master Utility Plan (MUP) for the PSP shall be submitted to Orange County Utilities at least thirty (30) days prior to submittal of the first set of construction plans. Construction plans within this PSP shall be consistent with an approved and up-to-date Master Utility Plans (MUPs) for the PSP and the PD. MUP updates shall be submitted to Orange County Utilities at least thirty (30) days prior to the corresponding construction plan submittal. The MUP and updates must be approved prior to Construction Plan approval.
- q. 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 services which extend to their homes from public 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 services.
- r. Where public gravity main will be located within 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.
- s. Lots that face a mew, open space tract or alley that do not have access to a public right-of-way shall be addressed off an alley and the addressing of the home shall be placed on the front and rear of the structure.
- t. 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.
- u. Pole signs and billboards shall be prohibited. All other signage shall comply with Chapter 31.5 of the Orange County Code.
- v. 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.
- w. Short term/transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater.
- x. Tree protection must be installed, photographed, and documented prior to issuance of mass grading permit.

- y. A Lot Grading plan for all Future Development Tracts must be submitted with the infrastructure construction plans.

- z. Floor Plans and Architectural elevations (drawn to scale) of all sides of all proposed detached single-family structures shall be submitted to Planning for review and approval a minimum of 90 days prior to submission of permits. One (1) complete set of architectural elevations (e.g. four (4) façades) shall be submitted for each unique structure or model.

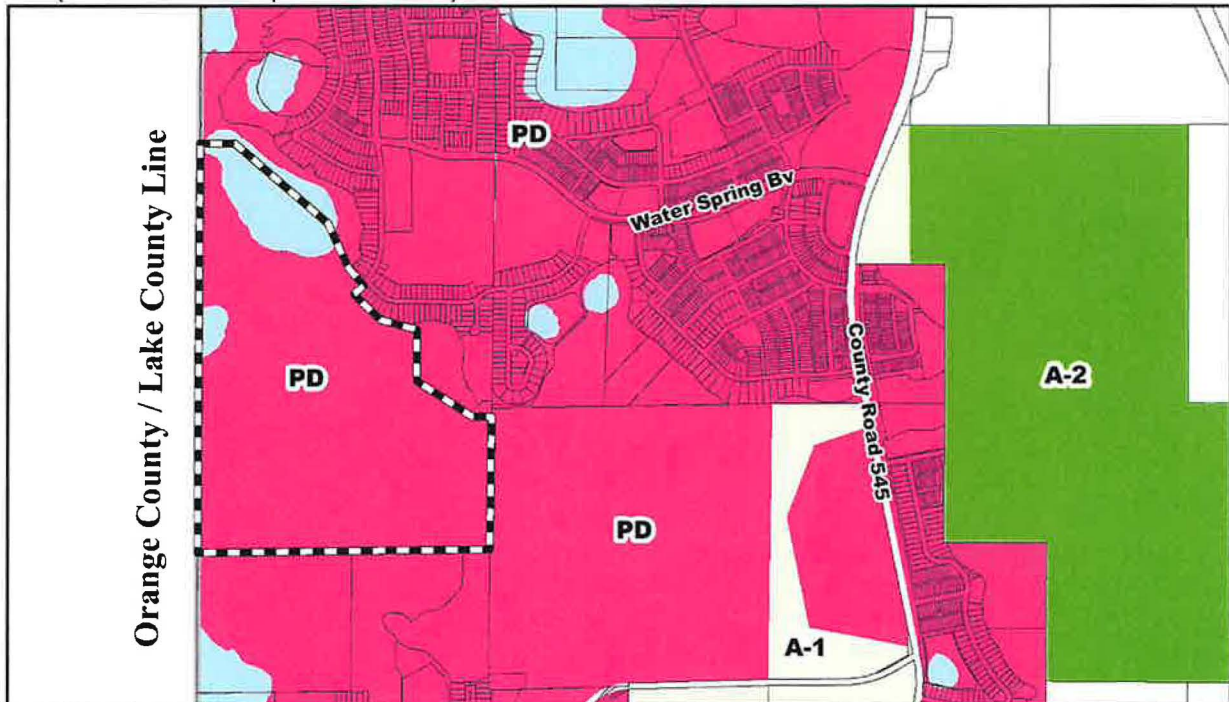
FUTURE LAND USE - CURRENT

Village (V) – Garden Home District



ZONING – CURRENT

PD (Planned Development District)

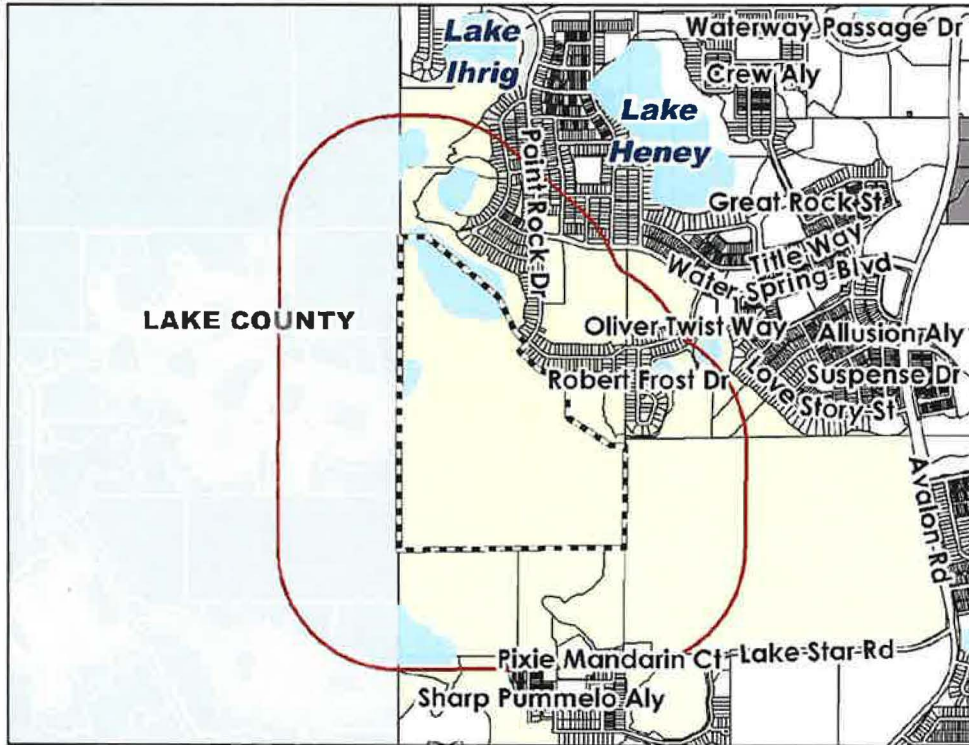


Notification Map

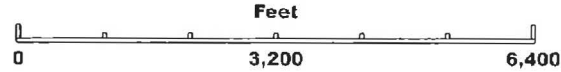


Public Notification Map

CDR-23-02-042



SUBJECT SITE



MAP LEGEND

	SUBJECT SITE		NOTIFIED PARCELS
	1500FT BUFFER		COURTESY PARCELS
	HYDROLOGY		
	PARCELS		

BUFFER DISTANCE: 1500
OF NOTICES: 223

