



Interoffice Memorandum

August 31, 2023

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

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

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

SUBJECT: September 12, 2023 – Public Hearing
Lance Bennett, Poulos & Bennett, LLC
Serenade at Ovation Planned Development
Case # CDR-20-08-242 / District 1

The Serenade at Ovation Planned Development (PD) is located on the west side of Avalon Road, south of Flemings Road in Horizon West Village I. The existing PD development program allows for 291 single-family attached and detached dwelling units.

Through this PD substantial change, the applicant is seeking to split PD Parcel 19 into two development parcels; Parcel 19A will retain its existing Village Home District designation and 64 single-family units, while Parcel 19B will become Apartment District. The development program for the Parcel 19B area is proposed to both change to multi-family and increase to 243 units. Also, part of the request is to change Parcel 14 from Village Home District to Townhome / Apartment District. Previously approved for 22 single-family units, the development program for Parcel 14 is proposed to change to 45 Assisted Living Facility units, which equals 90 beds. Overall, the request increases the total dwelling units for the PD from 291 to 515. Additionally, one waiver from Orange County Code is requested to allow a fourteen (14) foot building separation between townhomes in lieu of twenty (20) feet.

On March 8, 2023, the Development Review Committee (DRC) recommended approval of the request, subject to conditions. A community meeting was held on July 26, 2023, with one resident in attendance who expressed no concerns 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 (CP) and approve the substantial change to the Serenade at Ovation Planned Development / Land Use Plan (PD/LUP) dated “Received December 2, 2022”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1

AS/NT/JS
Attachments

CASE # CDR-20-08-242

Commission District: # 1

GENERAL INFORMATION

APPLICANT	Lance Bennett; Poulos & Bennett, LLC
OWNER	BB Groves, LLC
PROJECT NAME	Serenade at Ovation PD (PD)
PARCEL ID NUMBERS	30-24-27-0000-00-032, 30-24-27-0000-00-031* (<i>*portion thereof</i>)
TRACT SIZE	156.8 gross acres (<i>overall PD</i>) 84.14 gross acres (<i>affected parcels only</i>)
LOCATION	Generally located on the west side of Avalon Road, south of Flemings Road.
REQUEST	The applicant's request is to split PD Parcel 19 into 2 development parcels; Parcel 19A will be Village Home District and Parcel 19B will become Apartment District. Also, part of the request is to change Parcel 14 to Townhome / Apartment District to allow for development of an Assisted Living Facility. Total dwelling units for the PD are increasing from 291 to 515 with 53 Transfer of Development Rights (TDR) credits being received from the Lake Dennis PD.

This request also includes the following waiver from Orange County Code:

1. 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.

Applicant Justification: Per Code Section 38-387.1(a)(9), side setbacks for townhome end buildings are seven (7) feet which results in only fourteen (14) feet being required between townhome buildings.

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]. Nineteen hundred forty-seven (1,947) notices were mailed to those property owners in the notification buffer area. A community meeting was held on July 26, 2023 with one resident in attendance with no concerns on the request.
----------------------------	---

IMPACT ANALYSIS

Special Information

The Serenade at Ovation PD was originally approved in 2020, and currently allows for the development of 291 single-family dwelling units. Through this PD substantial change, the applicant is seeking to split PD Parcel 19 into 2 development parcels; Parcel 19A will retain its existing Village Home District designation and Parcel 19B will become Apartment District. Also, part of the request is to change Parcel 14 from Village Home District to Townhome / Apartment District to allow for development of an Assisted Living Facility with 90 beds. Total dwelling units for the PD are increasing from 291 to 515 with 53 TDR credits being received from the Lake Dennis PD. Additionally, one waiver from Orange County Code is requested to allow a fourteen (14) foot building separation between townhomes in lieu of twenty (20) feet.

Land Use Compatibility

The PD substantial change would not adversely impact any adjacent properties.

Comprehensive Plan (CP) Amendment

The subject property has an underlying Future Land Use Map (FLUM) designation of Village (V) and is part of the Village I Special Planning Area. The Serenade at Ovation PD was approved in 2020 and includes single-family residential as a use. The proposed PD substantial change is consistent with the designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

Community Meeting Summary

A community meeting was held on July 26, 2023, at Water Spring Elementary School. The meeting was attended by one resident who expressed no concerns about the request.

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.

Overlay District Ordinance

The subject property is not located within an Overlay District.

Environmental

An Orange County Conservation Area Determination CAD-18-02-021 was completed with a certified survey of the conservation area boundary approved by the Environmental Protection Division (EPD). An Orange County Conservation Area Impact (CAI) permit CAI-21-05-032 was approved. This plan will comply with all related permit conditions of approval. EPD understands that wetland W-12 may be impacted due to the proposed Avalon Road right-of-way expansion, additional EPD permitting may be required.

Transportation / Concurrency

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; Columar 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.

Schools

Orange County Public Schools staff reviewed the request and determined that three schools in the project area are failing and do not have capacity. The elementary school (Water Spring) currently has an adjusted utilization rate of 133.3% and if this project is approved, the utilization rate would increase to 142.8%. The middle school (Bridgewater) has a current adjusted utilization rate of 176.0% and if this project is approved, the adjusted utilization rate would increase to 179.1%. The high school (Windermere) has a current adjusted utilization rate of 156.7% and if this project is approved, the adjusted utilization rate would increase to 158.3%.

Parks

Orange County Parks and Recreation staff reviewed the PD substantial change 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 – (March 8, 2023)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Serenade at Ovation Planned Development / Land Use Plan (PD/LUP), dated “December 2, 2022”, subject to the following conditions:

1. Development shall conform to the Serenade at Ovation Land Use Plan (LUP) dated "Received December 2, 2022," 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 December 2, 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 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. 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. 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. Additional Right-of-Way (not including APF ROW Expansion) required for turn lanes, traffic signals, etc., shall be identified prior to or in connection with approval of the initial development plan and conveyed or dedicated to Orange County at no cost upon request by Orange County.
9. 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, and non-residential properties which are required to plat, must obtain concurrency prior to

approval of the plat 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.

10. The project shall comply with the terms and conditions of that certain Village I Road Network Agreement approved on January 28, 2020, and recorded at Document Number 20200109451 Public Records of Orange County, Florida, as may be amended.
11. Pole signs and billboards shall be prohibited. All other signage shall comply with Chapter 31.5 of the Orange County Code.
12. Prior to issuance of any Certificate of Occupancy, temporary or permanent, for any vertical construction associated with Parcel 14 the traffic signal at Avalon Road and Hartzog Road must be installed and operational.
13. A waiver from Orange County Code Section 38-1387.1(a)(10) is granted to allow a fourteen (14) foot building separation between townhomes in lieu of twenty (20) feet.
14. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated March 10, 2020 shall apply:
 - a. 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.
 - b. 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.
 - c. 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.

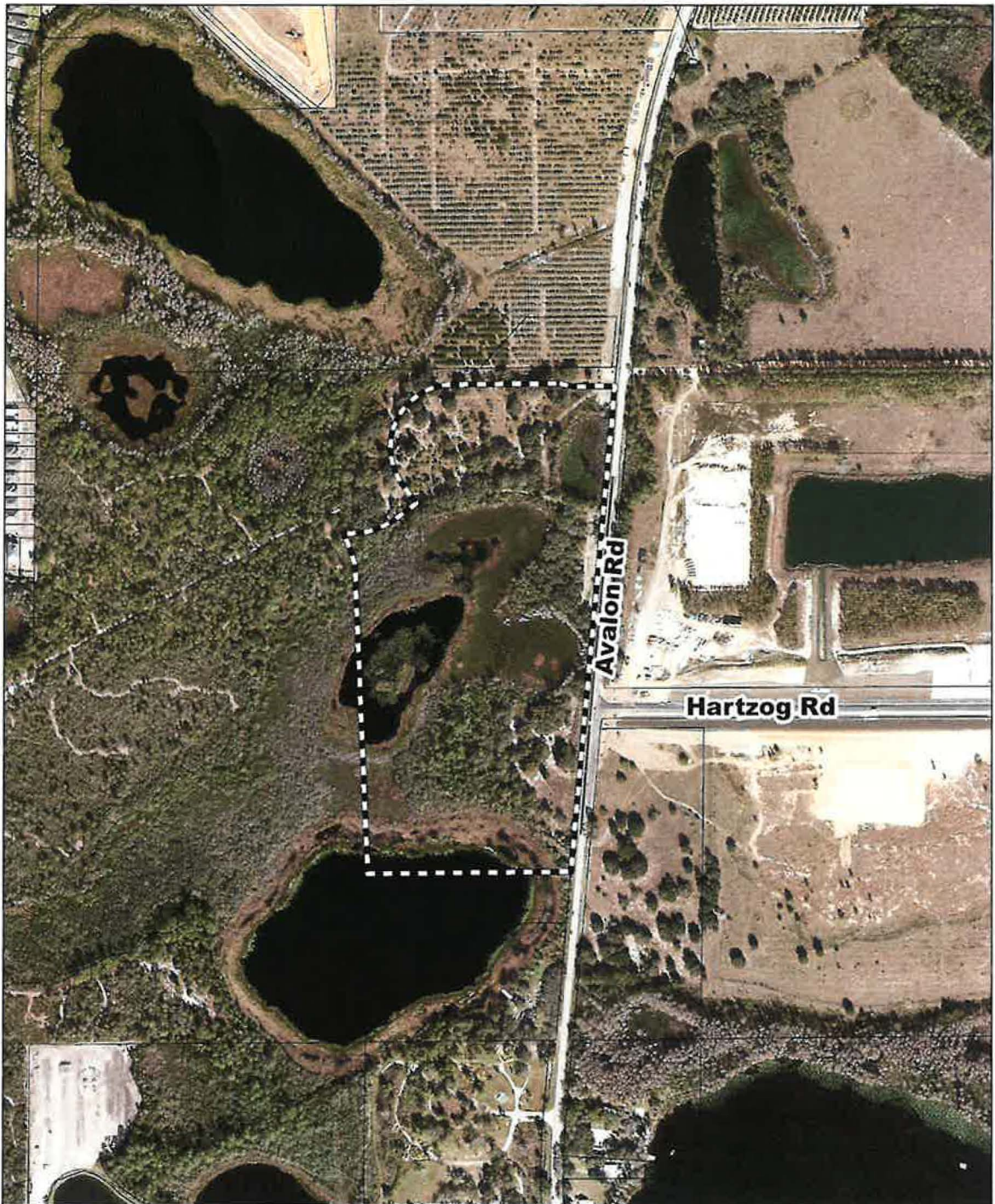
- d. Prior to mass grading, clearing, grubbing or construction, the applicant is hereby noticed that this site must comply with habitat protection regulations of the U.S. Fish and Wildlife Service (USFWS) and the Florida Fish & Wildlife Conservation Commission (FWC).
- e. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
- f. 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.
- g. The developer shall be responsible for building master utilities transmission and collection infrastructure adequate to serve the project 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 Master Utilities Plan (MUP).
- h. A 5-year interim Master Utility Plan (MUP) for Village I must be approved prior to Construction Plan approval within this PD.
- i. Prior to construction plan approval, all property owners within the 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.
- j. 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.
- k. 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.
- l. The following waivers from Orange County Code are granted:
 - 1) A waiver from Section 34-152(c) to allow lots to front a mews, park, open space, etc. and have access via a tract or easement, 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 detached garages without access to a rear alley tract, including garages with an accessory dwelling unit, shall be located a minimum of five (5) feet from side and rear property lines, and shall be no closer than ten (10) feet to any other detached structure on the same lot, in lieu of detached garages without access to a rear alley easement, including garages with an accessory dwelling unit, shall be located a minimum of five (5) feet from side and rear property lines, and shall be no closer than ten (10) feet to any other detached structure on the same lot.
- 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 a alley tract, in lieu of an easement.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (March 10, 2020)

Upon a motion by Commissioner VanderLey and seconded by Commissioner Moore, a finding of consistency with the Comprehensive Plan was made and the rezoning from A-1 (Citrus Rural District) and A-2 (Farmland Rural District) to PD (Planned Development District) to construct 291 attached and detached residential dwelling units was approved subject to conditions.

CDR-20-08-242



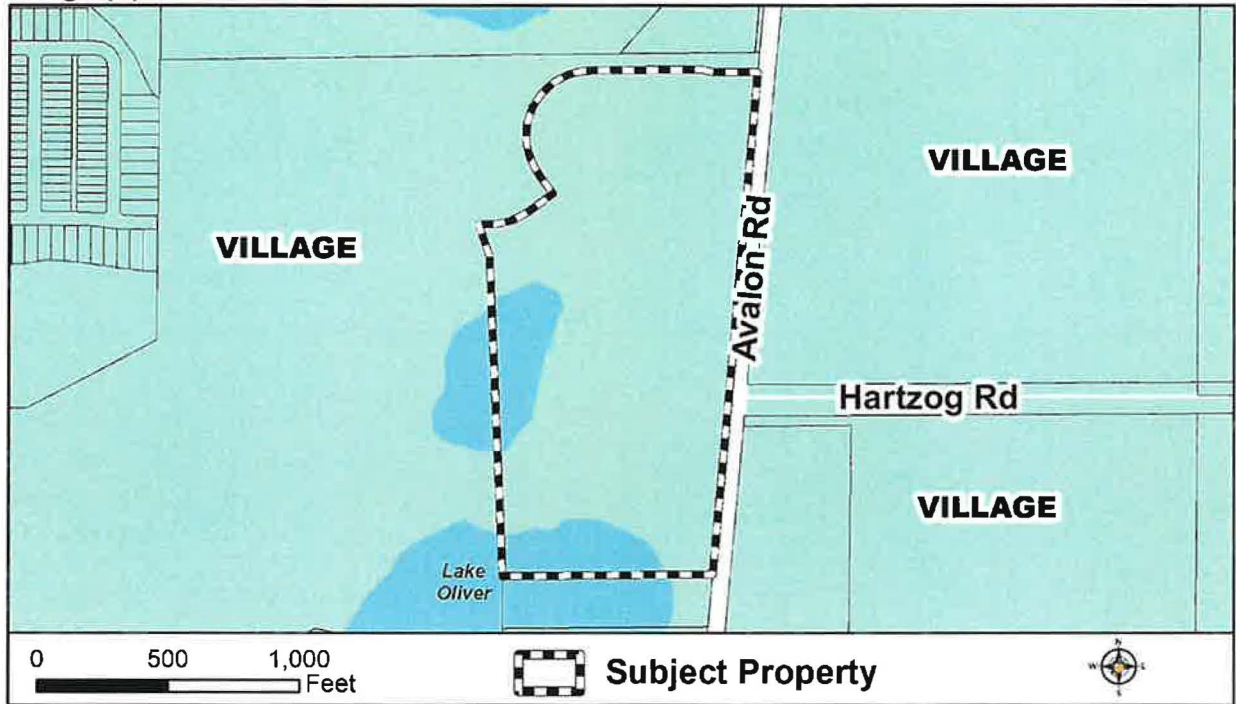
 Subject Property



0 500 1,000
Feet

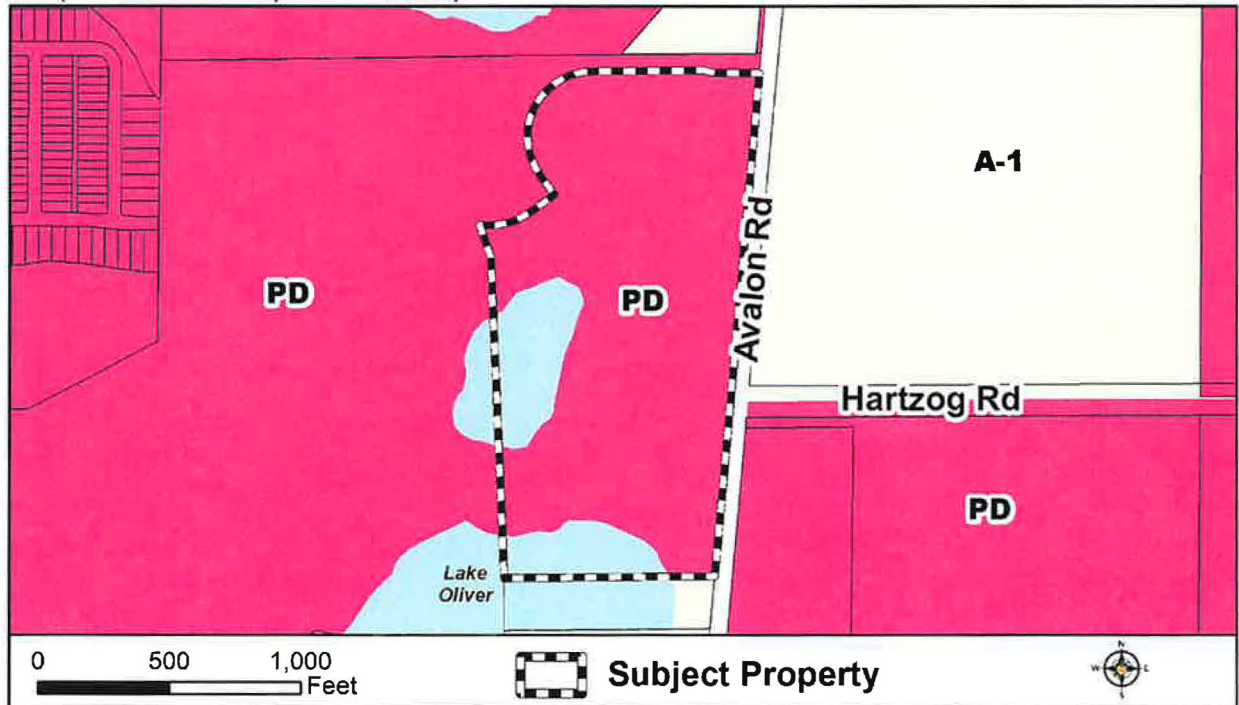
FUTURE LAND USE - CURRENT

Village (V)

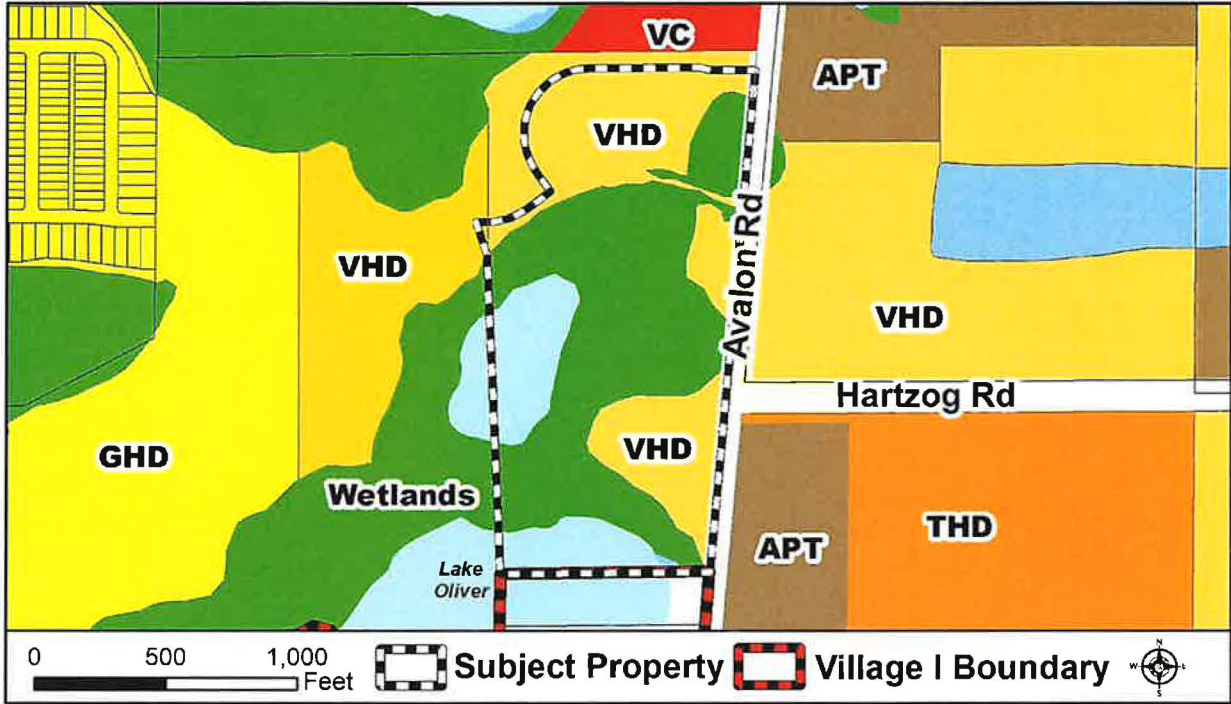


ZONING - CURRENT

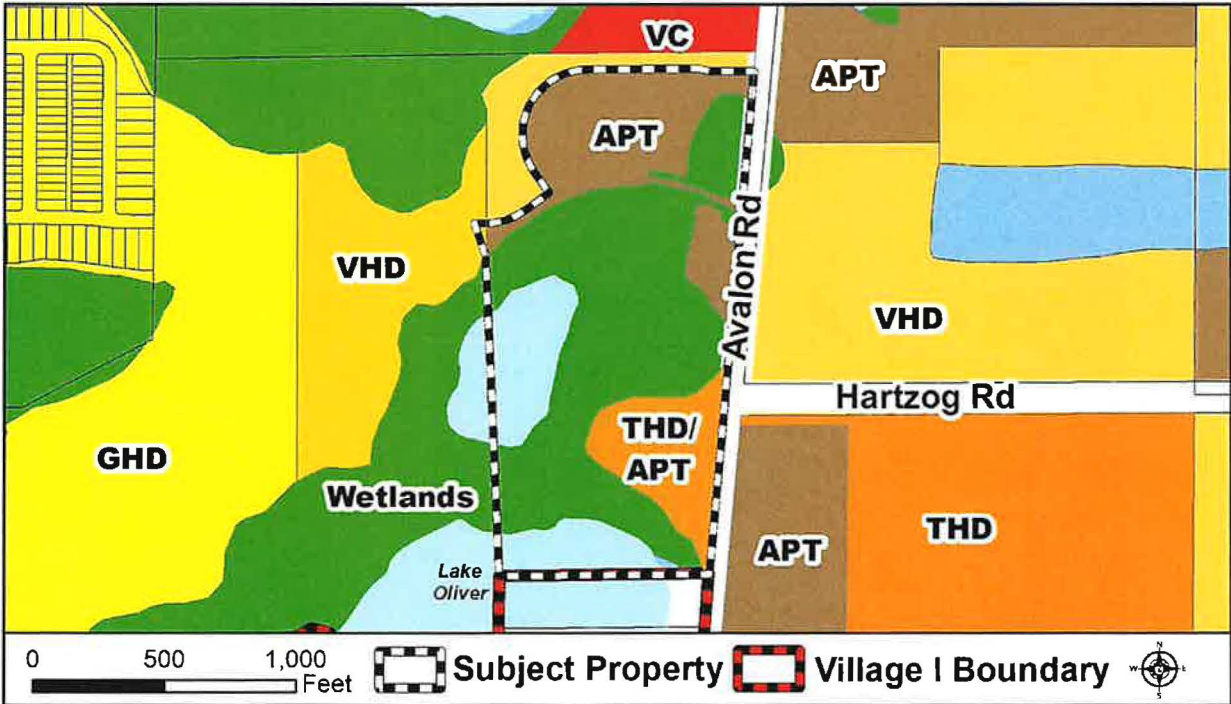
PD (Planned Development District)



VILLAGE I HORIZON WEST SPECIAL PLANNING AREA MAP - CURRENT



VILLAGE I HORIZON WEST SPECIAL PLANNING AREA MAP - PROPOSED



Notification Map

