Interoffice Memorandum



DATE:

October 16, 2018

TO:

Mayor Teresa Jacobs

-AND-

Board of County Commissioners

FROM:

Jon V. Weiss, P.E., Director

Community, Environmental and Development

Services Department

CONTACT PERSON:

Eric Raasch, Interim DRC Chairman

Development Review Committee

Planning Division (407) 836-5523

SUBJECT:

November 13, 2018 - Public Hearing

Kathy Hattaway, Poulos & Bennett, LLC

Spring Grove – Northeast Planned Development

Case # CDR-17-10-301 / District 1

(Related to Consent Agenda Item: First Amendment to Adequate Public Facilities and Right of Way Agreement for

Village I, Spring-Grove Northeast Planned Development)

The Spring Grove - Northeast Planned Development (PD) is generally located east of Avalon Road, west of State Road 429, and south of Water Spring Boulevard. The existing PD development program allows for 217 multi-family dwelling units, 136 single-family attached and detached dwelling units, and a 25.0 acre Middle School site.

Through this PD substantial change, the applicant is seeking to change the Village I Special Planning Area (SPA) designation of PD Parcel 26 from Apartment District (APT) to Village Home District (VHD), reduce the overall number of units from 353 to 221 (a reduction of 132 units), and modify the Adequate Public Facilities (APF) acreage contributions of each parcel (no overall change).

Additionally, six (6) waivers from Orange County Code are being requested to allow lots to front mews, parks, open space, etc. and have access via a tract or easement, allows alleys to be designed as a tract, allow garage access to be setback from an alley tract, allow detached garages without access to a rear alley tract, allow vehicular access to garages or other off-street parking from a rear alley tract, and allow an alternative timing for the conveyance of APF lands.

November 13, 2018 – Public Hearing Kathy Hattaway, Poulos & Bennett, LLC Spring Grove - Northeast PD / Case # CDR-17-10-301 / District 1 Page 2 of 2

On September 26, 2018, the Development Review Committee (DRC) recommended approval of the request, subject to conditions. 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 (CP) and approve the substantial change to the Spring Grove - Northeast Planned Development / Land Use Plan (PD/LUP) dated "Received June 21, 2018 subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1

Attachments JVW/JS/stt

CASE # CDR-17-10-301

Commission District: #1

GENERAL INFORMATION

APPLICANT

Kathy Hattaway, Poulos & Bennett, LLC

OWNER

Columnar Partnership Holding I, LLC, KHOV Winding Bay II,

and Spring Grove, LLC

PROJECT NAME

Spring Grove - Northeast Planned Development (PD)

PARCEL ID NUMBER

17-24-27-0000-00-003, 17-24-27-0000-00-012,

17-24-27-0000-00-013, and 20-24-27-0000-00-009

TRACT SIZE

103.05 gross acres (overall PD)

LOCATION

11900 Avalon Road; or generally located east of Avalon Road, west of State Road 429, and south of Water Spring Boulevard.

REQUEST

A PD substantial change to change the designation for PD Parcel 26 from Apartment District (APT) to Village Home District (VHD), reduce the number of units from 353 to 221 (an overall reduction of 132 units), and modify the Adequate Public Facilities (APF) acreage contributions of each parcel (no overall change in APF acreage).

Additionally, the following waivers are requested from Orange County Code:

- A waiver from 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;
- 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 alley tract in lieu of an easement; and
- 6. A waiver from Section 30-714(c) to allow the project to proceed beyond 5% of the approved PD entitlements, as defined in the recorded APF Agreement for the property, as may be amended, subject to the following conditions: (1) a minimum 2.07 acres of APF Lands shall be conveyed to the County prior to the said 5% threshold being reached; and (2) the plat for phase 2 (as shown on the PSP) shall not be recorded until at least 8.39 acres of APF Lands, in the aggregate, have been conveyed to the County from the project. Provided, however, the foregoing condition (2) shall not apply if, prior to the recording of the plat for Phase 2 of the project (as shown on the PSP), the property owner and Orange County Public Schools have identified in writing an alternate location for the school site shown on this Land Use Plan and such alternate location is zoned for a school site or is the subject of a rezoning application to allow for such alternate school site and the rezoning application has met the County's minimum standards for sufficiency and been accepted by the County for processing. The foregoing is in lieu of the requirement that a minimum 8.39 acres of APF Lands be conveyed prior to the 5% threshold being reached.

PUBLIC NOTIFICATION A notification area extending beyond five hundred (500) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. One hundred seventy-two (172) notices were mailed to those property owners in the notification buffer area.

IMPACT ANALYSIS

Special Information

The Spring Grove - Northeast PD was originally approved July 19, 2016 and includes the following development program:

PD Parcel No.	Land Use Designation	Proposed Dwelling Units
26	Apartment District (Multi-Family Dwelling Units)	217
27	Village Home District (Single-Family Attached and Detached Dwelling Units)	136
28	Middle School	N/A

Through this PD substantial change, the applicant is seeking to change the SPA designation of PD Parcel 26 from Apartment District (APT) to Village Home District (VHD), reduce the overall number of units from 353 to 221 (a reduction of 132 units), and modify the APF acreage contributions of each parcel (no overall change). The applicant is also seeking approval of six (6) waivers related to lot and garage access, alley design, and APF land conveyance thresholds.

Though this request does not affect the amount of net developable acreage or required acreage of APF land conveyance, an amendment to the APF agreement has been processed to reflect changes in the timing of conveyance of APF lands to the County and the acreages of those conveyances. The Road Agreement Committee (Case #RAG-18-05-018) approved this amendment to the APF agreement on June 6, 2018. This amendment will appear on the BCC consent agenda on November 13, 2018, and will be considered concurrent with this request.

Additionally, this project is using thirteen (13) Transfer of Development Rights (TDR) credits for this request to reduce the development program from the required 234 dwelling units to the proposed 221 dwelling units. Seven (7) of those credits are being used internal to the PD and six (6) credits are being transferred from the Spring Grove - Jaffers PD (LUPA-17-10-302).

Land Use Compatibility

The PD substantial change 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), as well as the proposed Village I Special Planning Area (SPA) land use designations of Village Home District (VHD). The proposed PD substantial change is consistent with the designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

Overlay District 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

Orange County Conservation Area Determination CAD-15-10-133 and Impact Permit CAI-16-10-045 were approved for this PD. This plan shall comply with all related permit conditions of approval.

Transportation Concurrency

Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a Capacity Encumbrance Letter (CEL) prior to construction plan submittal and must apply for and obtain a Capacity Reservation Certificate (CRC) prior to approval of the plat. Nothing in this condition, and nothing in the decision to approve this land use

plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a CEL or a CRC.

Based on the Concurrency Management System database dated August 24, 2018, the Avalon Road from Hartzog Road to Seidel Road is within a one mile radius of this development and is currently deficient. This information is dated and is subject to change. Development of the subject property will be required to apply for and obtain an approved CEL prior to obtaining a building permit.

An Adequate Public Facilities Right-of-Way Agreement was approved by the BCC on 7/19/2016 and Recorded at 20160390723 for the dedication of right-of-way for CR 545 (Avalon Road). Owner shall convey a total of 2.76 acres of APF right-of-way for Avalon Road along with 25-acres for a middle school site (which includes 0.52 acres for road right-of-way adjacent to the school site) and a minimum 2.0 acre utility tract. The dedication of right-of-way shall serve to satisfy the Adequate Public Facilities requirement of approximately 8.39 acres of public facilities lands. An APF surplus of 19.37 acres is available to the Owner to sell or assign within Village I. The Owner will receive \$22,500 per acre for the conveyance of right-of-way for Avalon Road, along with school impact fees for the school site, and utility impact fees for the area conveyed for water facilities.

Community Meeting Summary

A community meeting was not required for this request.

Schools

A Capacity Enhancement Agreement (CEA # OC-15-008) was approved by the School Board on October 9, 2018.

Parks and Recreation

Orange County Parks and Recreation staff reviewed the 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 26, 2018)

Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Spring Grove – Northeast Planned Development / Land Use Plan (PD/LUP) dated "Received June 21, 2018", subject to the following conditions:

 Development shall conform to the Spring Grove - Northeast PD Land Use Plan (LUP) dated "Received June 21, 2018," 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 June 21, 2018," 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 following Education Condition of Approval shall apply:
 - a) Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of May 5, 2016, and as amended on 10/09/2018.
 - b) Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Capacity Enhancement Agreement, the County shall immediately cease issuing building permits for any residential units in excess of the 5 residential units allowed under the zoning existing prior to the approval of the PD zoning. 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 act of ceasing the County's issuance of residential building permits.
 - c) 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.
 - d) 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 Orange County Public Schools over any interpretation or provision of the Capacity Enhancement Agreement.
 - e) 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.

- 7. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a Capacity Encumbrance Letter (CEL) prior to construction plan submittal and must apply for and obtain a Capacity Reservation Certificate (CRC) prior to approval of the plat. Nothing in this condition, and nothing in the decision to approve this land use plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a CEL or a CRC.
- 8. The project shall comply with the terms and conditions of that certain Adequate Public Facilities Right-of-Way Agreement Recorded at Document Number 20160390723, Public Records of Orange County, Florida, as may be amended.
- 9. The lot grading plan for 32-feet wide single-family detached lots (and similar narrow lots) shall include design features to ensure positive drainage from the side yard to the front roadway or rear alley. These design features may include: (a) A/C units on the same side of homes so that the A/C units are not located adjacent o each other; (b) A/C units on the same side placed at the high elevation point of the side yard so that drainage flows away from the A/C units to the front roadway and rear alley; (c) A/C units located behind the home when the garage is detached from the home with courtyard; and/or (d) other lot grading plan features approved by the County Engineer.
- 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.
- 11. A waiver from Orange County Code Section 34-152(c) is granted 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.
- 12. A waiver from Orange County Code Section 38-1382(h)(4) is granted to allow alleys to be designed as a tract in lieu of the requirement that they shall be designed as a private easement.
- 13. A waiver from Orange County Code Section 38-1384(g)(1) is granted to allow garage access to be setback from an alley tract in lieu of an easement.
- 14. A waiver from Orange County Code Section 38-1384(g)(2) is granted 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.
- 15. A waiver from Orange County Code Section 38-1384(i)(2) is granted to allow vehicular access to garages or other off-street parking to be from a rear alley tract in lieu of an easement.

- 16. A waiver from Orange County Code Section 30-714(c) is granted to allow the project to proceed beyond 5% of the approved PD entitlements, which 5% threshold is identified in the APF Agreement as 24 single-family residential units (attached or detached), subject to the following conditions: (1) a minimum 2.07 acres of APF Lands shall be conveyed to the County prior to the said 5% threshold being reached; and (2) the plat for phase 2 (as shown on the PSP) shall not be recorded until at least 8.39 acres of APF Lands, in the aggregate, have been conveyed to the County from the project. Provided, however, as approved by Orange County, the foregoing condition (2) shall not apply if, prior to the recording of the plat for Phase 2 of the project (as shown on the PSP), the property owner and Orange County Public Schools have identified in writing an alternate location for the school site shown on this Land Use Plan and such alternate location is zoned for a school site or is the subject of a rezoning application to allow for such alternate school site and the rezoning application has met the County's minimum standards for sufficiency; the foregoing is in lieu of the requirement that a minimum 8.39 acres of APF Lands be conveyed prior to the 5% threshold being reached.
- 17. The Owner shall convey the school site as depicted on the Land Use Plan (LUP) (CDR-17-10-301), within six (6) months of OCPS's request; failure to comply shall authorize OCPS to request that Orange County discontinue the issuance of any building permits, certificates of occupancy, or any other approvals associated with this PD.
- 18. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated July 19, 2016 shall apply:
 - a) 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.
 - b) Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
 - c) 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.
 - d) 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).
 - e) Prior to approval of the first PSP in Village I, the developer shall submit a Village-wide MUP including water, wastewater and reclaimed water transmission main layouts, sizing, and supporting hydraulic calculations.

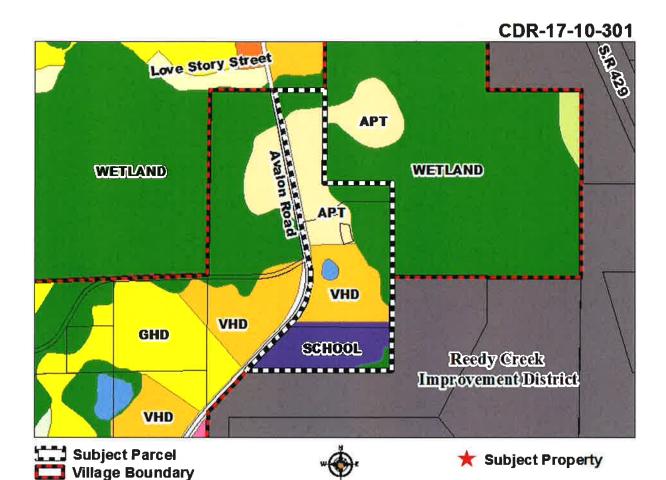
- f) At least thirty (30) days prior to construction plan submittal, the applicant shall submit a Master Utility Plan (MUP) for the PSP, including hydraulically dependent parcels outside the PSP boundaries; such MUP shall include supporting calculations showing that the PSP-level MUP is consistent with the approved 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.
- g) A two acre APF tract with a thirty foot (30') wide access to a county right-of-way for a water facility within Village I near Village I's southern boundary shall be identified prior to the approval of the first PSP within Village I and dedicated to the County prior to approval of the first construction plan set within Village I. The tract shall have a minimum width of 150 feet, have an elevation above the 100 year flood plain, be located outside of wetlands and no more than 1,000 feet from Avalon Road.
- h) The developer shall obtain water, wastewater and reclaimed water service from Orange County Utilities.
- 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) A waiver from Orange County Code Section 38-1755 is granted to allow a middle school site with a minimum net lot area of 23.74 acres, in lieu of a minimum net lot area of 25 acres.
- k) On July 28, 2015, the Board of County Commissioners transmitted an amendment to Comprehensive Plan Policy FLU4.3.10 (the "Policy"). Such Policy, among other things, contemplated that any project that has submitted an application for a Planned Development prior to November 10, 2015, may proceed with development without entering into a Road Network Agreement pursuant to a Global Road Network Term Sheet for Village I; provided, however, that such development shall be required to obtain at least one development permit for vertical construction other than a model home within thirty (30) months from the date of approval of the Planned Development. It is currently anticipated that the Policy will be considered for adoption by the Board in November of 2015; this project shall be subject to the Policy, including any time limitations on permitting, as it is adopted by the board, whenever such adoption may occur.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (July 19, 2016)

Upon a motion by Commissioner Boyd, seconded by Commissioner Thompson, and carried with all present members voting AYE by voice vote; the Board made a finding of consistency

DRC Staff Report
Orange County Planning Division
BCC Hearing Date: November 13, 2018

with the Comprehensive Plan; and further, approved the Planned Development rezoning request by Eric Warren, Poulos & Bennett, LLC, Spring Grove- Northeast PD/LUP Case #LUP-15-03-065, to rezone two (2) parcels containing 103.05 acres from A-2 (Farmland Rural District) to PD (Planned Development District) in order to develop 136 single-family residential dwelling units, 217 multi-family dwelling units, and a middle school; further, included a waiver from Orange County Code Section 38-1755 to allow a middle school site with a minimum net lot area of 23.74 acres, in lieu of a minimum net lot area of 25 acres, on the described property, subject to conditions.



Future Land Use Map

FLUM:

Village (V), Village I Special Planning Area (SPA), Apartment District (APT)

APPLICANT: Kathy Hattaway, Poulos & Bennett, LLC

LOCATION: 11900 Avalon Road; or generally located east of Avalon Road, west of State Road 429, and south of Water Spring Boulevard.

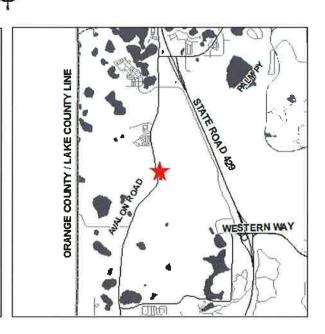
TRACT SIZE: 103.05 gross acres (overall PD)

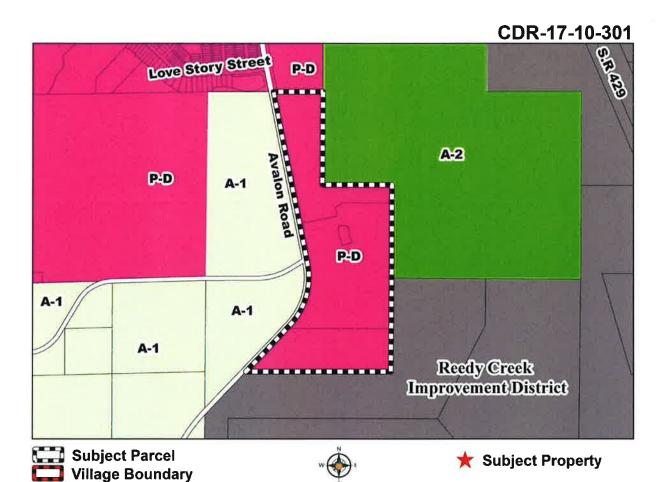
DISTRICT: # 1

S/T/R:

17/24/27

1 inch = 1,100 feet





Future Land Use Map

ZONING:

PD (Planned Development District)

APPLICANT: Kathy Hattaway, Poulos & Bennett, LLC

LOCATION: 11900 Avalon Road; or generally located east of Avalon Road, west of State Road

429, and south of Water Spring Boulevard.

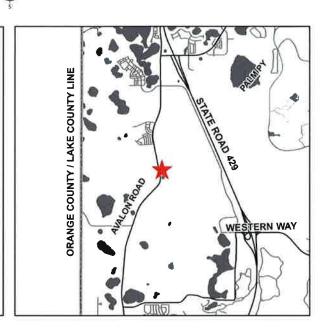
TRACT SIZE: 103.05 gross acres (overall PD)

DISTRICT:

S/T/R:

17/24/27

1 inch = 1,100 feet



Spring Grove – Northeast PD / LUP (Cover Sheet)

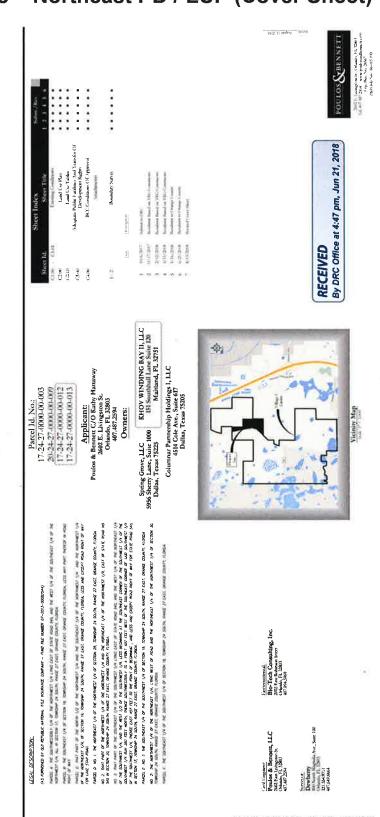
West Neighborhood

Planned Development/Land Use Plan Amendment

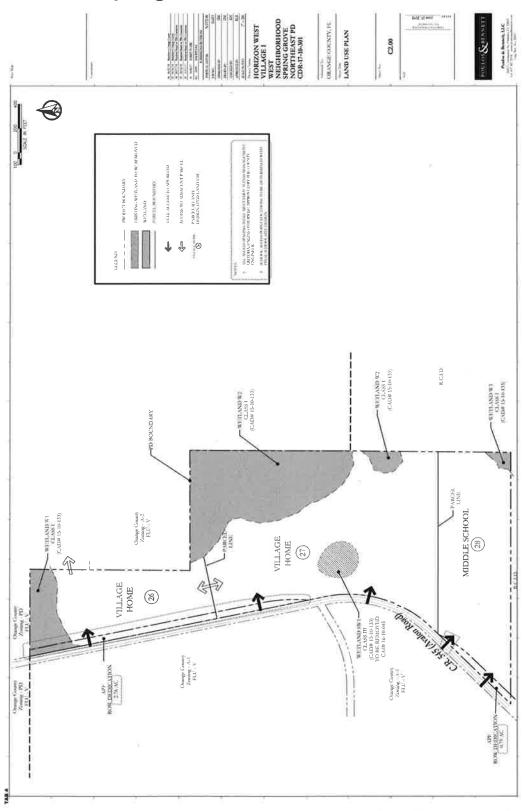
Spring Grove - Northeast PD (CDR 17-10-301)

Horizon West Village I -

Orange County, FL



Spring Grove - Northeast PD / LUP



Notification Map

