

GENERAL INFORMATION

APPLICANT	Kathy Hattaway, Poulos & Bennett, LLC
OWNER	Titan Western Beltway, LLC
PROJECT NAME	Horizon West Village H Parcels 12A & 12B Planned Development (PD)
HEARING TYPE	Planned Development / Land Use Plan (PD / LUP)
REQUEST	A-1 (Citrus Rural District) to PD (Planned Development District)

A 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. The request also includes the following waivers from Orange County Code:

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.

Applicant Justification for Waivers 1-3: *The alleys are to be owned and maintained by the Home Owners Association (HOA). Placing them in a fee simple tract without underlying individual ownership allows for a clearer separation of ownership and maintenance responsibilities.*

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.

Applicant Justification for Waivers 4 and 5: *The Village H Specific Area Plan principles promote compact pedestrian-oriented environments by creating a mixed-use character through the integration of uses. The separation of residential multi-family buildings is contrary to the principles of walkable neighborhoods. Section 38-1258, Orange County Code is intended to provide compatibility between multi-family and single-family developments on a countywide basis. These requirements are not consistent with the integrated, mixed use development in the approved Village H Specific Area Plan. By allowing taller multi-family buildings, adjacent to single-family zoned property, development will be more consistent and compatible with Village H principles.*

LOCATION	10553 Avalon Road; or generally located south of Flamingo Crossings Boulevard and east of Avalon Road
PARCEL ID NUMBER	08-24-27-0000-00-006
TRACT SIZE	34.60 gross acres 24.42 net developable acres
PUBLIC NOTIFICATION	The notification area for this public hearing extended beyond 1,500 feet [<i>Chapter 30-40(c)(3)(a) of Orange County Code requires 300 feet</i>]. One hundred forty-three (143) notices were mailed to those property owners in the mailing area.
PROPOSED USE	89 attached single-family dwelling units and 340 multi-family dwelling units

STAFF RECOMMENDATION

Development Review Committee – (January 23, 2019)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Horizon West Village H Parcels 12A & 12B Planned Development / Land Use Plan (PD/LUP), dated "Received December 21, 2018", subject to the following conditions:

1. Development shall conform to the Horizon West Village H Parcels 12A & 12B Land Use Plan (LUP) dated "Received December 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 December 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 project shall comply with the terms and conditions of that certain Village H Road Network Agreement recorded at Official Records Book/Page 10525/6172, Public Records of Orange County, Florida, as may be amended.
7. 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.

8. 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.
9. 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.
10. 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.
11. 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.
12. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to rate resolutions and ordinances.
13. 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).
14. Construction plans for residential and commercial development within this PD, submitted after January 31, 2020, 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.

15. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
16. 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.
17. Short term/transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater within any 12-month period.
18. 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).
19. 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.
20. The following waivers from Orange County Code are granted:
 - a. 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.
 - b. A waiver from Section 38-1384(g)(1) to allow garage access to be setback from an alley tract, in lieu of an easement.
 - c. 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.
 - d. 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.
 - e. 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.

IMPACT ANALYSIS

Land Use Compatibility

The applicant is seeking to rezone the subject parcels from A-1 (Citrus Rural District) to PD (Planned Development District) in order to construct eighty nine (89) attached single-family dwelling units and three hundred-forty (340) multi-family dwelling units. The applicant is also seeking approval of five (5) waivers from Orange County Code related to lot and garage access, alley design, and alley requirements for specific lots, as well as distance separation and building height requirements between multi-family buildings and single-family zoned property.

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

Comprehensive Plan (CP) Consistency

The subject property has an underlying Future Land Use Map (FLUM) designation of Village (V), indicating that it is within the Horizon West Special Planning Area. More specifically, the subject property is located within Horizon West Village H and is designated as Apartment District (APT) and Village Home District (VHD) on the Village H Special Planning Area map. The request includes a change from Village Home District (VHD) to Townhome District (THD) on the Village H Special Planning Area map. The Apartment District has a required density of twenty (20) dwelling units per net developable acre and the Townhome District has required density of eight (8) dwelling units per net developable acre.

The proposed use is consistent with the underlying Village FLUM designation and applicable CP provisions, which include (but are not limited to) the following goals, objectives and policies:

FLU1.4.1 states Orange County shall promote a range of living environments and employment opportunities in order to achieve a stable and diversified population and community.

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

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

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

OBJ FLU4.1 states that Orange County shall use a Village Land Use Classification to realize the long range planning vision for West Orange County created through the Horizon West planning process. The Village land use classification has been designed to address the need to overcome the problems associated with and provide a meaningful alternative to the leap-frog pattern of sprawl now occurring in western Orange and eastern

Lake County; create a better jobs/housing balance between the large concentration of employment in the tourism industry and the surrounding land uses; create a land use pattern that will reduce reliance on the automobile by allowing a greater variety of land uses closer to work and home; and, replace piecemeal planning that reacts to development on a project by project basis with a long range vision that uses the Village as the building block to allow the transition of this portion of Orange County from rural to urban use through a specific planning process that uses a creative design approach to address regional, environmental, transportation, and housing issues.

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

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

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

Community Meeting Summary

A community meeting was required for this application. The meeting was held on July 25, 2018 at Keene's Crossing Elementary School. Ten (10) residents were in attendance and expressed support for the development but noted concerns with traffic and school impacts.

SITE DATA

Existing Use	Undeveloped Land
Adjacent Zoning	N: PD (Planned Development District) (Waterleigh PD) (2013)
	E: Reedy Creek Improvement District
	W: PD (Planned Development District) (Waterleigh PD) (2013)
	S: Reedy Creek Improvement District
Adjacent Land Uses	N: Undeveloped Land
	E: Water Retention
	W: Undeveloped Land
	S: Undeveloped Land / Wetland

APPLICABLE PD DEVELOPMENT STANDARDS

Development shall comply with all standards found in Section 38-1387 (Townhome District, Townhouse Apartment District, Apartment District, and Condominium District) of the Village Planned Development Code.

SPECIAL INFORMATION

Subject Property Analysis

The applicant is seeking to rezone the 34.60 acre subject property from A-1 (Citrus Rural District) property to PD (Planned Development District) in order to construct 89 attached single-family dwelling units and 340 multi-family dwelling units. The Horizon West Special Planning Area Land Use Map for Village H designated the subject property as Apartment District (APT) and Village Home District (VHD). The request includes revising the Village Home District (VHD) designation to Townhome District (THD). Additionally, five (5) waivers from Orange County Code are requested relating to lot and garage access, alley design, and alley requirements for specific lots, as well as distance separation and building height requirements between multi-family buildings and single-family zoned property.

Comprehensive Plan (CP) Amendment

The property has an underlying Future Land Use Map (FLUM) designation of Village (V) and is designated as Apartment District (APT) and Village Home District (VHD) on the Village H Special Planning Area map. The request includes a change from Village Home District (VHD) to Townhome District (THD) and the proposed use is consistent with these designations and all applicable CP provisions; therefore, a CP amendment is not necessary.

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.

Airport Noise Zone

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

Environmental

The project site has a prior land use that may have resulted in soil and/or groundwater contamination due to spillage of petroleum products, fertilizer, pesticide or herbicide. Prior to the earlier of platting, demolition, site clearing, grading, grubbing, review of mass grading or construction plans, the applicant shall provide documentation to assure compliance with the Florida Department of Environmental Protection (FDEP) regulation 62-777 Contaminant Cleanup Target Levels, and any other contaminant cleanup target levels found to apply during further investigations, to the Orange County Environmental Protection and Development Engineering Divisions.

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

Transportation / Concurrency

Avalon Road (CR 545): A Village H Horizon West Road Network Agreement for C.R. 545 among Orange County and D.R. Horton, Inc. (DRHI); 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) was approved by the Board of County Commissioners on February 12, 2013 and recorded at OR Book/Page 10525/6172. DRHI, Avalon, HWP, HAP, Titan, Hanover, Zanzibar, and Seidel are collectively referred to herein as "Signatory Owners". 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.

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.

Water / Wastewater / Reclaim

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

Schools

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.

Parks and Recreation

The Parks and Recreation Division reviewed the request but did not identify any issues or concerns.

Code Enforcement

No code enforcement, special magistrate or lot clearing issues on the subject property have been identified.

Specific Project Expenditure Report and Relationship Disclosure Forms

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

PLANNING AND ZONING COMMISSION (PZC) FINDINGS

The staff report was presented to the PZC with the recommendation that they make a finding of consistency with the Comprehensive Plan and recommend approval of the requested Horizon West Village H Parcels 12A & 12B Planned Development (PD), subject to twenty (20) conditions.

Staff indicated that one hundred forty-three (143) notices were mailed to surrounding property owners in an area extending beyond 1,500 feet from the subject property, with zero (0) commentaries received in favor of the request and zero (0) received in opposition. There were no members of the public present to speak on this request. The applicant was present and agreed with the staff recommendation.

After limited discussion, a motion was made by Commissioner Dunn to find the request to be consistent with the Comprehensive Plan and recommend APPROVAL of the Horizon West Village H Parcels 12A & 12B PD, subject to the twenty (20) DRC recommended conditions. Commissioner Cantero seconded the motion, which then carried on a 9-0 vote.

Motion / Second

Jimmy Dunn / Jose Cantero

Voting in Favor

Jimmy Dunn, Jose Cantero, Gordon Spears, Yog Melwani, Diane Velazquez, JaJa Wade, Carlos Nazario, Mohammed Abdallah, and Eddie Fernandez

PZC RECOMMENDED ACTION

Planning and Zoning Commission (PZC) Recommendation – (February 21, 2019)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Horizon West Village H Parcels 12A & 12B Planned Development / Land Use Plan (PD/LUP), dated “Received December 21, 2018”, subject to the following conditions:

1. Development shall conform to the Horizon West Village H Parcels 12A & 12B Land Use Plan (LUP) dated "Received December 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 December 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 project shall comply with the terms and conditions of that certain Village H Road Network Agreement recorded at Official Records Book/Page 10525/6172, Public Records of Orange County, Florida, as may be amended.
7. 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.

8. 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.

9. 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.
10. 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.
11. 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.
12. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to rate resolutions and ordinances.
13. 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).
14. Construction plans for residential and commercial development within this PD, submitted after January 31, 2020, 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.
15. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
16. 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.
17. Short term/transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater within any 12-month period.

18. 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).
19. 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.
20. The following waivers from Orange County Code are granted:
 - a. 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.
 - b. A waiver from Section 38-1384(g)(1) to allow garage access to be setback from an alley tract, in lieu of an easement.
 - c. 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.
 - d. 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.
 - e. 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.