

GENERAL INFORMATION

APPLICANT	Kathy Hattaway, Poulos and Bennett, LLC
OWNERS	Spring Grove, LLC and Columnar Partnership Holding I, LLC
PROJECT NAME	Lake Mac Planned Development (PD)
HEARING TYPE	Planning and Zoning Commission
REQUEST	A-1 (Citrus Rural District) and A-2 (Farmland Rural District) to PD (Planned Development District)

A request to rezone the subject parcels from A-1 (Citrus Rural District) and A-2 (Farmland Rural District) to PD (Planned Development District) in order to construct 399 single-family detached, attached, and multi-family residential dwelling units and 196,000 square feet of commercial uses. The request also includes the following waivers from Orange County Code:

1. A waiver from Section 34-152(c), for Parcel 23, 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.

Applicant Justification: *Orange County Code Section 38-1382(h)(6) provides for the incorporation of mews in project design where residential units have only rear access. Legal access to these lots will be through an ingress/egress tract shown on the plat.*

2. A waiver from Section 38-1382(h)(4), for Parcel 23, 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), for Parcel 23 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), for Parcel 23, 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), for Parcel 23, 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 2-5: *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.*

6. A waiver from Section 38-1258(a), for Parcel 21, to allow multi-family residential buildings fifteen (15) feet from single-family zoned property and to be constructed up to five-stories and 75 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. This waiver is both internal and external to the Lake Mac PD.
7. A waiver from Section 38-1258(b), for Parcel 21, to allow multi-family residential buildings fifteen (15) feet from single-family zoned property and to be constructed up to five-stories and 75 feet in height in lieu of the requirement that multi-family buildings within one hundred and fifty (150) feet of a single-family zoned property vary in building height. This waiver is both internal and external to the Lake Mac PD.
8. A waiver from Section 38-1258(c), for Parcel 21, to allow multi-family buildings fifteen (15) feet from a single-family zoned property and to be constructed up to five-stories and 75 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. This waiver is both internal and external to the Lake Mac PD.

9. A waiver from Section 38-1258(d), for Parcel 21, to allow multi-family buildings constructed up to five-stories and 75 feet in height, in lieu of the restriction that a multi-family development shall be limited to three (3) stories (forty (40) feet) in height. This waiver is both internal and external to the Lake Mac PD.

Applicant Justification 6-9: Multi-family development is supposed to adhere to the compatibility standards in Orange County Code Section 38-1258. However, to promote a mix of land uses and facilitate new urbanism development patterns, Code Section 38-1389(d)(3)f.1 states that waivers from the standards listed in Code Section 38-1258 should be considered at the time of the land use plan approval. New urbanism is a core design principle in Village I. The height restrictions listed in Code Section 38-1258 are not consistent with the integrated, mixed use development in the approved Village I Specific Area Plan. By allowing taller multi-family buildings development will be more consistent and compatible with Village I principles.

10. A waiver from Section 38-1258(e), for Parcel 21, to allow parking and paved areas for multi-family development fifteen (15) feet from single-family zoned property, in lieu of the restriction that a parking and paved areas shall be twenty-five (25) feet from single-family zoned property. This waiver is both internal and external to the Lake Mac PD.

Applicant Justification: Multi-family development is supposed to adhere to the compatibility standards in Orange County Code Section 38-1258. However, to promote a mix of land uses and facilitate new urbanism development patterns, Code Section 38-1389(d)(3)f.1 states that waivers from the standards listed in Code Section 38-1258 should be considered at the time of the land use plan approval. The separation of parking and paved areas is contrary to new urbanism and creating a mix of land uses. New urbanism is a core design principle in Village I. The separation requirements listed in Code Section 38-1258 are not consistent with the integrated, mixed use development in the approved Village I Specific Area Plan. By allowing parking and

paved areas up to fifteen (15) of adjacent to single-family zoned property, development will be more consistent and compatible with Village I principles.

11. A waiver from Section 38-1258(f), for Parcel 21, to not require a six (6) foot high masonry, brick, or block wall as part of the multi-family development since it is adjacent to single-family zoned property, in lieu of the a six (6) foot high masonry, brick, or block wall requirement. This waiver is both internal and external to the Lake Mac PD.

Applicant Justification: Multi-family development is supposed to adhere to the compatibility standards in Orange County Code Section 38-1258. However, to promote a mix of land uses and facilitate new urbanism development patterns, Code Section 38-1389(d)(3)f.1 states that waivers from the standards listed in Code Section 38-1258 should be considered at the time of the land use plan approval. The separation of land uses via a six (6) foot high masonry, brick, or block wall is contrary to new urbanism and creating a mix of land uses. New urbanism is a core design principle in Village I. The separation requirements listed in Code Section 38-1258 are not consistent with the integrated, mixed use development in the approved Village I Specific Area Plan. By not requiring a six (6) foot high masonry, brick, or block wall adjacent to single-family zoned property, development will be more consistent and compatible with Village I principles.

12. A waiver from Section 38-1258(g), for Parcel 21, to allow shared access for multi-family and single-family residential and to allow multi-family residential to directly access a right-of-way serving platted single-family residential development, in lieu of the requirement that multi-family development shall not directly access any right-of-way serving platted single-family residential. This waiver is both internal and external to the Lake Mac PD.

Applicant Justification: Multi-family development is supposed to adhere to the compatibility standards in Orange County Code Section 38-1258. However, to promote a mix of land uses and facilitate new urbanism development patterns, Code Section 38-1389(d)(3)f.1 states that waivers from the standards listed in Code Section 38-1258 should be considered at the time of the

land use plan approval. The separation of access between multi-family and single family residential is contrary to new urbanism and creating a mix of land uses. New urbanism is a core design principle in Village I. By allowing shared access for multi-family and single-family residential, development will be more consistent and compatible with Village I principles as well as allow interconnected design between Parcels 21 and 23 in Village I.

13. A waiver from Section 38-1258(i), for Parcel 21, to not require fencing as part of the multi-family development simply because it is adjacent to right-of-way that has single family zoned property across the right-of-way, in lieu of the requirement that multi-family development shall have fencing as part of the development because it is adjacent to right-of-way that has single family zoned property across the right-of-way. This waiver is both internal and external to the Lake Mac PD.

Applicant Justification: *Multi-family development is supposed to adhere to the compatibility standards in Orange County Code Section 38-1258. However, to promote a mix of land uses and facilitate new urbanism development patterns, Code Section 38-1389(d)(3)f.1 states that waivers from the standards listed in Code Section 38-1258 should be considered at the time of the land use plan approval. Fences are contrary to new urbanism and creating a mix of land uses. New urbanism is a core design principle in Village I. By not requiring fences as a part of multi-family residential, development will be more consistent and compatible with Village I principles as well as allow interconnected design between Parcels 21 and 23 in Village I.*

14. A waiver from Section 38-1258(j), for Parcel 21, to require a minimum separation of twenty (20) feet between buildings, in lieu of the requirement where doors, windows, or other openings in the wall of a living unit back up to a wall of another building with doors, windows or other openings, there shall be a minimum separation of thirty (30) feet for two-story buildings, and forty (40) feet for building three (3) stories. This waiver is both internal and external to the Lake Mac PD.

Applicant Justification: *Multi-family development is supposed to adhere to the compatibility standards in Orange County Code Section 38-1258. However, to*

promote a mix of land uses and facilitate new urbanism development patterns, Code Section 38-1389(d)(3)f.1 states that waivers from the standards listed in Code Section 38-1258 should be considered at the time of the land use plan approval. Large separation between buildings is contrary to new urbanism and creating a mix of land uses. New urbanism is a core design principle in Village I.

LOCATION	Generally located on the west side of Avalon Road and south of Flemings Road
PARCEL ID NUMBERS	19-24-27-0000-00-004 and 30-24-27-0000-00-024
TRACT SIZE	107.57 gross acres
PUBLIC NOTIFICATION	The notification area for this public hearing was 1,500 feet [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Twelve (12) notices were mailed to those property owners in the mailing area. A community meeting was not required for this application.
PROPOSED USE	399 dwelling units and 196,000 square feet of commercial uses

STAFF RECOMMENDATION

Development Review Committee – (August 14, 2019)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Lake Mac Planned Development / Land Use Plan (PD/LUP), dated “Received June 12, 2019”, subject to the following conditions:

1. Development shall conform to the Lake Mac Land Use Plan (LUP) dated "Received June 12, 2019," 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 12, 2019," 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 September 24, 2019.
 - 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 4 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.

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. This project shall comply with Comprehensive Plan Policy FLU4.3.10.
8. 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.
9. 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).

10. 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.
11. 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.
12. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
13. At least thirty (30) days prior to construction plan submittal, the applicant shall submit a Master Utility Plan (MUP) or MUP update for the PD, including hydraulically dependent parcels outside the PD boundaries; such MUP shall include supporting calculations showing that the PD-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.
14. Prior to construction plan approval, all property owners within 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 alternative financing in lieu of the private proportionate cost share agreement provided master utilities sized for Village requirements are constructed.
15. 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. Utilities infrastructure shall be built connecting to the build-out points of connection approved in the Village I Master Utility Plan (MUP).
16. A 5-year interim Master Utility Plan (MUP) for Village I must be approved prior to Construction Plan approval within this PD.
17. 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.
18. Short term rental within the residential portion of this PD shall be prohibited. Length of stay within the residential portion of the PD shall be for 180 consecutive days or greater. If a hotel/motel/timeshare or the like is proposed within the commercial portion of this PD then the length of stay shall not exceed 179 consecutive days.
19. Outside sales, storage, and display shall be prohibited.

20. Billboards and pole signs shall be prohibited. Ground and fascia signs shall comply with Orange County Code Chapter 31.5 Village PD. Village Center District standards apply for signage within the Village Center and Chapter 31.5 for all other districts.
21. Prior to a Certificate of Completion for the first phase of any Preliminary Subdivision Plan, Flemings Road shall be improved to Orange County standards.
22. 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.
23. The following waivers from Orange County Code are granted:
 - a. A waiver from Section 34-152(c), for Parcel 23, 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.
 - b. A waiver from Section 38-1382(h)(4), for Parcel 23, to allow alleys to be designed as a tract in lieu of the requirement that they shall be designed as a private easement.
 - c. A waiver from Section 38-1384(g)(1), for Parcel 23 to allow garage access to be setback from an alley tract in lieu of an easement.
 - d. A waiver from Section 38-1384(g)(2), for Parcel 23, 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.
 - e. A waiver from Section 38-1384(i)(2), for Parcel 23, to allow vehicular access to garages or other off-street parking to be from a rear alley tract in lieu of an easement.
 - f. A waiver from Section 38-1258(a), for Parcel 21, to allow multi-family residential buildings fifteen (15) feet from single-family zoned property and to be constructed up to five-stories and 75 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. This waiver is both internal and external to the Lake Mac PD.

- g. A waiver from Section 38-1258(b), for Parcel 21, to allow multi-family residential buildings fifteen (15) feet from single-family zoned property and to be constructed up to five-stories and 75 feet in height in lieu of the requirement that multi-family buildings within one hundred and fifty (150) feet of a single-family zoned property vary in building height. This waiver is both internal and external to the Lake Mac PD.
- h. A waiver from Section 38-1258(c), for Parcel 21, to allow multi-family buildings fifteen (15) feet from a single-family zoned property and to be constructed up to five-stories and 75 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. This waiver is both internal and external to the Lake Mac PD.
- i. A waiver from Section 38-1258(d), for Parcel 21, to allow multi-family buildings constructed up to five-stories and 75 feet in height, in lieu of the restriction that a multi-family development shall be limited to three (3) stories (forty (40) feet) in height. This waiver is both internal and external to the Lake Mac PD.
- j. A waiver from Section 38-1258(e), for Parcel 21, to allow parking and paved areas for multi-family development fifteen (15) feet from single-family zoned property, in lieu of the restriction that a parking and paved areas shall be twenty-five (25) feet from single-family zoned property. This waiver is both internal and external to the Lake Mac PD.
- k. A waiver from Section 38-1258(f), for Parcel 21, to not require a six (6) foot high masonry, brick, or block wall as part of the multi-family development since it is adjacent to single-family zoned property, in lieu of the a six (6) foot high masonry, brick, or block wall requirement. This waiver is both internal and external to the Lake Mac PD.
- l. A waiver from Section 38-1258(g), for Parcel 21, to allow shared access for multi-family and single-family residential and to allow multi-family residential to directly access a right-of-way serving platted single-family residential development, in lieu of the requirement that multi-family development shall not directly access any right-of-way serving platted single-family residential. This waiver is both internal and external to the Lake Mac PD.
- m. A waiver from Section 38-1258(i), for Parcel 21, to not require fencing as part of the multi-family development simply because it is adjacent to right-of-way that has single family zoned property across the right-of-way, in lieu of the requirement that multi-family development shall have fencing as part of the development because it is adjacent to right-of-way that has single family zoned property across the right-of-way. This waiver is both internal and external to the Lake Mac PD.
- n. A waiver from Section 38-1258(j), for Parcel 21, to require a minimum separation of twenty (20) feet between buildings, in lieu of the requirement where doors, windows,

or other openings in the wall of a living unit back up to a wall of another building with doors, windows or other openings, there shall be a minimum separation of thirty (30) feet for two-story buildings, and forty (40) feet for building three (3) stories. This waiver is both internal and external to the Lake Mac PD.

IMPACT ANALYSIS

Land Use Compatibility

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 I and is currently proposed as Townhome District (THD) on the Village I Special Planning Area map, which allows for a required density of eight (8) dwelling units per net developable acre and Village Center (VC) which allows for commercial development and a required density of five (5) 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.

SITE DATA

Existing Use	Undeveloped Land
Adjacent Zoning	N: A-1 (Citrus Rural District) (1957) E: A-1 (Citrus Rural District) (1957) W: PD (Planned Development District) (2015, 2018) (Spring Grove – Jaffers PD) S: A-1 (Citrus Rural District) (1957) A-2 (Farmland Rural District) (1957)
Adjacent Land Uses	N: Citrus Grove E: Grazing W: Grazing, Citrus Grove S: Grazing

APPLICABLE PD DEVELOPMENT STANDARDS

Unless expressly waived by the Board of County Commissioners, development shall comply with all standards found in Section 38-1387 (Townhome District and Village Center District) of the Village Planned Development Code.

SPECIAL INFORMATION

Subject Property Analysis

The applicant is seeking to rezone the subject parcels from A-1 (Citrus Rural District) and A-2 (Farmland Rural District) to PD (Planned Development District) in order to construct 399 single-family detached, attached, and multi-family residential dwelling units and 196,000 square feet of commercial uses.

Given the 38.70 net developable acres and given the Townhome District required density of 8.0 dwelling units per net developable acre and the Village Center District required density of 5.0 dwelling units per net developable acre, the required residential yield is 252 dwelling units. The applicant is proposing to use 147 Transfer of Development Rights (TDR) credits from the proposed Withers PD, increasing the development program to the proposed 399 dwelling units. A TDR agreement has been executed by the parties, and it is recorded in Orange County Public Records under Document #20190586529.

There are 5.34 acres of Adequate Public Facilities (APF) lands required with this application, with 4.97 acres being dedicated to the County for APF rights-of-way (Avalon Road, Flemings Road, and internal right-of-way), leaving a 0.37-acre APF deficit. To cover this deficit, 0.37 acres of APF credits are being transferred to this PD from the proposed Withers PD. The APF and Right of Way Agreement (#RAG-19-07-029) has been recommended for approval by the Roadway Agreement Committee (RAC) and will run concurrently with this request to the Board of County Commissioners.

Comprehensive Plan (CP) Amendment

A CP amendment is not required for this application, as the requested zoning is consistent with the underlying Village (V) Future Land Use Map (FLUM) designation.

State of Florida Notice

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.

Community Meeting Summary

A community meeting was not required for this 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.

Airport Noise Zone

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

Environmental

Orange County Conservation Area Determination (CAD) CAD-16-07-077 was completed for this project with a certified wetland boundary survey approved on November 9, 2016. This CAD identified 1.89 acres of Class I wetlands and 45.50 acres of surface waters, which includes Lake Mac. This PD also identifies impact to 0.36 acres of Class III surface water.

A Conservation Area Impact permit (CAI) has not been submitted to Orange County for review. Until permitting is complete, wetland acreage cannot be considered developable for density and intensity calculations.

This 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 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 / Access

The Roadway Agreement Committee has reviewed the Horizon West Village I –West Neighborhood Lake Mac PD Adequate Public Facilities Agreement ("Agreement") by and between Spring Grove, LLC & Columnar Partnership Holding I, LLC ("Owners") and Orange County for Right-of-Way for Avalon Road, Flemings Road, and Internal APF Roads. Under the terms of the Agreement, the Owners shall convey to Orange County a total of 4.97 acres of Right-of-Way for Avalon Road, Flemings Road and Internal APF Roads. The dedication of right-of-way in addition to the 0.37 APF transfer of surplus APF from Columnar and Withers, LLC, shall serve to satisfy the Adequate Public Facilities requirement under the APF/TDR Ordinance which requires approximately 5.34 acres of public facilities lands to be provided. The Owner will receive \$22,500 per acre for the conveyance of 4.97 acres of right-of-way for Avalon Road, Flemings Road, and Internal APF Road for a total of \$43,425 in transportation impact fee credits.

On November 13, 2018 the Board of County Commissioners accepted a Term Sheet for Village I. The Roadway Network Agreement being negotiated currently is based on the terms of the term sheet. Per the County's Comprehensive Plan Policy FLU4.3.10, the Roadway Network Agreement, which must substantially conform with the Term Sheet, must be signed by the owners of a majority of the undeveloped acreage in Village I and

approved by the BCC prior to approval of the first Preliminary Subdivision Plan and/or Development Plan in Village I, with the exception of any project that has a Capacity Encumbrance Letter issued prior to November 13, 2018.

Code Enforcement

The subject property does not have any active code enforcement violations.

Utilities

Water: Orange County Utilities

Wastewater: Orange County Utilities

Reclaim Water: Orange County Utilities

Schools

A Capacity Enhancement Agreement (CEA) application was approved by the Orange County School Board (OCPS) on September 24, 2019.

Parks and Recreation

Orange County Parks and Recreation reviewed this request and did not provide any comments or concerns.

Specific Project Expenditure Report and Relationship Disclosure Form

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 Lake Mac Planned Development (PD) Land Use Plan, subject to twenty-three (23) conditions.

Staff indicated that twelve (12) notices were mailed to surrounding property owners within a buffer of 1,500 feet from the subject property, with zero (0) commentaries received in support or in opposition to the request. The applicant was present for the hearing and concurred with staff's recommendation. There were no members of the public present to speak on this request.

After a brief discussion, a motion was made by Commissioner Dunn to find the request to be consistent with the Comprehensive Plan and recommend APPROVAL of the Lake Mac PD Land Use Plan, subject to the twenty-three (23) conditions listed under the DRC Recommendation. Commissioner Spears seconded the motion, which then carried on a 6-0 vote.

Motion / Second

Jimmy Dunn / Gordon Spears

Voting in Favor *Jimmy Dunn, Gordon Spears, JaJa Wade, Diane Velazquez, Yog Melwani, Eddie Fernandez*

Voting in Opposition *None*

Absent *Carlos Nazario*

Jose Cantero and Mohammed Abdallah declared a conflict of interest and recused themselves from voting on this case.

PZC RECOMMENDED ACTION

Planning and Zoning Commission (PZC) Recommendation – (September 19, 2019)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Lake Mac Planned Development / Land Use Plan (PD/LUP), dated "Received June 12, 2019", subject to the following conditions:

1. Development shall conform to the Lake Mac Land Use Plan (LUP) dated "Received June 12, 2019," 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 12, 2019," 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 September 24, 2019.
 - 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 4 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.

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. This project shall comply with Comprehensive Plan Policy FLU4.3.10.
- 8. 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.
- 9. 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).
- 10. 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.
- 11. 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.

12. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
13. At least thirty (30) days prior to construction plan submittal, the applicant shall submit a Master Utility Plan (MUP) or MUP update for the PD, including hydraulically dependent parcels outside the PD boundaries; such MUP shall include supporting calculations showing that the PD-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.
14. Prior to construction plan approval, all property owners within 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 alternative financing in lieu of the private proportionate cost share agreement provided master utilities sized for Village requirements are constructed.
15. 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. Utilities infrastructure shall be built connecting to the build-out points of connection approved in the Village I Master Utility Plan (MUP).
16. A 5-year interim Master Utility Plan (MUP) for Village I must be approved prior to Construction Plan approval within this PD.
17. 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.
18. Short term rental within the residential portion of this PD shall be prohibited. Length of stay within the residential portion of the PD shall be for 180 consecutive days or greater. If a hotel/motel/timeshare or the like is proposed within the commercial portion of this PD then the length of stay shall not exceed 179 consecutive days.
19. Outside sales, storage, and display shall be prohibited.
20. Billboards and pole signs shall be prohibited. Ground and fascia signs shall comply with Orange County Code Chapter 31.5 Village PD. Village Center District standards apply for signage within the Village Center and Chapter 31.5 for all other districts.
21. Prior to a Certificate of Completion for the first phase of any Preliminary Subdivision Plan, Flemings Road shall be improved to Orange County standards.
22. 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.

23. The following waivers from Orange County Code are granted:

- a. A waiver from Section 34-152(c), for Parcel 23, 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.
- b. A waiver from Section 38-1382(h)(4), for Parcel 23, to allow alleys to be designed as a tract in lieu of the requirement that they shall be designed as a private easement.
- c. A waiver from Section 38-1384(g)(1), for Parcel 23 to allow garage access to be setback from an alley tract in lieu of an easement.
- d. A waiver from Section 38-1384(g)(2), for Parcel 23, 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.
- e. A waiver from Section 38-1384(i)(2), for Parcel 23, to allow vehicular access to garages or other off-street parking to be from a rear alley tract in lieu of an easement.
- f. A waiver from Section 38-1258(a), for Parcel 21, to allow multi-family residential buildings fifteen (15) feet from single-family zoned property and to be constructed up to five-stories and 75 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. This waiver is both internal and external to the Lake Mac PD.
- g. A waiver from Section 38-1258(b), for Parcel 21, to allow multi-family residential buildings fifteen (15) feet from single-family zoned property and to be constructed up to five-stories and 75 feet in height in lieu of the requirement that multi-family buildings within one hundred and fifty (150) feet of a single-family zoned property vary in building height. This waiver is both internal and external to the Lake Mac PD.
- h. A waiver from Section 38-1258(c), for Parcel 21, to allow multi-family buildings fifteen (15) feet from a single-family zoned property and to be constructed up to five-stories and 75 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. This waiver is both internal and external to the Lake Mac PD.

- i. A waiver from Section 38-1258(d), for Parcel 21, to allow multi-family buildings constructed up to five-stories and 75 feet in height, in lieu of the restriction that a multi-family development shall be limited to three (3) stories (forty (40) feet) in height. This waiver is both internal and external to the Lake Mac PD.
- j. A waiver from Section 38-1258(e), for Parcel 21, to allow parking and paved areas for multi-family development fifteen (15) feet from single-family zoned property, in lieu of the restriction that a parking and paved areas shall be twenty-five (25) feet from single-family zoned property. This waiver is both internal and external to the Lake Mac PD.
- k. A waiver from Section 38-1258(f), for Parcel 21, to not require a six (6) foot high masonry, brick, or block wall as part of the multi-family development since it is adjacent to single-family zoned property, in lieu of the a six (6) foot high masonry, brick, or block wall requirement. This waiver is both internal and external to the Lake Mac PD.
- l. A waiver from Section 38-1258(g), for Parcel 21, to allow shared access for multi-family and single-family residential and to allow multi-family residential to directly access a right-of-way serving platted single-family residential development, in lieu of the requirement that multi-family development shall not directly access any right-of-way serving platted single-family residential. This waiver is both internal and external to the Lake Mac PD.
- m. A waiver from Section 38-1258(i), for Parcel 21, to not require fencing as part of the multi-family development simply because it is adjacent to right-of-way that has single family zoned property across the right-of-way, in lieu of the requirement that multi-family development shall have fencing as part of the development because it is adjacent to right-of-way that has single family zoned property across the right-of-way. This waiver is both internal and external to the Lake Mac PD.
- n. A waiver from Section 38-1258(j), for Parcel 21, to require a minimum separation of twenty (20) feet between buildings, in lieu of the requirement where doors, windows, or other openings in the wall of a living unit back up to a wall of another building with doors, windows or other openings, there shall be a minimum separation of thirty (30) feet for two-story buildings, and forty (40) feet for building three (3) stories. This waiver is both internal and external to the Lake Mac PD.