





Interoffice Memorandum

DATE: September 15, 2021

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

FROM: Jon V. Weiss, P.E., Director 
Planning, Environmental and Development
Services Department

CONTACT PERSON: Eric Raasch, DRC Chairman 
Development Review Committee
Planning Division
(407) 836-5523

SUBJECT: September 28, 2021 – Public Hearing
Applicant: Kathy Hattaway, Poulos & Bennett LLC
Gem Groves Planned Development
Case # CDR-20-09-273 / District 1

The Gem Groves Planned Development (PD) is located west of Avalon Road, north and south of Flemings Road, within Village I of Horizon West. The existing PD development program allows for 370 multi-family units, 117 single-family attached units, 365 single-family detached units, 200,000 square feet of commercial, an elementary school, a five-acre APF park, and a communication tower.

Through this PD substantial change, the applicant is seeking to reduce the total unit count from 852 to 807 units (reduction in one detached unit and 44 attached units), to depict the proposed realignment of Flemings Road, and to request a waiver from Orange County Code related to building separation for townhomes.

On July 28, 2021, the Development Review Committee (DRC) recommended approval of the request, subject to conditions. A community meeting was not required for this request.

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

ACTION REQUESTED: **Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Gem Groves Planned Development / Land Use Plan (PD/LUP) dated “Received July 29, 2021”, subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1**

Attachments
JVW/EPR/jsh

CASE # CDR-20-09-273

Commission District: # 1

GENERAL INFORMATION

APPLICANT	Kathy Hattaway, Poulos & Bennett, LLC
OWNER	Village I-545, LLC Titan-Liberty Lake Underhill Joint Venture
PROJECT NAME	Gem Groves Planned Development
PARCEL ID NUMBER(S)	19-24-27-0000-00-002 19-24-27-0000-00-012 19-24-27-0000-00-013 19-24-27-0000-00-014 19-24-27-0000-00-015 19-24-27-0000-00-021
TRACT SIZE	276.87 gross acres (overall PD)
LOCATION	North & south of Flemings Road, west of Avalon Road
REQUEST	<p>A PD substantial change to reduce the total unit count from 852 to 807 units, and to depict the proposed realignment of Flemings Road. In addition, the applicant has requested the following waiver from Orange County Code:</p> <p>1. A waiver from Section 38-1387.1(a)(10) to allow a fourteen (14) foot building separation between townhome buildings in lieu of twenty (20) feet.</p> <p><i>Applicant Justification:</i> Per Code Section 38-1387.1(a)(9), side setbacks for townhome end buildings are seven (7) feet which results in only fourteen (14) feet being required between townhome buildings.</p>
PUBLIC NOTIFICATION	A notification area extending beyond one thousand five hundred (1500) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. One hundred eight (108) notices were mailed to those property owners in the notification buffer area. A community meeting was not required for this application.

IMPACT ANALYSIS

Special Information

The Gem Groves PD was originally approved July 7, 2020 and it is currently entitled for a development program that includes 370 multi-family units, 117 single-family attached

units, 365 single-family detached dwelling units, a five-acre APF park, an elementary school, 200,000 square feet of commercial space, and a communications tower.

Through this PD substantial change, the applicant is seeking to reduce the total unit count from 852 to 807 units (reduction in one detached unit and 44 attached units), to depict the proposed realignment of Flemings Road, and to request a waiver from Orange County Code related to building separation for townhomes.

Land Use Compatibility

The proposed PD substantial change would not adversely impact any adjacent properties or result in an incompatible land use pattern.

Comprehensive Plan (CP) Consistency

The subject property has an underlying Future Land Use Map (FLUM) designation of Village and the Village I Special Planning Area map for the property includes Village Center, APF Park, Elementary School, Village Home, Garden Home Mixed Use, and Apartment land use designations. The proposed PD substantial change is consistent with this designation and all applicable CP provisions; therefore, the request is consistent with the Comprehensive Plan.

Overlay Ordinance

The subject property is not located within an Overlay District.

Rural Settlement

The subject property is not located within a Rural Settlement.

Joint Planning Area (JPA)

The subject property is not located within a JPA.

Environmental

Environmental Protection Division (EPD) staff has reviewed the request, but did not identify any issues or concerns.

Transportation Concurrency

Transportation Planning staff has reviewed the request, but did not identify any issues or concerns.

Community Meeting Summary

A community meeting was not required for this request.

Schools

Orange County Public Schools staff reviewed the request but did not identify any issues or concerns.

Parks and Recreation

Orange County Parks and Recreation staff reviewed the request but did not identify any issues or concerns.

Specific Project Expenditure Report and Relationship Disclosure Forms

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

ACTION REQUESTED

Development Review Committee (DRC) Recommendation – (July 28, 2021)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Gem Groves Planned Development / Land Use Plan (PD/LUP), dated "July 29, 2021", subject to the following conditions:

1. Development shall conform to the Gem Groves PD Land Use Plan dated "Received July 29, 2021," 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 July 29, 2021," the condition of approval shall control to the extent of such conflict or inconsistency.
2. This project shall comply with, adhere to, and not deviate from or otherwise conflict with any verbal or written promise or representation made by the applicant (or authorized agent) to the Board of County Commissioners ("Board") at the public hearing where this development received final approval, where such promise or representation, whether oral or written, was relied upon by the Board in approving the development, could have reasonably been expected to have been relied upon by the Board in approving the development, or could have reasonably induced or otherwise influenced the Board to approve the development. In the event any such promise or representation is not complied with or adhered to, or the project deviates from or otherwise conflicts with such promise or representation, the County may withhold (or postpone issuance of) development permits and / or postpone the recording of (or refuse to record) the plat for the project. For purposes of this condition, a "promise" or "representation" shall be deemed to have been made to the Board by the applicant (or authorized agent) if it was expressly made to the Board at a public hearing where the development was considered and approved.
3. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit, or any other development order, if

the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this 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. Prior to any Preliminary Subdivision Plan approval the Right-of-Way for Lake Star Road shall be vacated and replaced with applicable easements that terminate upon platting.
7. The applicant shall comply with all terms of the Village I Road Network Agreement approved by the Board of County Commissioners on January 28, 2020 as recorded under document number 20200109451 in the Public Records of Orange County, Florida, as may be amended.
8. That portion of existing Flemings Road Right-of-Way within the approved PSP must be vacated and the applicable fee simple Right-of-Way deed(s), and/or easements necessary for the relocated Flemings Road must be recorded in the public records prior to construction site plan approval for the Phase of the PSP that Flemings Road is located.

9. A waiver from Orange County Code Section 38-1387.1(a)(10) is granted to allow a fourteen (14) foot building separation between townhome buildings in lieu of twenty (20) feet.
10. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated July 7, 2020 shall apply:
 - a. 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.
 - b. Approval of this plan does not constitute approval of a permit for the construction of a boat ramp. Any person desiring to construct a boat ramp shall apply to the Orange County Environmental Protection Division as specified in Orange County Code Chapter 15 Environmental Control, Article XV Boat Ramps, prior to installation, for an Orange County Boat Ramp Facility Permit, as well as to any other Orange County Division(s) for any other applicable permits.
 - c. If applicable, the applicant / owner has an affirmative obligation to expressly notify potential purchasers, builders, and/or tenants of this development, through an appropriate mechanism, including a conspicuous note on the plat and/or a recorded restrictive covenant, as applicable, that the adjacent northeastern land use includes facilities with operations that may result in periodic temporary conditions that may cause odors, noise disturbance and dust.
 - d. Prior to mass grading, clearing, grubbing or construction, the applicant is hereby noticed that this site must comply with habitat protection regulations of the U.S. Fish and Wildlife Service (USFWS) and the Florida Fish & Wildlife Conservation Commission (FWC).
 - e. 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.
 - f. 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.

- g. 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.
- h. Unless a Conservation Area Impact (CAI) permit is approved by Orange County consistent with Orange County Code Chapter 15, Article X, "Wetland Conservation Areas", prior to Construction Plan approval, no conservation area or buffer encroachments shall be permitted. Approval of this plan does not authorize any direct or indirect conservation area impacts.
- i. The developer shall be responsible for building master utilities transmission and collection infrastructure adequate to serve the project to accommodate the ultimate flows for the entire Village (SAP). Utilities infrastructure shall be built connecting to the build-out points of connection approved in the Master Utilities Plan (MUP).
- j. At least thirty (30) days prior to construction plan submittal, the applicant shall submit a Master Utility Plan (MUP) for the PSP, including hydraulically dependent parcels outside the PSP boundaries; such MUP shall include supporting calculations showing that the PSP-level MUP is consistent with the approved MUP for the Village, or shall include an update to the Village MUP to incorporate any revisions. The MUP(s) must be approved prior to construction plan approval.
- k. Prior to construction plan approval, all property owners within the Village I, excluding public entities, shall be required to sign an agreement between the parties addressing their proportionate share of funds for the costs of the offsite and onsite master utilities sized to Village requirements. Property owners may elect to use alternate financing in lieu of the private proportionate cost share agreement provided master utilities sized for Village requirements are constructed.
- l. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
- m. 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.
- n. Pole signs and billboards shall be prohibited. Ground and fascia signs within the Village Center shall comply with Chapter 31.5 Village PD standards of the Orange County Code. Wall and fascia signs for the Elementary school shall comply with Orange County Code Section 38-1755 (o) of the Orange County Code and all other developments other than the Village Center and the School shall comply with Chapter 31.5 of the Orange County Code.

- o. Outside sales, storage, and display shall be prohibited within the Village Center.
- p. A 5-year interim Master Utility Plan (MUP) for Village I must be approved prior to Construction Plan approval within this PD.
- q. Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP) for Village I. MUP updates shall be submitted to Orange County Utilities at least thirty (30) prior to the corresponding construction plan submittal. The updated MUP must be approved prior to construction plan approval.
- r. Prior to the issuance of the initial Certificate of Occupancy, temporary or permanent, for any portion of each of Parcel 22 (Village Center) and Parcel 24 (Apartment), the Southern Connector Road, as generally described in that certain Flemings Road Developer's Agreement recorded under Instrument Number 20200166971 in the Public Records of Orange County, Florida, with the identified "rural section" built to County APF standards, must be complete and accepted by County. Additionally, as a condition precedent to the issuance by County of the initial vertical building permit within the applicable Parcel, in the event the Southern Connector Road has not been completed and accepted by County, the Developer / Applicant shall have (i) obtained from the County approval of the construction plans for the Southern Connector Road, (ii) entered into a construction contract which provides for the completion thereof, in accordance with such approved plans, within eight (8) months from the date of such contract and which provides that the County is a third party beneficiary to such contract, and (iii) provided to the County performance and payment bonding, reasonably acceptable to the County, for the work to be performed under such contract.
- s. Prior to the issuance of a Certificate of Completion for any portion of the Gem Groves PD located north of Flemings Road (all of the Gem Groves PD except for Parcels 22 and 24) one or more of the following roadway improvements shall have been constructed, completed, and accepted by the County in accordance with plans approved by the County, which plans will include provisions for the handling of stormwater associated with such completed roadways: (i) the upgrade (pursuant to Section 6.1(c)) and/or widening (pursuant to Section 2.13) of Flemings Road, in accordance with the Village I Horizon West Road Network Agreement recorded under Instrument Number 2020109451 in the Public Records of Orange County, Florida; OR (ii) the Southern Connector Road, as generally described in that certain Flemings Road Developer's Agreement recorded under Instrument Number 20200166971 in the Public Records of Orange County, Florida, with the identified "rural section" built to County APF standards.
- t. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a capacity encumbrance letter in accordance with Section 12.1 of the Village I Road Network Agreement recorded at Doc# 20200109451, Public Records of Orange County, Florida, as may be amended from time to time, and must apply for and obtain a capacity reservation certificate prior to approval of the plat. Nothing in this condition, and nothing in the decision to approve this land

use plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a capacity encumbrance letter or a capacity reservation certificate.

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

- 1) A waiver from Orange County Code Section 34-152(c), for Parcels 9; 10; 11; and 12, to allow lots to front a mews, park, open space, etc. and have access via a tract or easement in lieu of the requirement that each lot shall have a minimum access width of twenty (20) feet to a dedicated public paved street.
- 2) A waiver from Orange County Code Section 38-1382(h)(4), for Parcels 9; 10; 11; and 12, 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 Orange County Code Section 38-1384(g)(1), for Parcels 9; 10; 11; and 12, to allow garage access to be setback from an alley tract in lieu of an easement.
- 4) A waiver from Orange County Code Section 38-1384(g)(2), for Parcels 9; 10; 11; and 12, 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 Orange County Code Section 38-1384(i)(2), for Parcels 9; 10; 11; and 12, to allow vehicular access to garages or other off-street parking to be from a rear alley tract in lieu of an easement.
- 6) A waiver from Orange County Code Section 38-1258(a), for Parcel 22 and 24, to allow multi-family residential buildings located within fifty (50) 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.
- 7) A waiver from Orange County Code Section 38-1258(b), for Parcels 22 and 24, to allow multi-family buildings located between one hundred plus (100+) feet to one hundred and fifty (150) 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 located between one hundred plus (100+) feet to one hundred and fifty (150) feet of single-family zoned property shall vary in building height with a maximum of fifty (50) percent of the buildings being three (3) stories (not to exceed forty (40) feet) in height with the remaining buildings being one (1) story or two (2) stories in height.

- 8) A waiver from Orange County Code Section 38-1258(c), for Parcel 22 and 24, to allow multi-family buildings located within fifty (50) 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.
- 9) A waiver from Orange County Code Section 38-1258(d), for Parcels 22 and 24, to allow multi-family buildings constructed up to five-stories and 65 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.
- 10) A waiver from Orange County Code Section 38-1258(e), for Parcels 22 and 24, 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.
- 11) A waiver from Orange County Code Section 38-1258(f), for Parcels 22 and 24, 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.
- 12) A waiver from Orange County Code Section 38-1258(g), for Parcel 22 and 24, 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.
- 13) A waiver from Orange County Code Section 38-1258(i), for Parcels 22 and 24, 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.
- 14) A waiver from Orange County Code Section 38-1258(j), for Parcels 22 and 24, 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.
- 15) A waiver from Section 30-714(c) is requested to allow the project to proceed beyond 5% of the approved PD entitlements, which 5% threshold is identified in the APF Agreement as 42 dwelling units (attached or detached); provided, however, that prior to said 5% threshold being reached or exceeded: (A) the

future APF Right-of-Way have been conveyed to the County or placed into escrow, pursuant to an escrow agreement acceptable to the County; (B) the Stormwater Site, as defined in the APF Agreement has been conveyed to the County or placed into escrow, pursuant to an escrow agreement acceptable to the County and; (C) the approximately 5.0 acre APF Park has been conveyed to the County or placed into escrow, pursuant to an escrow agreement acceptable to the County.

- 16) A waiver from Orange County Code Section 38-1384(i)(3), for the hatched areas on Parcel 10 on the plan dated "Received January 21, 2020," to allow lots facing the Lake Star APF road access to garages and off-street parking surfaces from the APF road in lieu of the requirement that vehicular access to garages or other off-street parking surfaces on all lots facing the primary side of an APF road shall be provided from a rear alley or easement.
- 17) A waiver from Section 38-1427(d)(2)(d) to allow a Monopole between 80 feet and 140 feet in height to be within 50' of Vacant Unplatted Residentially-Zoned Lands in lieu of the distance requirement of 400' or 500% of height of tower, whichever is greater.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (July 7, 2020)

Upon a motion by Commissioner VanderLey, seconded by Commissioner Gomez Cordero, and carried by all members voting AYE by voice vote, the Board voted to approve the rezoning request from A-1 (Citrus Rural District) to PD (Planned Development District) to develop 370 multi-family dwelling units, 117 single-family attached dwelling units, and 365 single-family detached dwelling units, a 5-acre APF park, an elementary school, 200,000 square feet of commercial space, a communications tower, and seven (7) conditional uses for the village center, subject to the twenty-seven (27) conditions of approval listed under the Planning and Zoning Commission recommendation in the Staff Report; and further, approved and executed the Adequate Public Facilities Agreement for Horizon West Village I Gem Groves PD by and between Titan Liberty Lake Underhill Joint Venture, Village I 545, LLC, and Orange County conveying 26.16 acres of APF lands and providing \$51,975 in Transportation Impact Fee Credits.

CDR-20-09-273

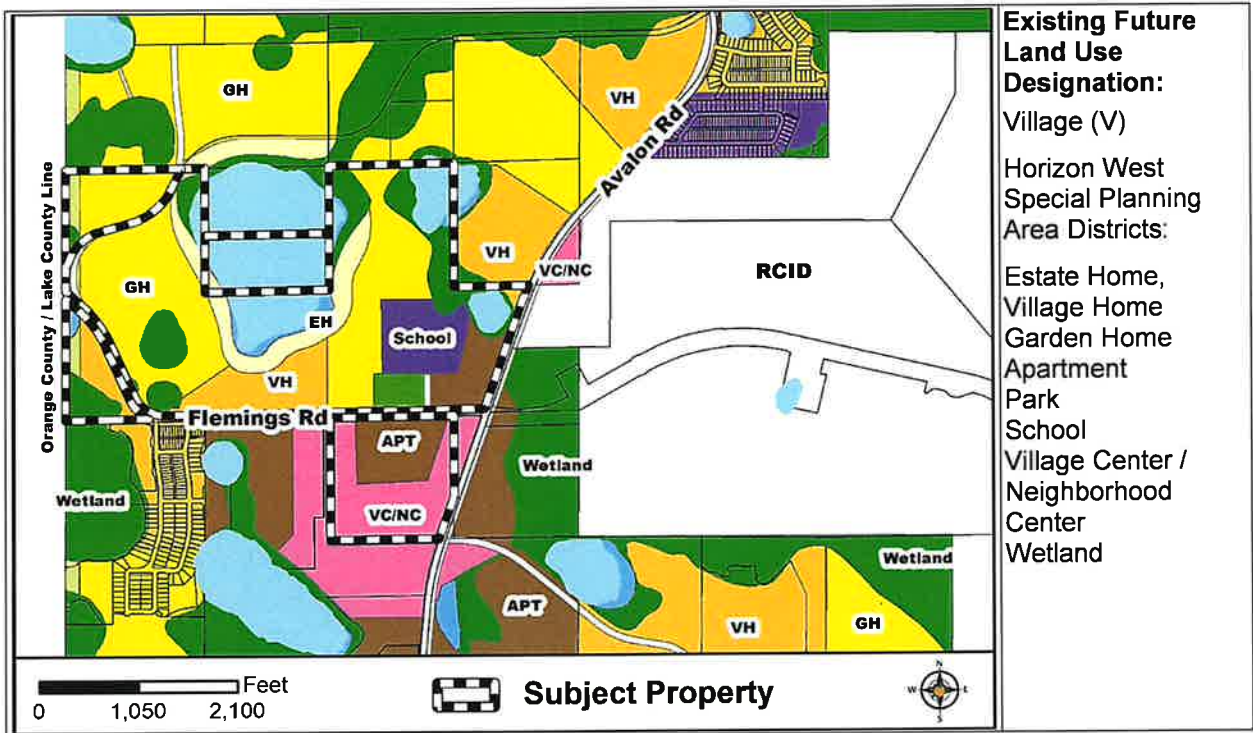


 Subject Property

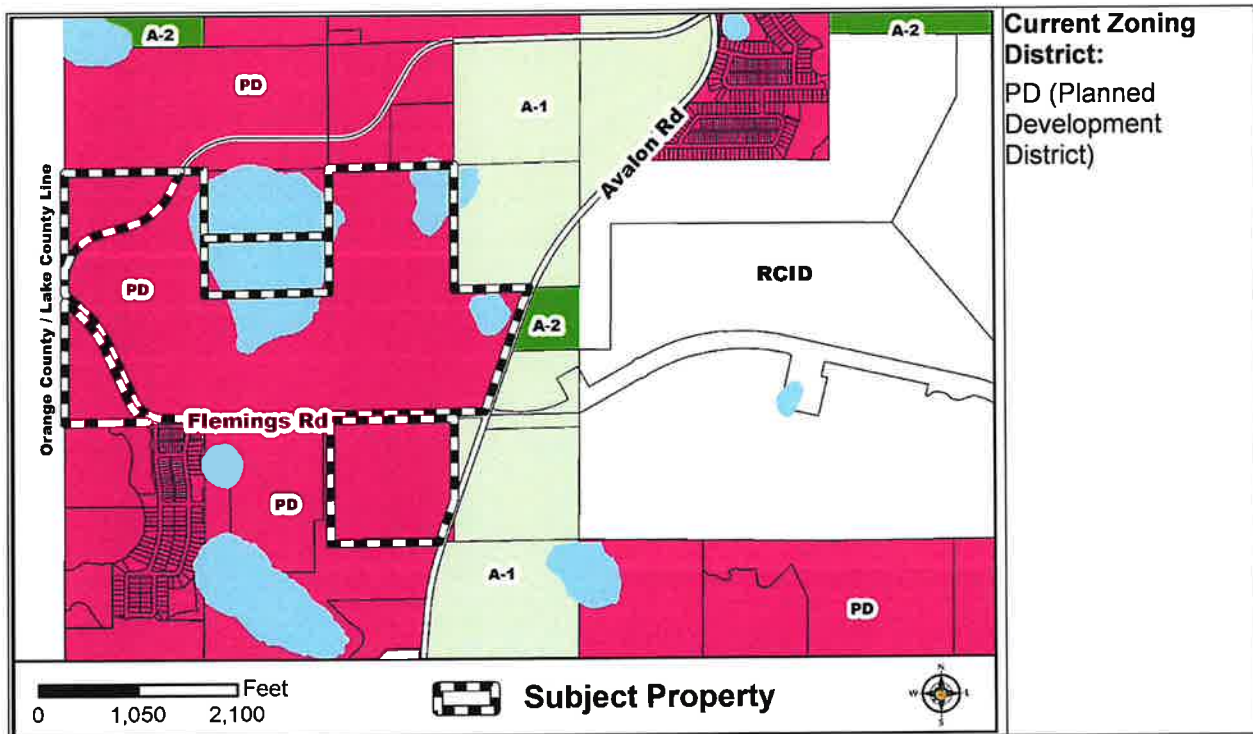


1 inch = 1,000 feet

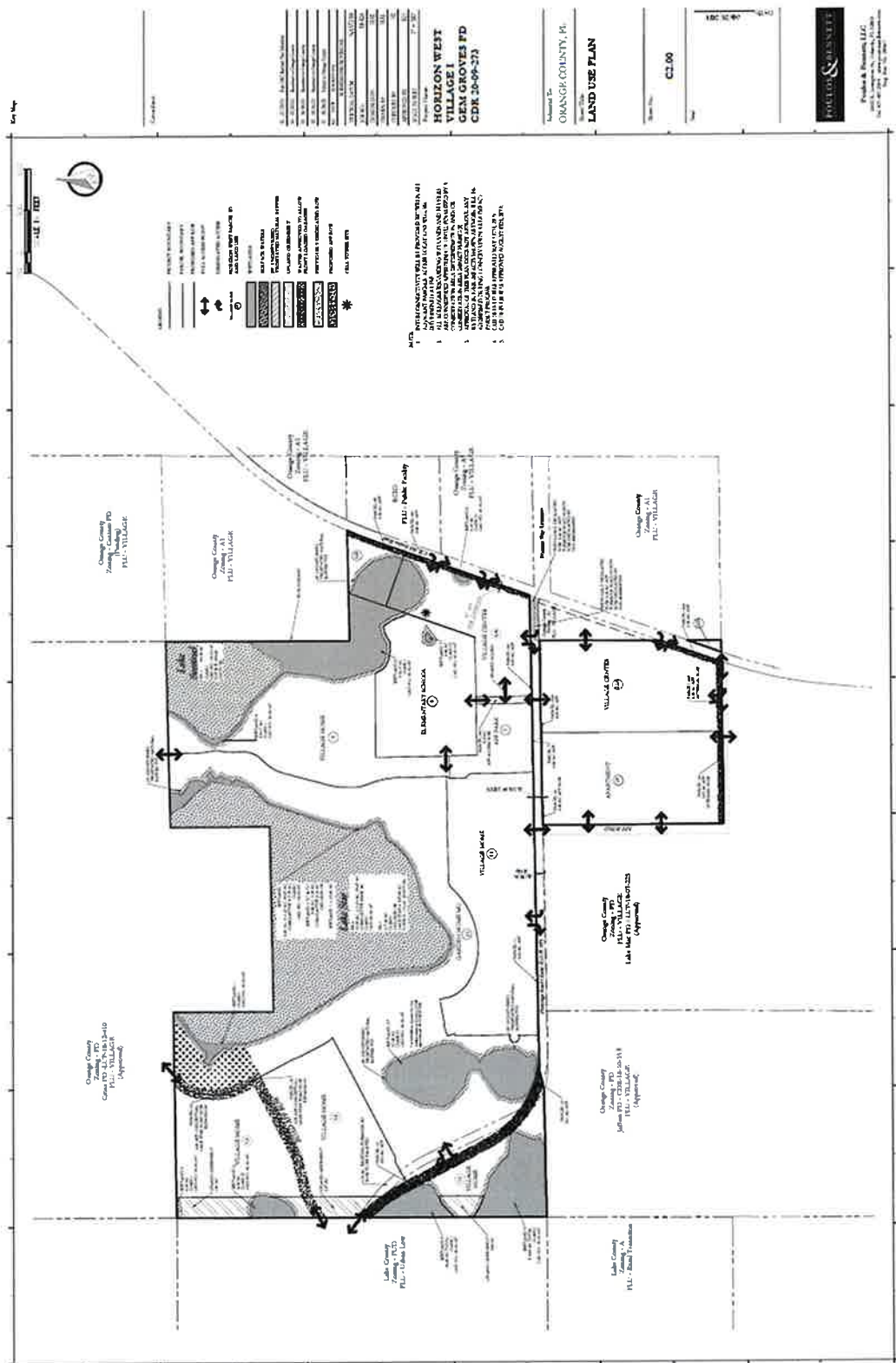
FUTURE LAND USE – CURRENT



ZONING - CURRENT



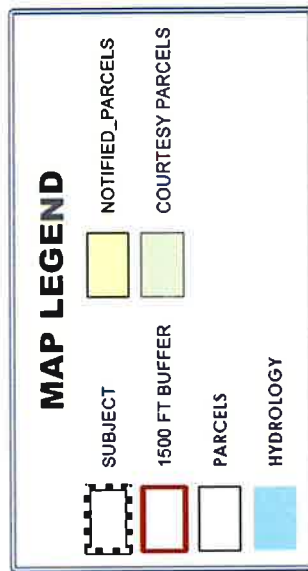
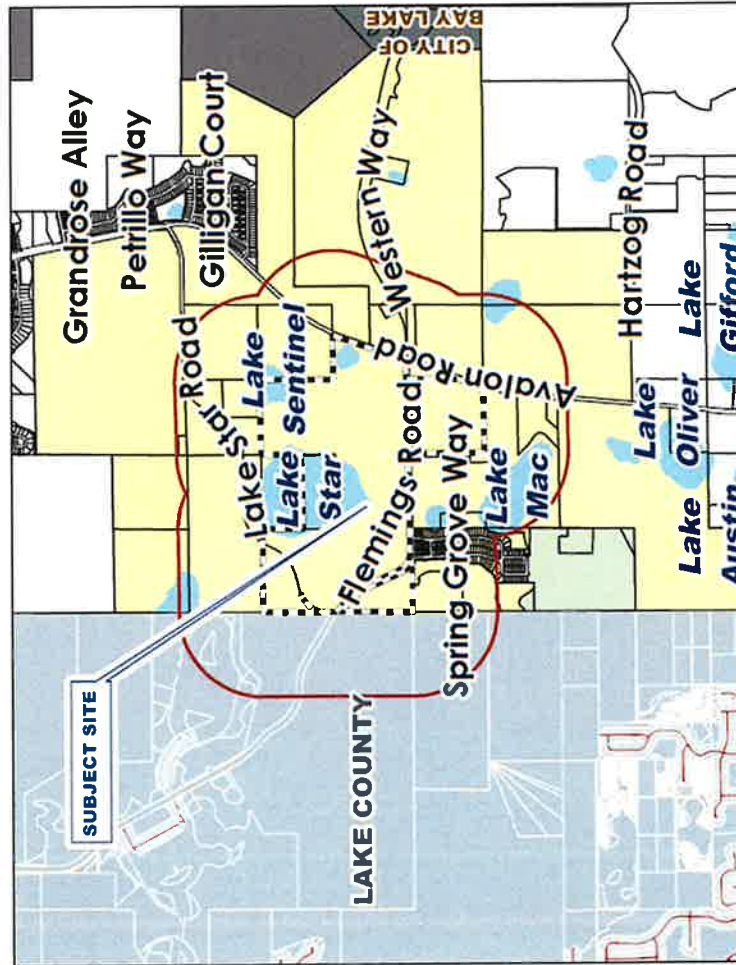
Gem Groves PD / LUP



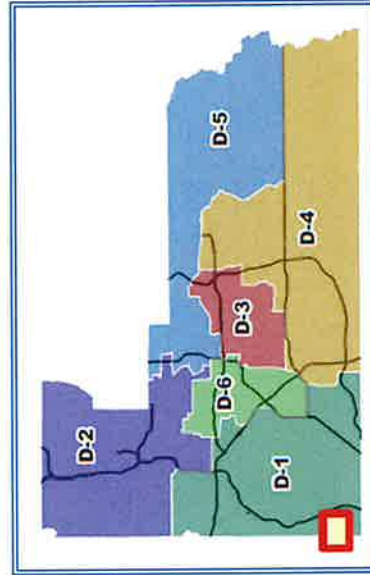


Public Notification Map

CDR-20-09-273 Gem Groves PD



BUFFER DISTANCE: 1500
 # OF NOTICES: 108



S:\Business Systems\Board Administration\5 SUBSTANTIAL CHANGE\2021\DR\Gem Groves PD_CDR-20-09-273\CDR-20-09-273 Gem Groves