

**CASE # CDR-16-02-071**

Commission District: # 4

**GENERAL INFORMATION**

<b>APPLICANT</b>	Jeffrey B. Fuqua, Spring Isle C, LLC
<b>OWNER</b>	Spring Isle C, LLC
<b>PROJECT NAME</b>	Spring Isle Planned Development / Land Use Plan (PD / LUP) and Master Sign Plan (MSP)
<b>PARCEL ID NUMBERS</b>	30-22-32-0000-00-015; 30-22-32-0000-00-019; 30-22-32-0000-00-022; 30-22-32-0000-00-043; 30-22-32-0000-00-046; 30-22-32-0000-00-050; and 30-22-32-0000-00-051
<b>TRACT SIZE</b>	224.87 gross acres
<b>LOCATION</b>	Generally located on the east side of Avalon Park Boulevard and south of Waterford Chase Boulevard.
<b>REQUEST</b>	<p>A PD substantial change to request approval of a Master Sign Plan (MSP) for PD Parcels G, H, and I. The applicant is also requesting the following waiver from Orange County Code:</p> <p>1. <i>A waiver from Section 31.5-5 to allow for two (2) multi-tenant signs as depicted on the Master Sign Plan to advertise for property within this PD, in lieu of signs advertising on-site tenants only.</i></p>
<b>PUBLIC NOTIFICATION</b>	A notification area extending beyond five hundred (500) feet was used for this application [ <i>Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet</i> ]. Two hundred ninety (290) notices were mailed to those property owners in the notification buffer area. A community meeting was not required for this request.

**IMPACT ANALYSIS**

**Special Information**

The Spring Isle PD was originally approved on August 5, 2003, is generally located on the east side of Avalon Park Boulevard and south of Waterford Chase Boulevard, and currently provides for a development program consisting of 100,000 square feet of commercial uses, 25,261 square feet of offices uses, and ninety-five (95) single family attached (townhouse) units.

Through this PD substantial change, the applicant is seeking approval of a Master Sign Plan (MSP) for PD Parcels G, H, and I, in order to depict existing identification signs, multi-tenant ground signs; directional signs; and a menu board sign. In addition, the

applicant is also seeking approval of a waiver from Orange County Code Section 31.5-5 to allow two (2) multi-tenant signs (as depicted on the MSP) to advertise property within the overall PD, in lieu of advertising for specific on-site tenants only.

**Land Use Compatibility**

The proposed substantial change request 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 Planned Development – Low Density Residential / Medium Density Residential / Commercial / Office / Parks and Recreation-Open Space / Conservation (PD-LDR/MDR/C/O/PR-OS/C). The proposed PD substantial change is consistent with this FLUM designation and all other applicable provisions of the Comprehensive Plan.

**Overlay District Ordinance**

The subject property is not located within an Overlay District.

**Rural Settlement**

The subject property is not located within a Rural Settlement.

**Joint Planning Area (JPA)**

The subject property is not located within a JPA.

**Environmental**

The Environmental Protection Division reviewed the request, but provided no objections or concerns.

**Transportation / Concurrency**

Based on the Concurrency Management System database dated 02-18-15, capacity is available to be encumbered for this project. This information is dated and is subject to change.

Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a Capacity Encumbrance Letter (CEL) prior to construction plan submittal and must apply for and obtain a Capacity Reservation Certificate (CRC) prior to approval of the plat. Nothing in this condition, and nothing in the decision to approve this land use plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a CEL or a CRC.

**Schools**

This request would not result in any impacts to Orange County Public Schools.

**Parks and Recreation**

The Environmental Protection Division reviewed the request, but provided no objections 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 – (August 24, 2016)**

**Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Spring Isle Planned Development / Land Use Plan (PD/LUP) and Master Sign Plan (MSP) dated “Received August 9, 2016”, subject to the following conditions:**

1. Development shall conform to the Spring Isle Planned Development / Land Use Plan (PD/LUP) dated "Received August 9, 2016," 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 August 9, 2016," 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 February 9, 2016.
  - 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 11 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. A waiver from Orange County Code Section 31.5-5 is approved to allow for two (2) multi-tenant signs as depicted on the Master Sign Plan (MSP) to advertise for those parcels located within this PD, in lieu of signs that advertise for on-site tenants only.
- 8. Billboards and pole signs shall be prohibited. Ground and fascia signs shall comply with Orange County Code Chapter 31.5 with the exception of Parcels G, H, and I. Parcels G, H, and I shall comply with the Master Sign Plan.
- 9. Except as amended, modified, and/or superseded, the following BCC Conditions of Approval, dated February 16, 2016 shall apply:
  - a. Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP). MUP updates shall be submitted to Orange County Utilities at least thirty (30) days prior to the corresponding construction plan submittal. The updated MUP must be approved prior to construction plan approval.
  - b. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a Capacity Encumbrance Letter (CEL) prior to construction plan submittal and must apply for and obtain a Capacity Reservation Certificate (CRC) prior to approval of the plat. Nothing in this condition and nothing in the decision to approve this land use plan shall be construed as a

guarantee that the applicant will be able to satisfy the requirements for obtaining a CEL or a CRC.

- c. 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).
  - d. A waiver from Orange County Code Section 24-4(a) (2) is granted to eliminate landscaping requirements between vehicular use areas on adjacent non-residential properties.
  - e. A waiver from Orange County Section 38-1272(a)(3) is granted to allow a minimum setback from the side and rear property lines of zero (0) feet for non-residential (commercial) development, in lieu of ten (10) feet.
  - f. A current Level One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review and approval as part of any Preliminary Subdivision Plan (PSP) and / or Development Plan (DP) submittal.
  - g. All proposed vertical structures shall be located a minimum of 18 feet from the centerline of the existing 30-inch water main and 30-inch wastewater force main.
  - h. The developer/property owner shall sign an agreement which releases Orange County from liability associated with the presence of the 30-inch water main and 30-inch wastewater force main located on Parcel H. The agreement shall be approved by the BCC prior to construction plan approval.
10. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated October 19, 2010, and August 5, 2003, shall apply:
- a. All acreages regarding conservation areas and wetland buffers are considered approximate until finalized by a Conservation Area Determination (CAD) and a Conservation Area Impact (CAI) Permit. Approval of this plan does not authorize any direct or indirect conservation area impacts.
  - b. The Developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities.
  - c. Outdoor storage and display shall be prohibited.
  - d. This project shall comply with the Avalon Park Boulevard Design Standards, with the following exceptions:

- Golden Isle Boulevard shall have a minimum 10-foot-wide landscape parkway and incorporate one 5-foot walk and one 8-foot walk.
  - The commercial and office/commercial portion of the PD (Tracts G and H) shall be 27.71 acres in size but shall not exceed 150,000 square feet of building.
  - Main commercial "anchors" may front an internal drive isle and face Avalon Park Boulevard, so long as any side building façade fronting Golden Isle Boulevard is addressed as a primary building façade.
  - The commercial and office/commercial portion of the PD (Tracts G and H) shall each be considered a "Community Commercial" / "Office" site.
- e. Tree removal / earthwork shall not occur unless and until construction plans for the first Preliminary Subdivision and/or Development Plan, with a tree removal and mitigation plan, have been approved by Orange County.
  - f. A waiver from Orange County Code Section 38-1272(3)(b) is granted to allow a 15-foot building setback along Avalon Park Boulevard in lieu of the required 40 feet.
  - g. A waiver from Section 38-1272(3)(a) is granted to allow a 20-foot setback along the north/south connector road in lieu of the required 30 feet.
  - h. A waiver from Section 38-1272(3)(d) is granted to allow 15-foot setbacks from internal streets in lieu of the required 30 feet.
  - i. The commercial uses shall be limited to Commercial (C-1) uses.
  - j. Construction traffic shall not be permitted to access the PD via Sunflower Trail.

**PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (February 16, 2016)**

Upon a motion by Commissioner Thompson, seconded by Commissioner Clarke, and carried with all present members voting AYE by voice vote (Mayor Jacobs was absent), the Board made a finding of consistency with the Comprehensive Plan; and further, approved the request by John Florio, Donald W. McIntosh, Inc., Spring Isle Planned Development / Land Use Plan (PD/LUP), Case # CDR-15-01-028, to add one (1) parcel containing 4.20 acres; add 95 townhome units to PD Parcel G by converting 24,739 square feet of Office development entitlements into 66 townhome units, and by using 11 remaining units and 18 density credits; add a Transportation Equivalency Matrix to include townhome, self-storage, day care, and elementary school uses with updated trip and student generation calculations; introduce commercial, townhome, day care, self-storage and elementary school uses to PD Parcel H, while eliminating a park use from PD Parcel I (resulting in the County stormwater use only); and, reconfigure PD Parcels G, H, and I boundaries; and further, the applicant requested two

(2) waivers from Orange County Code; which constituted a substantial change to the development on the described property; subject to conditions.