



Interoffice Memorandum

**AGENDA ITEM**

DATE: September 24, 2018

TO: Mayor Teresa Jacobs  
—AND—  
Board of County Commissioners

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

CONTACT PERSON: Eric P. Raasch, Interim DRC Chairman  
Development Review Committee  
(407)836-5523

SUBJECT: October 16, 2018 — Consent Item  
Avalon Park Development of Regional Impact (DRI)  
Extension of Build-Out/Termination Date- Case #EXT-18-08-010

The Avalon Park Development of Regional Impact (DRI) and Development Order (DO) was originally approved by the Board on August 31, 1993, and is generally located south of East State Road 50 and east of South Alafaya Trail.

The proposal is to extend the build-out/termination date by five years. If the extension is granted, the termination would be extended from July 27, 2021 to July 27, 2026.

Pursuant to Section 380.06, Florida Statutes, as amended by Chapter 2018-158, Laws of Florida (HB 1151), an extension of the build-out date for an existing DRI is no longer subject to any substantial or non-substantial deviation determination; therefore, the East Central Florida Regional Planning Council has not reviewed the proposed extension.

The proposed extension received a recommendation of approval from the Development Review Committee on September 12, 2018.

**ACTION REQUESTED:** Approval and execution of First Amendment to Fourth Amended and Restated Development Order for Avalon Park Development of Regional Impact to extend the build-out/termination date by five years from July 27, 2021 to July 27, 2026.  
District 4

JVW/EPR/JHS  
Attachments

BCC Mtg. Date: October 16, 2018

Prepared by and Return to:

S. Brent Spain, Esquire  
Theriaque & Spain  
433 N. Magnolia Drive  
Tallahassee, Florida 32308

**FIRST AMENDMENT TO FOURTH  
AMENDED AND RESTATED DEVELOPMENT ORDER  
FOR AVALON PARK DEVELOPMENT OF REGIONAL IMPACT**

A. On August 31, 1993, the Orange County Board of County Commissioners approved the Development Order for Avalon Park Development of Regional Impact ("Original Development Order"), a copy of which is recorded at Book 4617, Page 4262 of the Official Records of Orange County.

B. The Original Development Order for the Avalon Park Development of Regional Impact ("Avalon Park DRI") was subsequently amended pursuant to the Amended Development Order for the Avalon Park DRI approved August 13, 1996, a copy of which is recorded at Book 5119, Page 2766 of the Official Records of Orange County, the Second Amended and Restated Development Order for the Avalon Park DRI approved January 5, 1999, a copy of which is recorded at Book 5719, Page 2800 of the Official Records of Orange County, the Third Amended and Restated Development Order for the Avalon Park DRI approved May 18, 2004, a copy of which is recorded at Book 7447, Page 2908 of the Official Records of Orange County, and the Fourth Amended and Restated Development Order for the Avalon Park DRI approved April 1, 2008, a copy of which is recorded at Book 9653, Page 162 of the Official Records of Orange County.

C. Pursuant to Section VI of the Fourth Amended and Restated Development Order, the Avalon Park DRI had a termination/build-out date of November 30, 2019.

D. In May 2018, Avalon Associates of Delaware Limited Partnership ("Avalon Associates"), as the owner/developer of the Avalon Park DRI, timely requested an executive order/state of emergency extension of the Avalon Park DRI pursuant to Section 252.363, Florida Statutes, for an additional twelve (12) months and 239 days until July 27, 2021.

E. On June 13, 2018, the Orange County Development Review Committee confirmed the extension of the termination/build-out date of the Avalon Park DRI until July 27, 2021.

F. On August 10, 2018, Avalon Associates filed a Development Review Committee Application with the County seeking an additional five (5) year extension of the termination/build-out date of the Avalon Park DRI until July 27, 2026, pursuant to Section 380.06(7), Florida Statutes.

G. The requested extension of the termination/build-out date of the Avalon Park DRI is necessary in order to allow Avalon Associates to complete the Avalon Park DRI consistent with the existing entitlements.

H. Pursuant to Section 380.06, Florida Statutes, as amended by Chapter 2018-158, Laws of Florida, an extension of a build-out date for an existing development of regional impact is no longer subject to any substantial/non-substantial deviation determination.

I. The applicable review process under Section 380.06(7), Florida Statutes, was followed, and after a public hearing, the Orange County Board of County Commissioners hereby amends the Fourth Amended and Restated Development Order for the Avalon Park DRI as provided herein.

## **ORDER**

**SECTION 1.** The foregoing recitals are true and correct and are hereby incorporated herein.

**SECTION 2.** Section VI of the Fourth Amended and Restated Development Order for the Avalon Park DRI is hereby amended as follows, with the new language being shown by underlining and the deleted language being struck through:

### **VI. COMPLIANCE DATES**

The Developer shall commence physical development of five percent (5%) of the Project within five (5) years after the effective date of the Original Development Order. Five percent (5%) is deemed to mean land uses which generate 620 external ADT's using current (5<sup>th</sup> Edition or higher) ITE rates. Otherwise, this Development Order shall expire. This Fourth Amended and Restated Development Order shall terminate ~~November 30, 2019~~July 27, 2026. However, the termination date of this Fourth Amended and Restated Development Order shall not affect the continuing obligations of the Developer or enforcement authority of the County, and the Developer shall continue to be bound by the terms, provisions, and conditions of the Fourth Amended and Restated Development Order after the termination date.

**SECTION 3.** Except as expressly modified and amended by Section 2 above, the remainder of the Fourth Amended and Restated Development Order for the Avalon Park DRI remains in full force and effect. From and after the Board of County Commissioners' approval of this First Amendment, all references to the Fourth Amended and Restated Development Order for the Avalon Park DRI shall be deemed to refer to the Fourth Amended and Restated Development Order for the Avalon Park DRI as amended and supplemented by this First Amendment.

**SECTION 4.** Avalon Associates, at its expense, shall cause this First Amendment to the Fourth Amended and Restated Development Order for the Avalon Park DRI to be recorded in accordance with Section 28.222, Florida Statutes, with the Clerk of the Court for Orange County,

Florida, immediately after the Board of County Commissioners' approval and execution of this First Amendment.

**SECTION 5.** This First Amendment to the Fourth Amended and Restated Development Order for the Avalon Park DRI shall take effect immediately upon the Board of County Commissioners' approval of the same.

APPROVED AND ADOPTED THIS \_\_\_\_\_ DAY OF OCT 16 2018 2018.



ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: *Teresa Jacobs*  
Teresa Jacobs, Orange County Mayor

Date: 10.16.18

ATTEST: PHIL DIAMOND, CPA, Orange  
County Comptroller and Clerk to  
the Board of County Commissioners

By: *Lahela Lewis*  
for Deputy Clerk