

PZC Recommendation Staff Report
Commission District: # 1

GENERAL INFORMATION

APPLICANT	Kathy Hattaway, Poulos & Bennett, LLC
OWNER	Spring Grove, LLC
PROJECT NAME	Spring Grove - Jaffers Planned Development (PD)
HEARING TYPE	Planned Development / Land Use Plan (PD / LUP)
REQUEST	A-1 (Citrus Rural District) and PD (Planned Development District) to PD (Planned Development District)

A request to incorporate 4.99 acres of A-1 (Citrus Rural District) property into the existing Spring Grove - Jaffers PD; increase the net developable area of the PD by 7.11 acres; and add 44 single-family residential dwelling units to the overall PD entitlements. The request also includes the following waivers from Orange County Code:

1. A waiver from Orange County Code Section 34-152(c) to allow lots to front a mews, park, open space, etc. 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 easement shown on the plat.

2. A waiver from Orange County Code Section 38-1382(h)(4) to allow alleys to be designed as a tract in lieu of the requirement that they shall be designed as a private easement.

Applicant Justification: 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.

3. A waiver from Orange County Code Section 38-1384(g)(1) to allow garage access to be setback from an alley tract in lieu of an easement.

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

4. A waiver from Orange County Code Section 38-1384(g)(2) to allow the reference to pertain to an alley tract in lieu of an easement.

Applicant Justification: *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.*

5. A waiver from Orange County Code Section 38-1384(i)(2) to allow vehicular access to garages or other off-street parking to be from a rear alley tract in lieu of an easement.

Applicant Justification: *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.*

LOCATION	17600 and 17776 Flemings Road; or generally located south of Flemings Road, west of Avalon Road, and east of the Lake County Line.
PARCEL ID NUMBERS	19-24-27-0000-00-003 & 19-24-27-0000-00-004 (portion of)
TRACT SIZE	133.39 gross acres (<i>existing PD</i>) <u>4.99 gross acres (<i>parcel to the aggregated</i>)</u> 138.38 gross acres (<i>overall aggregated PD</i>)
PUBLIC NOTIFICATION	The notification area for this public hearing extended beyond 1,500 feet [Chapter 30-40(c)(3)(a) of Orange County Code requires 300 feet]. Twenty-six (26) notices were mailed to those property owners in the mailing area. A community meeting was not required.
PROPOSED USE	44 Single-Family Dwelling Units (308 Dwelling Units Overall)

STAFF RECOMMENDATION

Development Review Committee – (August 22, 2018)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Spring Grove - Jaffers Planned Development / Land Use Plan (PD/LUP), dated "Received July 6, 2018", subject to the following conditions:

1. Development shall conform to the Spring Grove - Jaffers Land Use Plan (LUP) dated "Received July 6, 2018," and shall comply with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. Accordingly, the PD may be developed in accordance with the uses, densities, and intensities described in such Land Use Plan, subject to those uses, densities, and intensities conforming with the restrictions and requirements found in the conditions of approval and complying with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. If the development is unable to achieve or obtain desired uses, densities, or intensities, the County is not under any obligation to grant any waivers or modifications to enable the developer to achieve or obtain those desired uses, densities, or intensities. In the event of a conflict or inconsistency between a condition of approval and the land use plan dated "Received July 6, 2018," the condition of approval shall control to the extent of such conflict or inconsistency.
2. This project shall comply with, adhere to, and not deviate from or otherwise conflict with any verbal or written promise or representation made by the applicant (or authorized agent) to the Board of County Commissioners ("Board") at the public hearing where this development received final approval, where such promise or representation, whether oral or written, was relied upon by the Board in approving the development, could have reasonably been expected to have been relied upon by the Board in approving the development, or could have reasonably induced or otherwise influenced the Board to approve the development. In the event any such promise or representation is not complied with or adhered to, or the project deviates from or otherwise conflicts with such promise or representation, the County may withhold (or postpone issuance of) development permits and / or postpone the recording of (or refuse to record) the plat for the project. For purposes of this condition, a "promise" or "representation" shall be deemed to have been made to the Board by the applicant (or authorized agent) if it was expressly made to the Board at a public hearing where the development was considered and approved.
3. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails

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

4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this land use plan to promptly disclose to the County any changes in ownership, encumbrances, or other matters of record affecting the property that is subject to the plan, and to resolve any issues that may be identified by the County as a result of any such changes. Developer / Applicant acknowledges and understands that any such changes are solely the Developer's / Applicant's obligation and responsibility to disclose and resolve, and that the Developer's / Applicant's failure to disclose and resolve any such changes to the satisfaction of the County may result in the County not issuing (or delaying issuance of) development permits, not recording (or delaying recording of) a plat for the property, or both.
5. Property that is required to be dedicated or otherwise conveyed to Orange County (by plat or other means) shall be free and clear of all encumbrances, except as may be acceptable to County and consistent with the anticipated use. Owner / Developer shall provide, at no cost to County, any and all easements required for approval of a project or necessary for relocation of existing easements, including any existing facilities, and shall be responsible for the full costs of any such relocation prior to Orange County's acceptance of the conveyance. Any encumbrances that are discovered after approval of a PD Land Use Plan shall be the responsibility of Owner / Developer to release and relocate, at no cost to County, prior to County's acceptance of conveyance. As part of the review process for construction plan approval(s), any required off-site easements identified by County must be conveyed to County prior to any such approval, or at a later date as determined by County. Any failure to comply with this condition may result in the withholding of development permits and plat approval(s).
6. The 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 April 26, 2016, and as amended on October 9, 2018.
 - 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 5 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. The project shall comply with the terms and conditions of that certain Village I Spring Grove PD ROW APF agreement recorded at Document Number 20160390723, Public Records of Orange County, Florida, as may be amended.
- 8. A waiver from Orange County Code Section 38-1382(h)(4) is granted to allow alleys to be designed as a tract in lieu of the requirement that they shall be designed as a private easement.
- 9. A waiver from Orange County Code Section 38-1384(i)(2) is granted to allow vehicular access to garages or other off-street parking to be from a rear alley tract in lieu of an easement.
- 10. A waiver from Orange County Code Section 38-1384(g)(2) is granted to allow the reference to pertain to an alley tract in lieu of an easement.
- 11. A waiver from Orange County Code Section 38-1384(g)(1) is granted to allow garage access to be setback from an alley tract in lieu of an easement.
- 12. A waiver from Orange County Code Section 34-152(c) is granted to allow lots to front a mews, park, open space, etc. in lieu of the requirement that each lot shall have a minimum access width of twenty (20) feet to a dedicated public paved street.
- 13. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated July 19, 2016, shall apply:
 - a. 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.
 - b. 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.

- c. The developer shall obtain water, wastewater and reclaimed water service from Orange County Utilities.
- d. 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).
- e. Prior to approval of the first PSP in Village I, the developer shall submit a Village-wide MUP including water, wastewater and reclaimed water transmission main layouts, sizing, and supporting hydraulic calculations.
- f. 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.
- g. 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.
- h. A two-acre APF tract for a water facility within Village I near Village I's southern boundary shall be identified prior to the approval of the first PSP within Village I and dedicated to the County prior to approval of the first construction plan set within Village I. The tract shall have a minimum width of 150 feet, have an elevation above the 100 year flood plain, be located outside of wetlands and no more than 1,000 feet from Avalon Road with a 30-foot minimum utility access easement or tract connection to public right-of-way.
- i. 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.
- j. The lot grading plan for 32-foot wide single-family detached lots (and similar narrow lots) shall include design features to ensure positive drainage from the side yard to the front roadway or rear alley. These design features may include: (a) A/C units on same side of homes so that A/C units are not located adjacent to each other; (b) A/C units on same side placed at the high elevation

point of side yard so that drainage flows away from the A/C units to the front roadway and rear alley; (c) A/C units located behind the home when the garage is detached from the home with courtyard; and/or (d) other lot grading plan features approved by the County Engineer.

- k. This project is subject to, and shall comply with, the terms of an Adequate Public Facilities (APF) Agreement addressing the dedication of right-of-way needed for Fleming Road improvements and an APF deficit.
- l. 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.

IMPACT ANALYSIS

Land Use Compatibility

The applicant is seeking to rezone the subject parcel from A-1 (Citrus Rural District) to PD (Planned Development District), increase the net developable area of the PD by 7.11 acres due to a recalculation of estimated stormwater acreage; and add 44 single-family residential dwelling units to the overall PD entitlements. The applicant is also seeking approval of five (5) waivers relating to lot and garage access and alley design.

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 designated as Garden Home Mixed Use District (GHD) and Village Home District (VHD) on the Village I Special Planning Area map. The Garden Home Mixed Use District has a required density of four (4) dwelling units per net developable acre and Village Home District has required density of a six (6) dwelling units per net developable acre.

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

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

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

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

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

OBJ FLU4.1 states that Orange County shall use a Village Land Use Classification to realize the long range planning vision for West Orange County created through the Horizon West planning process. The Village land use classification has been designed to address the need to overcome the problems associated with and provide a meaningful alternative to the leap-frog pattern of sprawl now occurring in western Orange and eastern Lake County; create a better jobs/housing balance between the large concentration of employment in the tourism industry and the surrounding land uses; create a land use pattern that will reduce reliance on the automobile by allowing a greater variety of land uses closer to work and home; and, replace piecemeal planning that reacts to development on a project by project basis with a long range vision that uses the Village as the building block to allow the transition of this portion of Orange County from rural to urban use through a specific planning process that uses a creative design approach to address regional, environmental, transportation, and housing issues.

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

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

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

Community Meeting Summary

A community meeting was not required for this request.

SITE DATA

Existing Use	Undeveloped Land
Adjacent Zoning	N: A-1 (Citrus Rural District) (1957)
	E: A-1 (Citrus Rural District) (1957)

A-2 (Farmland Rural District) (1957)

W: PUD (Planned Unit Development District)
(Wellness Way) (Lake County)

S: A-2 (Farmland Rural District) (1957)

Adjacent Land Uses

N: Citrus Grove

E: Citrus Grove, Lake Mac

W: Undeveloped Land

S: Undeveloped Land

APPLICABLE PD DEVELOPMENT STANDARDS

Development shall comply with all standards found in Section 38-1385.8 (Garden Home Mixed Use District) and Section 38-1386 (Village Home District) of the Village Planned Development Code.

SPECIAL INFORMATION

Subject Property Analysis

The applicant is seeking to rezone the subject parcel from A-1 (Citrus Rural District) to PD (Planned Development District), increase the net developable area of the PD by 7.11 acres due to a recalculation of estimated stormwater acreage; and add 44 single-family residential dwelling units to the overall PD entitlements. The applicant is also seeking approval of five (5) waivers relating to lot and garage access and alley design.

As this request adds developable acreage into the PD, the required amount Adequate Public Facilities (APF) for the PD has risen from 7.85 acres to 8.83 acres, with 0.37-acre, 25-foot ROW for Flemings Road being dedicated to the County, leaving an 8.46-acre APF deficit. This deficit is consistent with the previously approved APF agreement. To reflect the increase in APF acreage, and to show 8.46 acres of APF credits being transferred to this PD from the Spring Grove – Northeast PD to satisfy the APF deficit, the existing APF agreement is being amended concurrently with this request (Case# APF-18-04-132).

Additionally, the applicant is proposing to use eight (8) Transfer of Development Rights (TDR) credits for this request. Two (2) of those credits are being used internal to the PD and six (6) credits are being transferred to the Spring Grove - Northeast PD (CDR-17-10-301). A TDR agreement between the two PDs formalizing the transfer has been executed and recorded.

Comprehensive Plan (CP)

The property has an underlying Future Land Use Map (FLUM) designation of Village (V) and will be designated as Garden Home Mixed Use District (GHD) and Village Home District (VHD) on the Village I Special Planning Area map. The proposed use is consistent with this designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

Rural Settlement

The subject property is not located within a Rural Settlement.

Joint Planning Area (JPA)

The subject property is not located within a Joint Planning Area.

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

There are two (2) Conservation Area Determinations (CAD-15-10-135, CAD-16-07-077), which were issued encompassing the existing PD and subject aggregated acreage. There are 50.08 acres of Class I, II, and III wetlands on-site and 2.43 acres of surface waters. The applicant is proposing to impact 0.61-acre of surface waters for this project. Conservation Area Impact permit (CAI-18-04-021) has permitted a direct impact of 0.09-acres for the development of a stormwater pond and 0.04-acres of secondary impacts associated with spreader swales depicted on the Preliminary Subdivision Plan (PSP-17-12-370) associated with this PD.

Transportation / Concurrency

Capacity Encumbrance Letter (CEL) #16-04-049 is on file for 264 single family dwelling units. The CEL expires on March 13, 2019. This CEL must be updated to reflect the increase in dwelling units associated with this request.

In the event a Permit is not obtained within the thirty (30) month timeframe, the project shall then be subject to entering into a Road Network Agreement pursuant to the Horizon West Village I Term Sheet, which was accepted by the Board of County Commissioners (BCC) on November 13, 2018. The applicant for this development is currently negotiating the terms and conditions of a Road Network Agreement pursuant to the Horizon West Village I Term Sheet, which will receive a recommendation from the County's Road Agreement Committee and be presented to the BCC for approval. Preliminary Subdivision Plans for any units to exceed the amount covered by the original CEL cannot move forward to the BCC until this agreement is finalized and approved concurrently with, or prior to, BCC approval of those Preliminary Subdivision Plans.

Based on the Concurrency Management System database dated August 24, 2017, Avalon Road from Hartzog Road to Seidel Road is within a one mile radius of this development and is currently deficient. This information is dated and is subject to

change. Development of the subject property will be required to apply for and obtain an approved Capacity Encumbrance Letter prior to obtaining a building permit.

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.

Water / Wastewater / Reclaim

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

Schools

An amendment to the existing Capacity Enhancement Agreement (CEA) for the subject property was reviewed by Orange County Public Schools (OC-15-044 A1) and was approved by OCPS on October 9, 2018.

Parks and Recreation

Orange County Parks and Recreation reviewed this request, but did not provide any objections or comments.

Code Enforcement

There are no active Code Enforcement violations on the subject property.

Specific Project Expenditure Report and Relationship Disclosure Forms

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

PLANNING AND ZONING COMMISSION (PZC) FINDINGS

The staff report was presented to the PZC with the recommendation that they make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the requested Spring Grove - Jaffers Planned Development / Land Use Plan (PD/LUP), dated "Received July 6, 2018".

Staff indicated that twenty-six (26) notices were mailed to the surrounding property owners within a buffer extending 1,500 feet from the subject property, with zero (0) commentaries received in support or in opposition. The applicant was present and agreed with the staff recommendation. There was one (1) member of the public present to discuss boat access to Lake Hancock within Lake County.

After a brief discussion regarding development of mews, a motion was made by Commissioner DiVecchio to find the request to be consistent with the Comprehensive Plan and recommend APPROVAL of the Spring Grove – Jaffers Planned Development / Land Use Plan (PD/LUP) dated “Received July 6, 2018”, subject to the thirteen (13) DRC recommended conditions, and the PZC-added condition of no short term rentals being allowed within this PD. Commissioner Gusler seconded the motion, which carried on a 8-0 vote.

Motion / Second

Pat DiVecchio / William Gusler

Voting in Favor

Pat DiVecchio, Gordon Spears, William Gusler, Tina Demostene, Paul Wean, JaJa Wade, Yog Melwani, and James Dunn

Voting in Opposition

None

(Jose Cantero declared a potential conflict of interest and recused himself from the vote.)

PZC RECOMMENDED ACTION

Planning and Zoning Commission (PZC) Recommendation – (September 20, 2018)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Spring Grove - Jaffers Planned Development / Land Use Plan (PD/LUP), dated “Received July 6, 2018”, subject to the following conditions:

1. Development shall conform to the Spring Grove - Jaffers Land Use Plan (LUP) dated "Received July 6, 2018," and shall comply with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. Accordingly, the PD may be developed in accordance with the uses, densities, and intensities described in such Land Use Plan, subject to those uses, densities, and intensities conforming with the restrictions and requirements found in the conditions of approval and complying with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. If the development is unable to achieve or obtain desired uses, densities, or intensities, the County is not under any obligation to grant any waivers or modifications to enable the developer to achieve or obtain those desired uses, densities, or intensities. In the event of a conflict or inconsistency between a condition of approval and the land use plan dated "Received July 6, 2018," the condition of approval shall control to the extent of such conflict or inconsistency.
2. This project shall comply with, adhere to, and not deviate from or otherwise conflict with any verbal or written promise or representation made by the applicant (or authorized agent) to the Board of County Commissioners ("Board") at the public

hearing where this development received final approval, where such promise or representation, whether oral or written, was relied upon by the Board in approving the development, could have reasonably been expected to have been relied upon by the Board in approving the development, or could have reasonably induced or otherwise influenced the Board to approve the development. In the event any such promise or representation is not complied with or adhered to, or the project deviates from or otherwise conflicts with such promise or representation, the County may withhold (or postpone issuance of) development permits and / or postpone the recording of (or refuse to record) the plat for the project. For purposes of this condition, a "promise" or "representation" shall be deemed to have been made to the Board by the applicant (or authorized agent) if it was expressly made to the Board at a public hearing where the development was considered and approved.

3. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this land use plan to promptly disclose to the County any changes in ownership, encumbrances, or other matters of record affecting the property that is subject to the plan, and to resolve any issues that may be identified by the County as a result of any such changes. Developer / Applicant acknowledges and understands that any such changes are solely the Developer's / Applicant's obligation and responsibility to disclose and resolve, and that the Developer's / Applicant's failure to disclose and resolve any such changes to the satisfaction of the County may result in the County not issuing (or delaying issuance of) development permits, not recording (or delaying recording of) a plat for the property, or both.
5. Property that is required to be dedicated or otherwise conveyed to Orange County (by plat or other means) shall be free and clear of all encumbrances, except as may be acceptable to County and consistent with the anticipated use. Owner / Developer shall provide, at no cost to County, any and all easements required for approval of a project or necessary for relocation of existing easements, including any existing facilities, and shall be responsible for the full costs of any such relocation prior to Orange County's acceptance of the conveyance. Any encumbrances that are discovered after approval of a PD Land Use Plan shall be the responsibility of Owner / Developer to release and relocate, at no cost to County, prior to County's acceptance of conveyance. As part of the review process for construction plan approval(s), any required off-site easements identified by County must be conveyed to County prior to any such approval, or at a later date as determined by County. Any failure to comply with this condition may result in the withholding of development permits and plat approval(s).
6. The 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 April 26, 2016, and as amended on October 9, 2018.
- 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 5 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. The project shall comply with the terms and conditions of that certain Village I Spring Grove PD ROW APF agreement recorded at Document Number 20160390723, Public Records of Orange County, Florida, as may be amended.
8. A waiver from Orange County Code Section 38-1382(h)(4) is granted to allow alleys to be designed as a tract in lieu of the requirement that they shall be designed as a private easement.
9. A waiver from Orange County Code Section 38-1384(i)(2) is granted to allow vehicular access to garages or other off-street parking to be from a rear alley tract in lieu of an easement.
10. A waiver from Orange County Code Section 38-1384(g)(2) is granted to allow the reference to pertain to an alley tract in lieu of an easement.
11. A waiver from Orange County Code Section 38-1384(g)(1) is granted to allow garage access to be setback from an alley tract in lieu of an easement.

12. A waiver from Orange County Code Section 34-152(c) is granted to allow lots to front a mews, park, open space, etc. in lieu of the requirement that each lot shall have a minimum access width of twenty (20) feet to a dedicated public paved street.
13. Short term/transient rental is prohibited. Length of stay shall be for 180 days or greater.
14. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated July 19, 2016, shall apply:
 - a. 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.
 - b. 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.
 - c. The developer shall obtain water, wastewater and reclaimed water service from Orange County Utilities.
 - d. 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).
 - e. Prior to approval of the first PSP in Village I, the developer shall submit a Village-wide MUP including water, wastewater and reclaimed water transmission main layouts, sizing, and supporting hydraulic calculations.
 - f. 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.
 - g. 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.
 - h. A two-acre APF tract for a water facility within Village I near Village I's southern boundary shall be identified prior to the approval of the first PSP within Village I

and dedicated to the County prior to approval of the first construction plan set within Village I. The tract shall have a minimum width of 150 feet, have an elevation above the 100 year flood plain, be located outside of wetlands and no more than 1,000 feet from Avalon Road with a 30-foot minimum utility access easement or tract connection to public right-of-way.

- i. 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.
- j. The lot grading plan for 32-foot wide single-family detached lots (and similar narrow lots) shall include design features to ensure positive drainage from the side yard to the front roadway or rear alley. These design features may include: (a) A/C units on same side of homes so that A/C units are not located adjacent to each other; (b) A/C units on same side placed at the high elevation point of side yard so that drainage flows away from the A/C units to the front roadway and rear alley; (c) A/C units located behind the home when the garage is detached from the home with courtyard; and/or (d) other lot grading plan features approved by the County Engineer.
- k. This project is subject to, and shall comply with, the terms of an Adequate Public Facilities (APF) Agreement addressing the dedication of right-of-way needed for Fleming Road improvements and an APF deficit.
- l. 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.