



## Interoffice Memorandum

November 4, 2024

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

FROM: Tanya Wilson, AICP, Director  
Planning, Environmental, and Development Services Department

CONTACT PERSON: **Joseph C. Kunkel, P.E., DRC Chairman**  
**Development Review Committee**  
**Public Works Department**  
**(407) 836-7971**

SUBJECT: December 3, 2024 – Public Hearing  
Applicant(s): Derek E. Ramsburg, Kimley-Horn and Associates, Inc.  
Project Name: Grassmere Reserve Planned Development (PD)  
Project No.: CDR-24-07-175 / District 2

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of October 23, 2024, to approve an amendment to the Grassmere Reserve Planned Development (PD). The subject property consists of 129 acres and is generally located north of Orange Blossom Trail, south of West Ponkan Road, east of Junction Road, and west of Cayman Circle. The change determination request (CDR) seeks to add one additional access point from Orange Blossom Trail to the commercial portion of the site. There is a Development Plan (Case DP-24-05-125) currently under review for a convenience store with gas pumps that is proposing two points of access onto Orange Blossom Trail.

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 documents and the plans may be found in the Planning Division for further reference.

**ACTION REQUESTED: Make a finding of consistency with the Comprehensive Plan and approve amendment to the Grassmere Reserve Planned Development (PD) (CDR-24-07-175) dated "Received September 12, 2024", subject to the conditions listed under the DRC Recommendation in the Staff Report. District 2**

TW/JCK/rb

Attachments

**CASE # CDR-24-07-175**

Commission District: # 2

**GENERAL INFORMATION**

<b>APPLICANT</b>	Derek E. Ramsburg, Kimley-Horn and Associates, Inc.
<b>OWNER</b>	ECP GRASSMERE LLC
<b>PROJECT NAME</b>	Grassmere Reserve Planned Development (PD)
<b>PARCEL ID NUMBER(S)</b>	26-20-27-0000-00-020 (affected parcel)
<b>TRACT SIZE</b>	129.08 acres (overall PD) 4.89 acres (affected parcel)
<b>LOCATION</b>	North of Orange Blossom Trail and South of West Ponkan Road / East of Junction Road and West of Cayman Circle
<b>REQUEST</b>	A PD substantial change to add one additional access point from Orange Blossom Trail to the commercial portion of the site.
<b>PUBLIC NOTIFICATION</b>	The notification area for this public hearing extended beyond 1,500 feet. Chapter 30-40(c)(3)(a) of Orange County Code requires the owners of the property within three hundred (300) feet of the subject property to be notified at least 10 days prior to the date of the hearing. Four hundred and five (405) notices were mailed to those property owners in the mailing area.

**IMPACT ANALYSIS**

**Project Overview**

The Grassmere Planned Development (PD) consists of approximately 129 gross acres and is generally located north of W. Orange Blossom Trail, south of W. Ponkan Road, and west of State Road 429. The PD was originally approved in 2006 and was most recently amended in 2022. The current development program consists of 32,670 square feet of commercial uses and 200 residential dwelling units.

Through this PD Change Determination Request (CDR), the applicant is seeking to add one additional access point off US 441 to the commercial portion of the site. The currently approved PD identified one point of vehicular access to the commercial portion of the PD off Orange Blossom Trail. There is a Development Plan (Case DP-24-05-125) currently under review for a convenience store with gas pumps that is proposing two points of access onto Orange Blossom Trail.

**Land Use Compatibility**

The proposed development program is compatible with existing development in the area and would not adversely affect any adjacent properties.

**Comprehensive Plan (CP) Consistency**

The subject property has an underlying Future Land Use Map (FLUM) designation of Commercial (C) on the subject parcel and Rural Settlement Low Density 2/1 (RSLD 2/1) on the remainder of the PD. This designation was approved in conjunction with text Amendment 2021-2-C-FLUE-2 to Future Land Use Element Policies FLU6.2.7 and FLU6.2.8. This amendment allows the owners of certain parcels of over 100 gross acres situated at the perimeter of Rural Settlements and meeting other specific location criteria to request a Future Land Use Map designation of Rural Settlement Low Density (RSLD 2/1). Both were adopted by the BCC on April 5, 2022. The proposed change appears consistent with the Comprehensive Plan.

**Overlay Ordinance**

The subject property is not located within an Overlay District.

**Rural Settlement**

The subject property is located within the Zellwood Rural Settlement.

**Joint Planning Area (JPA)**

The subject property is not located within a JPA.

**Environmental**

This site is located within the Wekiva Study Area. Basin-wide regulations may apply. This may include, but is not limited to, increased buffer size, more stringent habitat protection regulations, increased stormwater requirements, and additional landscaping requirements.

**Transportation Planning**

The CDR request for the addition of access points will not trigger transportation concurrency requirements via a Capacity Encumbrance Letter (CEL) application. The future development of a 4,853 SF convenience store with 12 fueling pumps submitted a CEL application (CEL-24-04-031) and is currently under review.

Pursuant to Article XII, Chapter 30, Orange County Code, as may be amended, unless documentation to the County's satisfaction has been provided proving that a property is exempt or vested, each property must apply for and obtain concurrency. Unless required at a different time (by agreement, condition of approval, etc.), residential properties must obtain concurrency prior to approval of the plat; non-residential properties that are required to plat must obtain concurrency for any lot with an assigned use prior to approval of the plat (lots without an assigned use shall be labeled as "future development") and non-residential properties that are not required to plat must obtain concurrency prior to obtaining the first building permit. Concurrency may be obtained earlier than plat or building permit, but it is ultimately the responsibility of the applicant to obtain concurrency, including any proportionate share agreement, as applicable, in a timely fashion. Should an applicant wait to obtain concurrency until later in the development process, the County will not be responsible for any delays caused by the applicant's failure to obtain concurrency in a timely fashion.

**Community Meeting Summary**

A community meeting was not required for this request.

**Schools**

Orange County Public Schools (OCPS) staff has reviewed the proposed 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 – (October 23, 2024)**

**Make a finding of consistency with the Comprehensive Plan and approve the substantial change to the Grassmere Reserve Planned Development (PD) dated "Received September 12, 2024", subject to the following conditions:**

1. Development shall conform to the Grassmere Reserve Planned Development (PD) dated "Received September 12, 2024," 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 September 12, 2024," 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 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, as may be amended, 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. If applicable, an Acknowledgement of contiguous Sustainable Agricultural Land pursuant to Section 163.3163, Florida Statutes, as may be amended, must be executed and recorded in the Public Records of Orange County, Florida, prior to issuance of any permits associated with this plan and a copy of such Acknowledgment shall be submitted with all future permit applications for this project.

7. Pursuant to Article XII, Chapter 30, Orange County Code, as may be amended, unless documentation to the County's satisfaction has been provided proving that a property is exempt or vested, each property must apply for and obtain concurrency. Unless required at a different time (by agreement, condition of approval, etc.), residential properties must obtain concurrency prior to approval of the plat; non-residential properties that are required to plat must obtain concurrency for any lot with an assigned use prior to approval of the plat (lots without an assigned use shall be labeled as "future development") and non-residential properties that are not required to plat must obtain concurrency prior to obtaining the first building permit. Concurrency may be obtained earlier than plat or building permit, but it is ultimately the responsibility of the applicant to obtain concurrency, including any proportionate share agreement, as applicable, in a timely fashion. Should an applicant wait to obtain concurrency until later in the development process, the County will not be responsible for any delays caused by the applicant's failure to obtain concurrency in a timely fashion.
8. Pole signs and billboards shall be prohibited. All other signage shall comply with Chapter 31.5 of the Orange County Code, as may be amended.
9. All acreages identified as wetlands, surface waters and upland buffers are considered approximate until finalized by a Wetland Determination (WD) and/or a Natural Resource Impact Permit (NRIP). Approval of this plan does not authorize any direct or indirect wetland/surface water impacts.
10. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated September 27, 2022, shall apply:
  - a. 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, of the prior use of this property as a citrus grove. Portions of the property are located within a State of Florida Department of Environmental Protection delineated area for ethylene dibromide that has potable water well construction regulatory guidelines.
  - b. Per Comprehensive Plan Policy FLU8.1.4, this PD shall be limited to 32,670 square feet of commercial uses.
11. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated October 27, 2020 shall apply:
  - a. Unless the Florida Department of Transportation formally objects or disallows it, a right turn deceleration lane shall be required on U.S. 441 at the entrance to the commercial parcel.
12. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated August 20, 2019 shall apply:
  - a. Lake Grassmere shall be limited to non-motorized watercraft.

- b. 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.
- 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. 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 land use includes publicly managed property. The notice shall indicate that the adjacent property will require the use of resource management practices that may result in periodic temporary conditions that may limit outdoor activities. These practices will include, but not be limited to, ecological burning, pesticide and herbicide usage, exotic plant and animal removal, usage of heavy equipment and machinery, and other practices as may be deemed necessary for proper resource management.
- e. The applicant/owner has an affirmative obligation to expressly notify potential purchasers, builders, and/or tenants of this development, through the appropriate mechanism, including a conspicuous note on the plat and/or a recorded restrictive covenant, as applicable, of the proximity of solid waste management facilities.
- f. Approval of this plan does not constitute approval of a permit for the construction or alteration 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. 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.
- h. The developer shall obtain water and wastewater service from the City of Apopka.



- i. The following waivers from Orange County Code are granted:
  - 1) A waiver from Section 38-556(a) to allow a minimum lot size of 70' by 120' lot size (8,400 square feet lot area), in lieu of code required minimum lot width of 100' and 1/3 acre (14,520 square feet lot area) for lots with central water service.
  - 2) A waiver from Orange County Code Section 38-556(b) to allow for a front setback of 25 feet, in lieu of 30 feet.
- 13. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated June 13, 2006 shall apply:
  - a. Developer shall comply with all provisions of the Public Education Agreement entered into with the Orange County School Board as of April 12, 2005. The developer has a signed Capacity Enhancement Agreement with Orange County Public Schools dated September 28, 2005 (executed on October 12, 2005), and is on file with the Orange County Planning Division.

Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Public Education Agreement, the County shall immediately cease issuing building permits for any residential units in excess of the 10 (ten) residential units allowed under the zoning existing prior to the approval of the PD zoning. The County shall 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 Public Education Agreement. The developer and its successor or assign under the Public Education 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.

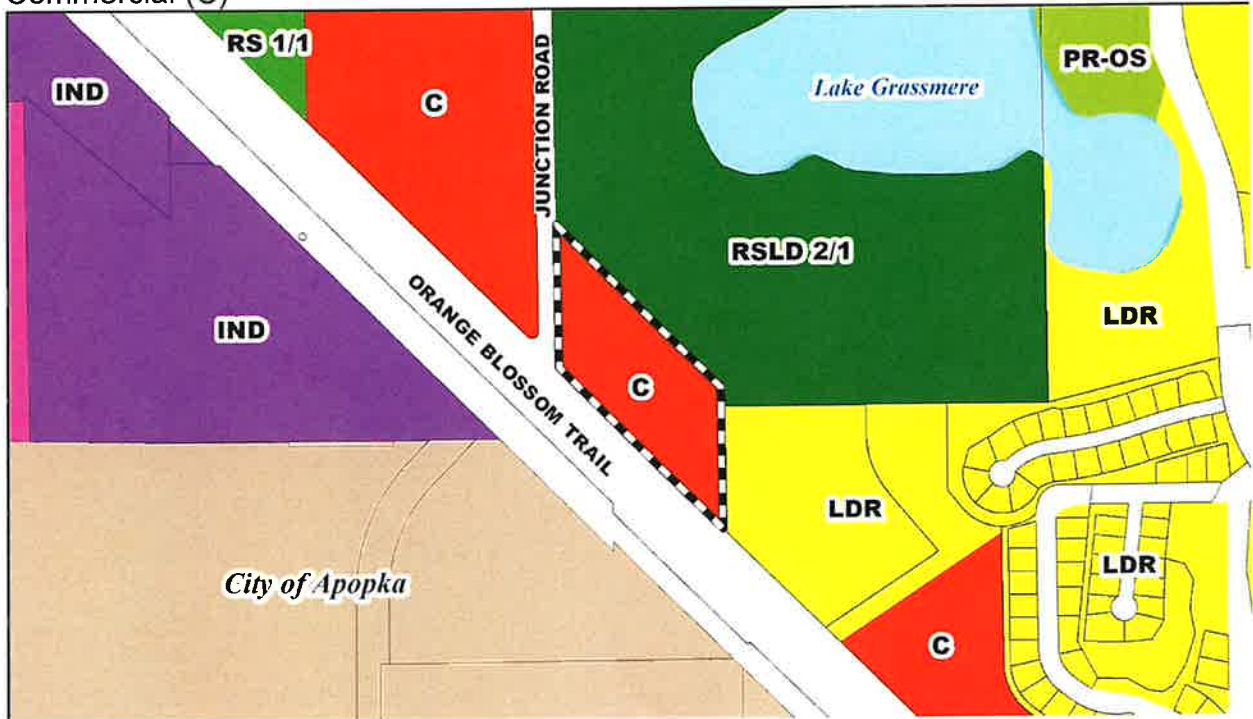
Developer, or its successor or assign under the Public Education Agreement, agrees that it shall not claim in any future litigation that the County's enforcement of any of these conditions are illegal, improper, unconstitutional, or a violation of developer's property rights.

Orange County shall be held harmless by the developer and its assigns under the Public Education Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Public Education Agreement.



## FUTURE LAND USE

Commercial (C)



## ZONING

PD (Planned Development District)

