## **Interoffice Memorandum**



DATE:

March 24, 2020

TO:

Mayor Jerry L. Demings

-AND-

Board of County Commissioners

FROM:

Jon V. Weiss, P.E., Directo

Planning, Environmental and Development

Services Department

**CONTACT PERSON:** 

Eric Raasch, DRC Chairman

**Development Review Committee** 

Planning Division (407) 836-5523

SUBJECT:

April 21, 2020 – Public Hearing

Applicant: Jonathan Huels, Lowndes, Drosdick, Doster, Kantor

& Reed, P.A.

Little Lake Bryan Planned Development

Case # CDR-20-02-046 / District 1

The Little Lake Bryan Planned Development (PD) is generally located east of Vineland Avenue, west of International Drive, and south of Little Lake Bryan Parkway. The existing PD development program consists of 212,535 square feet of commercial / retail; 1,537 hotel rooms; and 1,786 multi-family residential dwelling units.

The Little Lake Bryan PD previously included a Board Condition of Approval from March 8, 1994, which required a 20-foot landscape and 15-foot transit easement along International Drive to be included on the associated Development Plans. The condition was replaced with new condition #4 during a substantial change to the PD in 2015, which eliminated the reference to International Drive and effectively shifted the requirement for the easements to Vineland Avenue. Through this PD substantial change, the applicant is seeking to modify the August 4, 2015, Board Condition of Approval #4, to move the requirement for the easements back to International Drive in lieu of Vineland Avenue.

On February 26, 2020, 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,

April 21, 2020 – Public Hearing Jonathan Huels, Lowndes, Drosdick, Doster, Kantor & Reed, P.A Little Lake Bryan PD / Case # CDR-20-02-046 / District 1 Page 2 of 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 Little Lake Bryan Planned Development / Land Use Plan (PD/LUP) dated "Received November 15, 2018", subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1

Attachments JVW/EPR/nt

## CASE # CDR-20-02-046

Commission District: #1

## **GENERAL INFORMATION**

**APPLICANT** 

Jonathan Huels, Lowndes, Drosdick, Doster, Kantor & Reed, P.A.

OWNER

Fishbones-LLB, LLC

PROJECT NAME

Little Lake Bryan Planned Development (PD)

PARCEL ID NUMBER(S) 22-24-28-5109-00-014, 22-24-28-5109-00-010, 22-24-28-5109-

00-015, 22-24-28-5109-00-018 (affected parcels only)

TRACT SIZE

304.60 gross acres (overall PD)

4.88 gross acres (affected property)

LOCATION

Generally east of Vineland Avenue, west of International Drive,

and south of Little Lake Bryan Parkway.

REQUEST

A PD substantial change to the Little Lake Bryan PD to modify BCC Condition of Approval #4 from August 4, 2015, to relocate the required dedication of a 15-foot transit easement and 20-foot landscape, pedestrian and utility easement on Vineland Avenue to International Drive, as originally approved by the BCC on

March 8, 1994.

PUBLIC NOTIFICATION A notification area extending beyond one thousand five hundred (1,500) feet was used for this application [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. One hundred fortythree (143) 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 Little Lake Bryan Planned Development (PD) contains 304.6 acres and was originally approved on March 8, 1994 with a development program consisting of 375,000 square feet of commercial / retail; 1,380 hotel rooms; and 2,700 multi-family residential dwelling units on 300 acres. However, as a result of subsequently approved substantial and non-substantial changes, the existing PD development program consists of 212.535 square feet of commercial / retail; 1,537 hotel rooms; and 1,786 multi-family residential dwelling units.

Through this PD substantial change, the applicant is seeking to modify the August 4. 2015, BCC Condition of Approval #4, to replace the reference to Vineland Avenue with International Drive. The original BCC Condition of Approval from March 8, 1994. required the 20-foot landscape and 15-foot transit easement along International Drive to

be included in the development plan. This condition was replaced with new Condition #4 during the substantial change to the PD in 2015.

## **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 Little Lake Bryan PD has an underlying Future Land Use Map (FLUM) designation of Commercial (C) and High Density Residential (HDR). The proposed Change Determination Request (CDR) is consistent with these designations and all applicable CP provisions; therefore, a CP amendment is not necessary.

## **Community Meeting Summary**

A community meeting was not required for this request.

#### **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.

#### **Overlay District Ordinance**

The subject property is not located within an Overlay District.

#### **Environmental**

All previously approved EPD findings and conditions of approval for this PD apply.

#### Transportation / Concurrency

Transportation Division staff have reviewed the proposed request but did not identify any issues or concerns.

#### **Schools**

Orange County Public Schools (OCPS) reviewed the request and determined that it will not impact public school capacity.

#### **Parks**

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** – (February 26, 2020)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Little Lake Bryan Planned Development / Land Use Plan (PD/LUP), dated "November 15, 2018", subject to the following conditions:

- 1. Development shall conform to the Little Lake Bryan Land Use Plan (LUP) dated "Received November 15, 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 November 15, 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).
- A twenty (20) foot wide pedestrian / landscape / utility easement and a fifteen (15) foot wide transit easement (for a total of 35 feet) along International Drive (with the transit easement closest to International Drive), shall be included in the development plan.
- Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated August 4, 2015 shall apply.
  - a. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a capacity encumbrance letter prior to construction plan submittal 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 development 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.
  - b. 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).

- c. 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.
- d. Except for the impacts to wetlands authorized under the Long Term Permits, the Developer has committed to protecting all of the wetlands identified on Sheet 3. Buffer areas of native transitional and/or upland vegetation averaging 25 feet wide and with a minimum width of 15 feet shall be retained around all wetlands associated with Little Lake Bryan. Buffers shall not be required on the shore of Little Lake Bryan that do not have wetlands associated with it. Development of wetland areas shall be restricted by conservation easement (consistent with Section 704.06, Florida Statutes) or other means of transfer (acceptable to the transferee thereof) to the South Florida Water Management District, Orange County or other entity that is acceptable to Orange County. Such easements or other transfers shall be accomplished and recorded in the public records of Orange County prior to the time that development occurs in any parcel that contains wetlands or is adjacent to wetlands. Subject to the conditions of Long Term Permits, minor alterations and refinements to the exact wetland impacts and locations over the course of the permitting process may occur so long as such alterations and refinements are consistent with the Long Term Permits
- e. Land uses, which encourage a mixture of residential and tourist related development, shall be included in the Little Lake Bryan P-D Land Use Plan. Permitted uses within the project include: Hotel/motel/time-share, Residential, Retail, Amusement centers (including theaters and themed attractions), Night clubs, conference centers, Health spas, Laundry and dry cleaning establishments, Car rental agencies, Eating and drinking establishments, Warehouses (ancillary to other permitted uses), Radio and TV studios and offices, Child care centers, Business and personal services, Medical offices, Veterinary offices, Automobile Service stations (no paint and body work), Car washes, Banks, Recreational facilities, Travel agents, and Public services and facilities including churches. Together with uses and special exceptions permitted in the C-1, P-O and P-D/Tourist Commercial Zoning Districts and other similar and compatible tourist commercial uses as determined by the Zoning Manager.
- f. Underground electrical distribution lines shall be required within the Little Lake Bryan project.
- g. Signs shall conform to the P-D Tourist Commercial sign regulations.
- h. Project open space criteria shall promote and encourage community pedestrian activity. Such criteria shall:
  - 1) Include provisions which support the creation of street activity;
  - 2) Encourage aggregation of available open space wherever reasonably possible; and,

- 3) Link open space to stormwater retention system and make these spaces part of a unified parkway or walkway system, where economically feasible.
- i. Stormwater management facility criteria, which are technically reasonable, economically feasible and legally appropriate, shall be included in the Little Lake Bryan development plans to enhance the aesthetic quality of the International Drive area. Such criteria shall:
  - Allow for the combination of shared stormwater management techniques; maximize available developable land; and, add to the aesthetic quality of the area.
  - 2) Require stormwater management facilities to be designed as an aesthetic feature, except where determined by the owner to be economically impractical or by the County Engineer to be technically unfeasible; or where the facilities are not readily visible by the public.
  - 3) Allow stormwater management systems greater than one (1) acre, designed as permanent wet detention ponds and not maintained by Orange County, to be designed, operated, and maintained as natural ponds to the greatest extent practicable and economically feasible.
- j. The Little Lake Bryan project will participate in a Mass Transit Utility District for the portion of International Drive at which the project has frontage.
- k. International Drive adjacent to the Little Lake Bryan project should be designed for transit accessibility, where appropriate, including road widths and intersection radii.
- I. Sidewalks shall be designed and constructed to encourage pedestrian activity, including, but not limited to, continuity from one parcel to another and minimum width of seven (7) feet along all major internal roads. Sidewalks constructed along International Drive frontage will have a minimum width of ten (10) feet.
- m. In those areas identified on the P-D Land Use Plan for Neighborhood Support uses, the following uses shall be allowed:
  - Supermarkets
  - Other retail food stores (e.g. bakery, butcher, fish market)
  - General retail establishments
  - Florists
  - Drug stores
  - Sporting goods stores
  - Jewelry stores
  - Eating and drinking establishments (drive-thru) (Parcel 7 Lot 2 only)
  - Clothing and shoe stores
  - Fabric stores
  - Hardware stores
  - Auto and home supply stores
  - Toy and game stores

- Retail nurseries and garden stores
- Retail music stores
- Pet shops
- Book and stationary stores
- Liquor stores
- Veterinary clinics
- Child care
- Business and personal services
- Medical offices
- Automobile service stations
- Banks with drive thru
- Barber and beauty shops
- Laundry and dry cleaning businesses
- Shoe repair businesses
- Travel agencies
- Public facilities and services
- Religious institutions
- Health and fitness centers
- Other uses determined by the Zoning Manager to be similar and compatible with the neighborhood character.
- n. The setback shall be 125 feet from centerline along SR 535 for a building with parking areas to the side and rear of the building. If the parking is in front of the building, an additional 20 feet of setback (145 feet from centerline) shall be required for the building. The setback from International Drive shall be 35 feet from property line for a building with the parking areas on the side or rear of the building. If the parking is in front of the building, an additional 20 feet (55 feet from property line) setback shall be required. The setback from Vineland Road and all internal roads shall be 25 feet from property line.
- o. The developer shall obtain wastewater, water, and reclaimed water service from Orange County subject to County rate resolutions and ordinances.
- p. Prior to construction plan approval, the developer shall enter into a written agreement to utilize reclaimed water for landscaping and green area irrigation.
- q. An easement for a 20-foot gated stabilized grassy roadway and utility corridor shall be provided from Vineland Road east to Lake Bryan PD/DRI's western boundary.
- r. Except as provided for in condition 13 above, the building setback criteria shall conform with the tourist commercial standards of Section 38-1287, Chapter 38, of the Orange County Code.

s. Within the Little Lake Bryan PD, the following maximum Floor Area Ratios/density shall apply to development:

LAND USE
Commercial (other than hotel)
Hotel/motel/lodging
Office
Industrial
Residential

MAXIMUM DENSITY\* / INTENSITY
.10 to 1.5 FAR
60 rooms per acre
1.5 FAR
0.50 FAR

12-50 units per acre

- Increased density / intensity may be approved if it can be demonstrated an increase in traffic impact on the adjoining road network does not occur.
  - \* Density refers to the total number of units divided by developable land, i.e. natural lakes and designated Conservation Areas are excluded from the gross land area.
- t. If a housing linkage program is in place prior to development plan approval, development of non-residential development within the multi-family residential area shall be conditioned upon the development of residential units within the area designated as multi-family residential on the Future Land Use Map.
- u. The development guidelines of the International Drive Activity Center shall apply to the subject property if they are established prior to the development plan submittal, including, but not limited to, lighting standards, sign regulations, open space regulations, trip reduction program, access management controls, transit access design standards, building orientation and location of parking lots.
- v. The minimum density for new residential development shall be enforced to achieve the objective of creating an effective transit system.
- w. Pedestrian safety measures such as signalization, universal signage, and use of different pavers for pedestrian crossings or overpasses shall be implemented for pedestrian safety within this project.
- x. The property owner shall be required to participate in a property owners' association upon its creation.
- y. Development on the property shall be subject to:
  - A funding mechanism such as, but not limited to, an MSTU(s) and/or MSBU(s) for financing maintenance of landscaping on public right-of-way, including International Drive; and
  - 2) Participation in a mass transit utility district or some other mechanism established to fund the acquisition, construction, and operation of the transportation system.

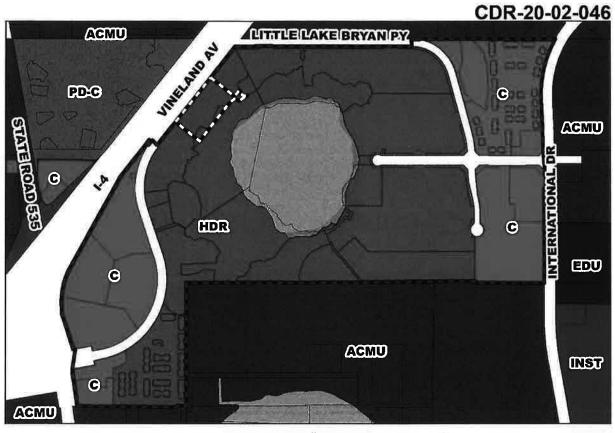
- z. In recognition that the International Drive Master Roadway Plan, adopted as part of the Orange County Comprehensive Policy Plan, designates a roadway network that is necessary to support the increased densities/intensities allowed in the International Drive Activity Center, the property owner shall coordinate development within the project to accommodate, to the greatest extent possible, the proposed right-of-way as identified in the International Drive Master roadway Plan, as applicable to the subject property.
- aa. Billboards, pole signs, and outdoor storage shall be prohibited.
- bb. Prohibited land uses within the Little Lake Bryan PD include the following:
  - 1) Uses that emit odorous, noxious, caustic or corrosive matter, whether toxic or nontoxic.
  - Any drilling, excavation of removal of earth material except for water wells or as part of normal grading operations concerning construction of approved improvements.
  - 3) Any dumping, disposal, incineration, or reduction of garbage or refuse of any nature whatsoever.
  - 4) Adult entertainment establishments as defined in the Orange County Code.
  - 5) Outdoor storage of goods or products unless part of a retail display.
  - 6) Gun ranges.
  - 7) Wholesale and retail sale of fireworks.
- cc. Cross access easement shall be provided from the project's commercial area to the Lake Bryan PD/DRI to the south.
- dd. Timeshare units built within this project shall be considered as hotel/motel use and permitted only in the commercial designated areas. Conversion of approved multi-family development within the commercial area to timeshare units, or other hotel/motel type units, shall require a rezoning and/or amendment to the Planned Development Land Use Plan. Also, conversion of timeshare units to multi-family development shall require a public hearing before the BCC for a substantial change.
- ee. The following Education Condition of Approval shall apply:
  - The developer shall comply with all provisions of the Public Education Agreement (PEA) entered into with the Orange County School Board as of July 31, 2006.
  - Upon the County's receipt of written notice from Orange County Public Schools (OCPS) that the developer is in default or breach of the PEA, the County shall immediately cease issuing building permits for any residential

units in excess of the 196 residential units allowed under the zoning existing prior to the approval of the PD zoning. The County shall again being issuing building permits upon OCPS' written notice to the County that the developer is no longer in breach or default of the PEA. The developer and its successor or assign under the PEA, 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.

- The developer, or its successor or assign under the PEA, agrees that it shall not claim in any future litigation that the County's enforcement of any of these conditions is illegal, improper, unconstitutional, or a violation of developer's property rights.
- ff. A waiver from Section 31.5-166(e) is granted to allow off-site ground sign (Applicable only to Lots 4A, 4B, 5 & Tract A).
- gg. A waiver from Section 31.5-166(d) is granted to allow more than one (1) ground sign for the two lots with less than 500 feet of linear r-o-w frontage: Lot 4B & Lot 5 (1 free-standing ground sign and 1 additional ground sign located within the multitenant sign) and to allow the Lot 5 ground sign to be within 100 feet of the existing Lot 4B ground sign (at a minimum of 50 feet).
- hh. A waiver from Chapter 38-1287(4) is granted to allow a zero (0) foot paving setback between lots 4A & 4B.
- ii. A waiver from Chapter 38 is granted to reduce the PD Vineland Road building setback from forty (40) feet to thirty (30) feet. (Applicable only to Lots 4A, 4B, 5 & Tract A).

## PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (August 4, 2015)

Upon a motion by Commissioner Boyd, seconded by Commissioner Nelson, and carried by all members present voting AYE by voice vote, the Board approved the substantial change to the Little Lake Bryan Planned Development / Land Use Plan (PD / LUP) – Case # CDR-14-11-321, to rescind the Little Lake Bryan Development of Regional Impact (DRI) and to amend the Little Lake Bryan Planned Development / Land Use Plan (PD/LUP) by incorporating two (2) conditions from the existing DRI Development Order (DO) addressing wetlands/wetland buffers and a housing analysis; adding a PD/LUP note which prohibits billboards and pole signs; adding a land use conversion matrix table to the PD/LUP; adding "Drive-Thru Eating & Drinking Establishments" as a permitted use within PD Parcel 7 / Lot 2; and updating project Parcel Identification Numbers and PD development tables.





**Subject Property** 



Overall PD



★ Subject Property

## **Future Land Use Map**

FLUM:

High Density Residential (HDR) /

Commercial (C)

APPLICANT: Jonathan Huels, Lowndes, Drosdick,

Kantor & Reed, P.A

LOCATION: Generally east of Vineland Avenue, west of

International Drive, and south of Little Lake

Bryan Parkway.

TRACT SIZE: 304.60 gross acres (overall PD)

4.88 gross acres (affected property)

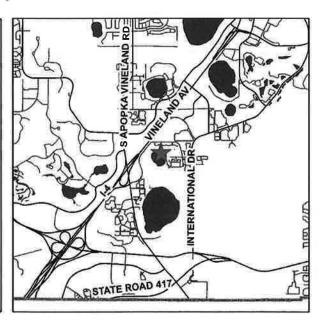
DISTRICT:

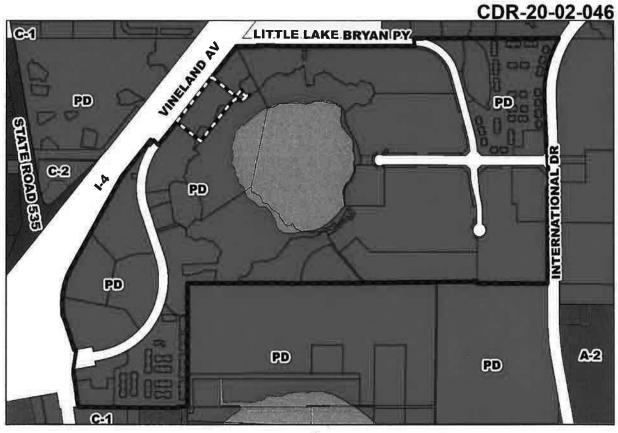
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S/T/R:

22/24/28

1 inch = 850 feet







**Subject Property** 



Overall PD



\* Subject Property

## **Zoning Map**

ZONING:

PD (Planned Development District)

APPLICANT: Jonathan Huels, Lowndes, Drosdick,

Kantor & Reed, P.A

LOCATION: Generally east of Vineland Avenue, west of

International Drive, and south of Little Lake

Bryan Parkway.

TRACT SIZE: 304.60 gross acres (overall PD)

4.88 gross acres (affected property)

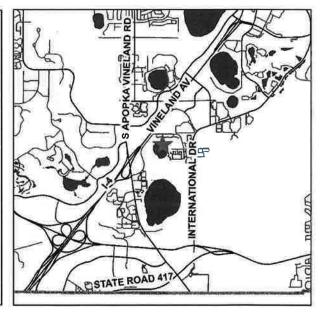
DISTRICT:

# 1

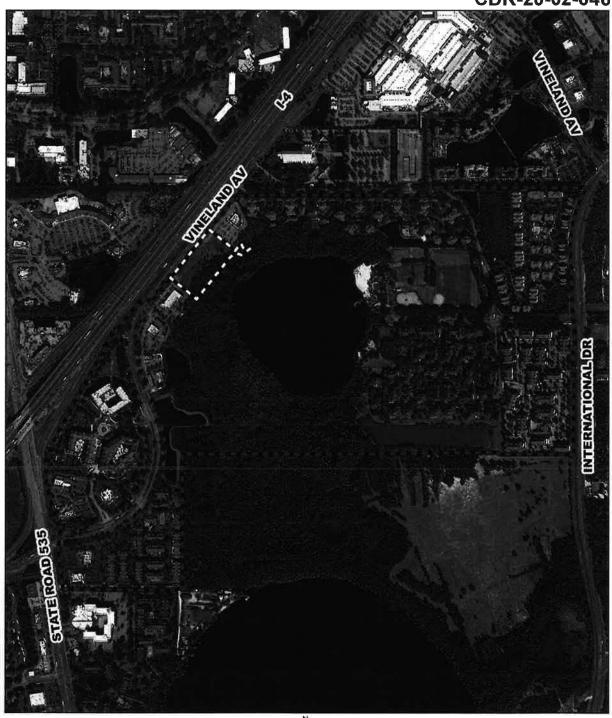
S/T/R:

22/24/28

1 inch = 850 feet



# CDR-20-02-046

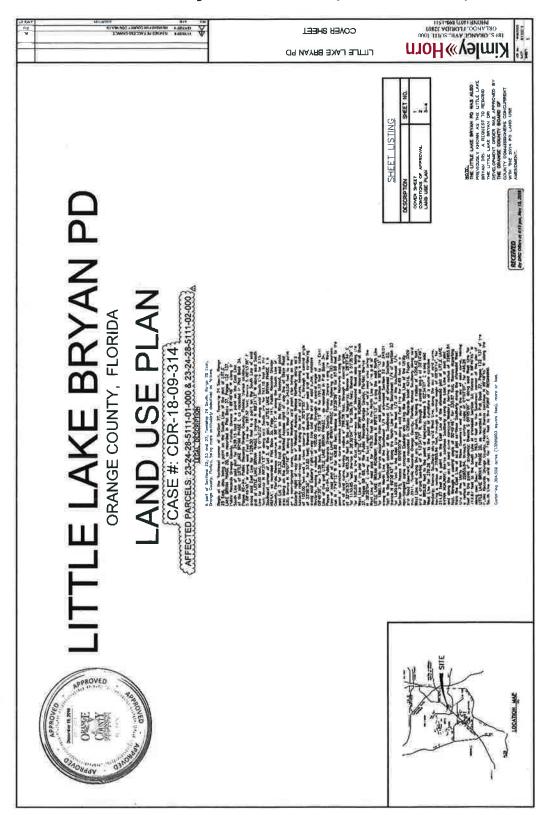




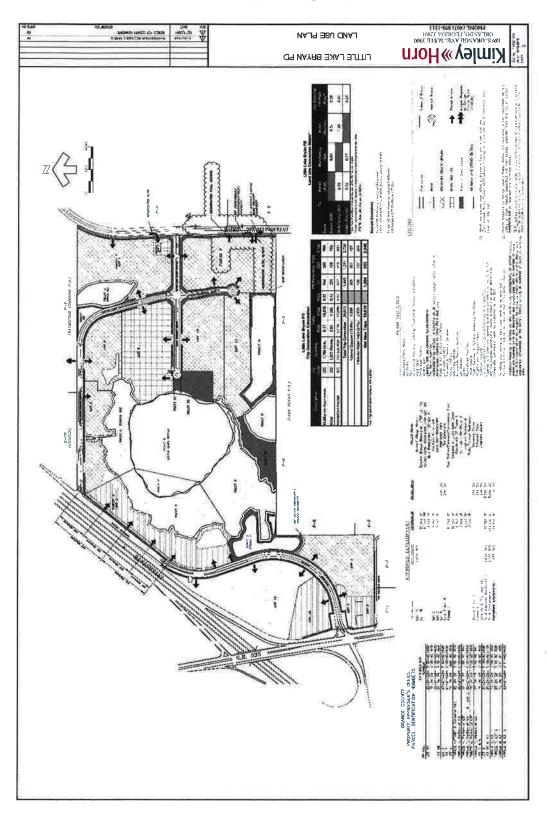


1 inch = 775 feet

# Little Lake Bryan PD / LUP (Cover Sheet)



# Little Lake Bryan PD / LUP



# Notification Map

S:)Business Systems/Board Administration/S\_SUBSTANTIAL CHANGE/2020/DRC/Little Lake Bryan PD\_CDR-20-02-048/Little Lake Bryan PD\_

