



Interoffice Memorandum

Received August 4, 2020 @ 9:44am

Continue public hearing to SEP 22 2020

No Advertising Required from Clerk's Office

DATE: Continue public August 4, 2020  
 hearing to  
 TO: OCT 13 2020 Katie A. Smith, Deputy Clerk of the Board of County Commissioners, County Comptroller's Office

THROUGH: Cheryl Gillespie, Supervisor, Agenda Development Office

FROM: Lisette M. Egipciaco, Development Coordinator *Jme*  
 Planning Division

CONTACT PERSON(S): **Lisette M. Egipciaco**  
**Development Coordinator**  
**Planning Division 407-836-5684**  
[lisette.egipciaco@ocfl.net](mailto:lisette.egipciaco@ocfl.net)

SUBJECT: Request for Board of County Commissioners Public Hearing

Project Name: Little Lake Bryan Planned Development / Parcel 4 – Lot 1 – Little Lake Bryan Center Development Plan  
 Case # DP-19-11-377

Type of Hearing: Development Review Committee (DRC) Appeal

Appellant: Jonathan Huels  
 Lowndes, Drosdick, Doster, Kantor & Reed, P.A.  
 215 North Eola Drive  
 Orlando, Florida 32801

Commission District: 1

General Location: South of Interstate 4 / East of State Road 535

Parcel ID #(s) 22-24-28-5109-00-012, 22-24-28-5109-00-014,  
 22-24-28-5109-00-018

# of Posters: 0

Use: 24,711 Square Foot Restaurant / Retail Center

Size / Acreage: 4.74

BCC Public Hearing  
Required by: Orange County Code Sec. 34-29(b)

Clerk's Advertising  
Requirements: No advertising required for appeals

Spanish Contact Person: Para más información referente a esta vista pública, favor de comunicarse con la División de Planificación (Planning Division) al número 407-836-8181.

**Advertising Language:**

This request is an appeal of the May 27, 2020 decision of the Development Review Committee (DRC), to approve the Parcel 4 – Lot 1 – Little Lake Bryan Center Development Plan with certain conditions, specifically condition of approval #7, which required dedications of certain easements associated with the proposed widening of Vineland Avenue prior to construction plan approval.

**Material(s) Provided:**

- (1) Appeal Letter
- (2) Development Review Committee (DRC) approved meeting minutes dated May 27, 2020
- (3) Location Map
- (4) Site Plan Sheet

**Special Instructions to Clerk (if any):**

Unless stated otherwise, the public hearing should be advertised to begin at 2:00 p.m., or as soon thereafter as the matter may be heard.

Please notify Lisette Egipciano of the scheduled date and time. The Planning Division will notify the applicant.

Attachments (appeal letter, meeting minutes, location map, and site plan sheet)



JONATHAN P. HUELS

jonathan.huels@lowndes-law.com  
215 North Eola Drive, Orlando, Florida 32801-2028  
T: 407-418-6483 | F: 407-843-4444  
MAIN NUMBER: 407-843-4600



June 5, 2020

**SENT VIA FEDEX**

Eric Raasch  
Planning Administrator  
Orange County Government  
201 S. Rosalind Avenue, 2<sup>nd</sup> Floor  
Orlando, FL 32801

Eric.RaaschJr@ocfl.net

**Re: Application for Appeal  
DP-19-11-377**

Dear Eric:

On May 27, 2020, at the meeting of the Orange County Development Review Committee ("DRC"), I appeared on behalf of the owner/developer related to DP-19-11-377 (the "DP Application"). After robust discussion and the DRC's deliberation, the DRC recommended approval of the DP Application subject to certain conditions. Included among the conditions was Condition of Approval No. 7, which required dedications of certain easements associated with the proposed widening of Vineland Avenue prior to construction plan approval. The basis for this appeal is that condition of Approval No. 7 constitutes an unlawful exaction not supported by applicable law.

Under Section 19-47 of the Orange County Code, any appeal of a final decision of the DRC must be made to the Board of County Commissioners ("BCC") within thirty (30) days of the mailing of notice of the action of the DRC. The appeal must be in writing and filed with the clerk to the BCC. Please consider this letter as a formal appeal of the DRC's inclusion of Condition of Approval No. 7 and request for a *de novo* hearing by the BCC. Please see enclosed check for the DRC appeal fee.

If you have any questions, please contact my office.

Very truly yours,

  
Jonathan P. Huels

JPH/MTL



**APPROVED MEETING MINUTES  
MAY 27, 2020**

corresponding construction plan submittal. The MUP and updates must be approved prior to Construction Plan approval.

11. The developer shall obtain water and wastewater service from Orange County Utilities subject to County rate resolutions and ordinances.
12. 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
13. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code
14. Short term / transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater.
15. This project is limited to a senior housing community intended and operated for occupancy by persons fifty-five (55) years or older, as set forth in Section 22.55 of the Orange County Code, as may be amended.
16. Except as may be otherwise approved by the Zoning Manager, or a Designee, the existing vegetation within the 25' PD Perimeter setback along the north and south property lines shall be preserved.

*MOTION CARRIED.*

**12. DP-19-11-377 – DISTRICT 1  
LITTLE LAKE BRYAN PD / PARCEL 4 – LOT 1 – LITTLE LAKE BRYAN CENTER DP**

Present for discussion were Mitch Collins and Jonathan Huels. Taylor Jones presented the TRG Summary Report to the DRC.

This item was previously heard at the May 13, 2020 DRC meeting, in order to allow the applicant to meet with staff regarding the drainage easement.

This request proposes to construct a 24,711 square foot restaurant / retail center on a total of 4.74 acres.

During today's meeting, the applicant stated that they are still in negotiations with staff to resolve the issue of the drainage easement, but remain opposed to a condition of approval being placed on this development plan.

Discussion also ensued regarding the placement of the buildings closer to the road and in line with the surrounding development.

**APPROVED MEETING MINUTES**

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***MOTION by Eric Raasch (stepped out of Chair), seconded by Lindy Wolfe, TO MAKE A FINDING THAT THE PARCEL 4 – LOT 1 – LITTLE LAKE BRYAN CENTER DEVELOPMENT PLAN IS CONSISTENT WITH THE LITTLE LAKE BRYAN PLANNED DEVELOPMENT AND, PURSUANT TO THE CONDITIONS OF APPROVAL, IS CONSISTENT WITH THE RELEVATN PROVISIONS OF THE CODE AND THEREFORE, TO APPROVE, subject to submittal and approval of a revised plan.***

1. Development shall conform to the Little Lake Bryan Planned Development; Orange County Board of County Commissioners (BCC) approvals; Parcel 4 - Lot 1 - Little Lake Bryan Center Development Plan dated "Received \*"; and to the conditions of approval listed below. Development based upon this approval shall comply with all applicable federal, state, and county laws, ordinances, and regulations, which are incorporated herein by reference, except to the extent any applicable county laws, ordinances, or regulations are expressly waived or modified by these conditions, or by action approved by the BCC, or by action of the BCC.
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, 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 development 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.

**APPROVED MEETING MINUTES  
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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. Development plan (DP) approval by the DRC (or BCC, as applicable), shall automatically expire if construction plans are required and have not been submitted and approved within two (2) years from DP approval; if construction plans are not required, such DP shall expire two (2) years from approval unless a building permit has been obtained within such two-year period. The foregoing notwithstanding, the DRC may, upon good cause shown, grant successive one (1) year extensions to the expiration date of a DP if the developer makes written request to the DRC chair prior to the expiration date.
7. The required road right-of-way and drainage and construction easements for Vineland Avenue, as identified by the approved Modified Preliminary Design Study, as defined in that certain Amended and Restated Vineland Pointe Agreement, recorded under Instrument Number #20160653429 in the Public Records of Orange County Florida, as has been and may further be amended, shall be conveyed or dedicated to the County prior to or in conjunction with construction plan approval.
8. A mandatory pre-application/sufficiency review meeting for the plat shall be required prior to plat submittal and concurrent with construction plan submittal. The applicant shall resolve, to the County's satisfaction, all items identified in the pre-application/ sufficiency review meeting prior to formal submittal of the plat to the County.
9. Unless otherwise allowed by County Code, the property shall be platted prior to the issuance of any vertical building permits.
10. Prior to construction plan approval, documentation must be provided certifying that this project has the legal right to tie into the master drainage system.
11. Prior to construction plan approval, documentation with supporting calculations shall be submitted which certifies that the existing drainage system and pond have the capacity to accommodate this development and that this project is consistent with the approved master drainage plan (MDP) for this PD.
12. Unless a Conservation Area Impact (CAI) permit is approved by Orange County consistent with Orange County Code Chapter 15, Article X, "Wetland Conservation Areas", prior to

**APPROVED MEETING MINUTES  
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Construction Plan approval, no conservation area or buffer encroachments shall be permitted. Approval of this plan does not authorize any direct or indirect conservation area impacts.

13. Prior to issuance of any certificate of completion, all storm drain inlets shall have metal medallion inlet markers installed. Text on the marker shall read "No Dumping, Only Rain in the Drain." Specification detail will be provided within all plan sets. Contact the National Pollutant Discharge Elimination System (NPDES) Supervisor at the Orange County Environmental Protection Division for details.
14. Prior to commencement of any earth work or construction, if one acre or more of land will be disturbed, the developer shall provide a copy of the completed National Pollutant Discharge Elimination System (NPDES) Notice of Intent (NOI) form for stormwater discharge from construction activities to the Orange County Environmental Protection Division, NPDES Administrator. The original NOI form shall be sent to the Florida Department of Environmental Protection by the developer.
15. 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 issuance of the initial certificate of occupancy. 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.
16. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water, wastewater, and reclaimed water systems have been designed to support all development within the PD.
17. Outside sales, storage, and display shall be prohibited.
18. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 Tourist Commercial standards of the Orange County code.

***MOTION CARRIED, 3 to 2, with Planning and Zoning voting in the negative.***

Respectfully submitted,

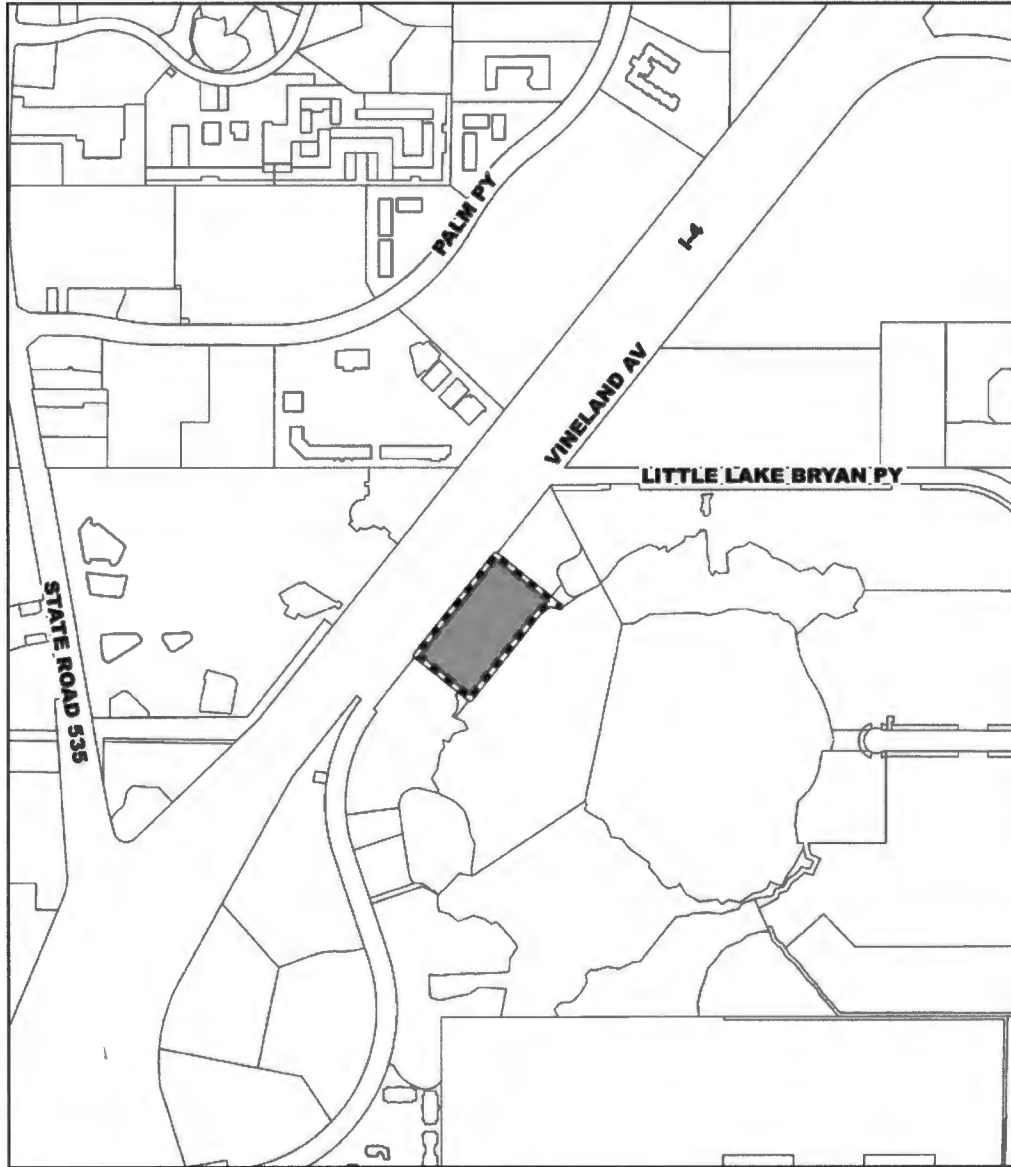


Lisette M. Egipciano  
Development Coordinator



If you have any questions regarding  
this map, please call the Planning  
Division at 407-836-5600.

DP-19-11-377



 Subject Property



1 inch = 625 feet

