



Interoffice Memorandum

DATE: August 18, 2020
TO: Mayor Jerry L. Demings
-AND-
Board of County Commissioners
FROM: Jon V. Weiss, P.E., Director
Community, Environmental and Development
Services Department

CONTACT PERSON: Eric Raasch, DRC Chairman
Development Review Committee
Planning Division
(407) 836-5523
Eric P. Raasch, Jr., AICP

Digitally signed by Eric P. Raasch, Jr., AICP
Date: 2020.08.18 09:21:44 -04'00'

SUBJECT: September 1, 2020 – Public Hearing
Appellant: Jonathan Huels, Lowndes, Drosdick, Doster, Kantor & Reed, P.A.
Little Lake Bryan Planned Development / Parcel 4 – Lot 1 – Little Lake Bryan Center Development Plan
Case # DP-19-11-377 / District 1

This public hearing is to consider an appeal of the Development Review Committee's (DRC) decision of May 27, 2020 to approve the Little Lake Bryan Planned Development (PD) / Parcel 4 – Lot 1 – Little Lake Bryan Center Development Plan (DP) 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.

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

ACTION REQUESTED: Uphold the DRC action of May 27, 2020 and approve the Little Lake Bryan PD / Parcel 4 – Lot 1 – Little Lake Bryan Center DP dated "Received February 5, 2020", subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1

JVW/EPR/lme
Attachments

CASE # DP-19-11-377

Commission District # 1

1. REQUEST

This public hearing is to consider an appeal of the Development Review Committee's (DRC) decision of May 27, 2020 to approve the Parcel 4 – Lot 1 – Little Lake Bryan Center Development Plan (DP) 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.

2. PROJECT ANALYSIS

- A. Location: South of Interstate 4 / East of State Road 535
- B. Parcel ID: 22-24-28-5109-00-012, 22-24-28-5109-00-014, 22-24-28-5109-00-018
- C. Total Acres: 4.74
- D. Water Supply: Orange County Utilities
- E. Sewer System: Orange County Utilities
- F. Schools: N/A
- G. School Population: N/A
- H. Parks: N/A
- I. Proposed Use: 24,711 Square Foot Restaurant / Retail Center
- J. Site Data: Maximum Building Height: 30'
Building Setbacks:
25' Front
10' Side
20' Rear
- K. Fire Station: 56 – 13303 International Drive
- L. Transportation: 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 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.

3. COMPREHENSIVE PLAN

The property's Future Land Use Map (FLUM) designation is High Density Residential (HDR) and the zoning is PD. The subject property is within the former Little Lake Bryan Development Regional Impact, which was rescinded by the Board of County Commissioners. The request is consistent with the Comprehensive Plan.

4. ZONING

PD (Planned Development) (Little Lake Bryan PD)

5. REQUESTED ACTION:

Uphold the DRC action of May 27, 2020, and approve the Parcel 4 – Lot 1 – Little Lake Bryan Center Development Plan subject to the following conditions of approval:

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 February 5, 2020"; 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.
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 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.

Appeal Letter



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

 MERITAS® LAW FIRMS WORLDWIDE

June 5, 2020

SENT VIA FEDEX

Eric Raasch
Planning Administrator
Orange County Government
201 S. Rosalind Avenue, 2nd 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,

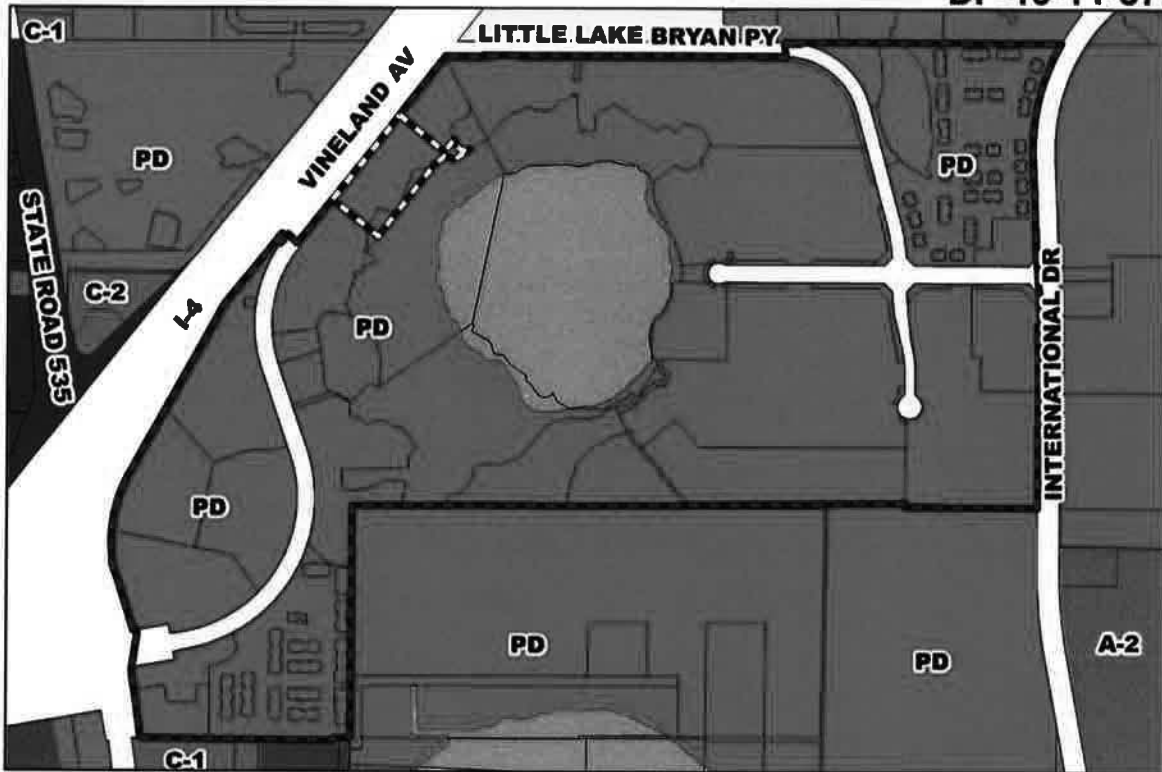

Jonathan P. Huels

JPH/MTL



Zoning Map

DP-19-11-377



 Subject Property
 Overall PD



 Subject Property

Zoning Map

ZONING: PD (Planned Development District)

APPLICANT: Jonathan Huels, Lowndes, Drosdick, Kantor & Reed, P.A

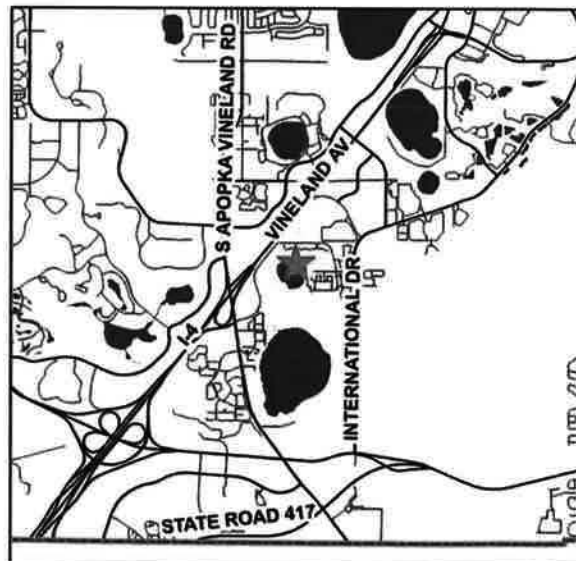
LOCATION: Generally east of Vineland Avenue, west of International Drive, and south of Little Lake Bryan Parkway.

TRACT SIZE: 304.60 gross acres (overall PD)
 4.74 gross acres (affected property)

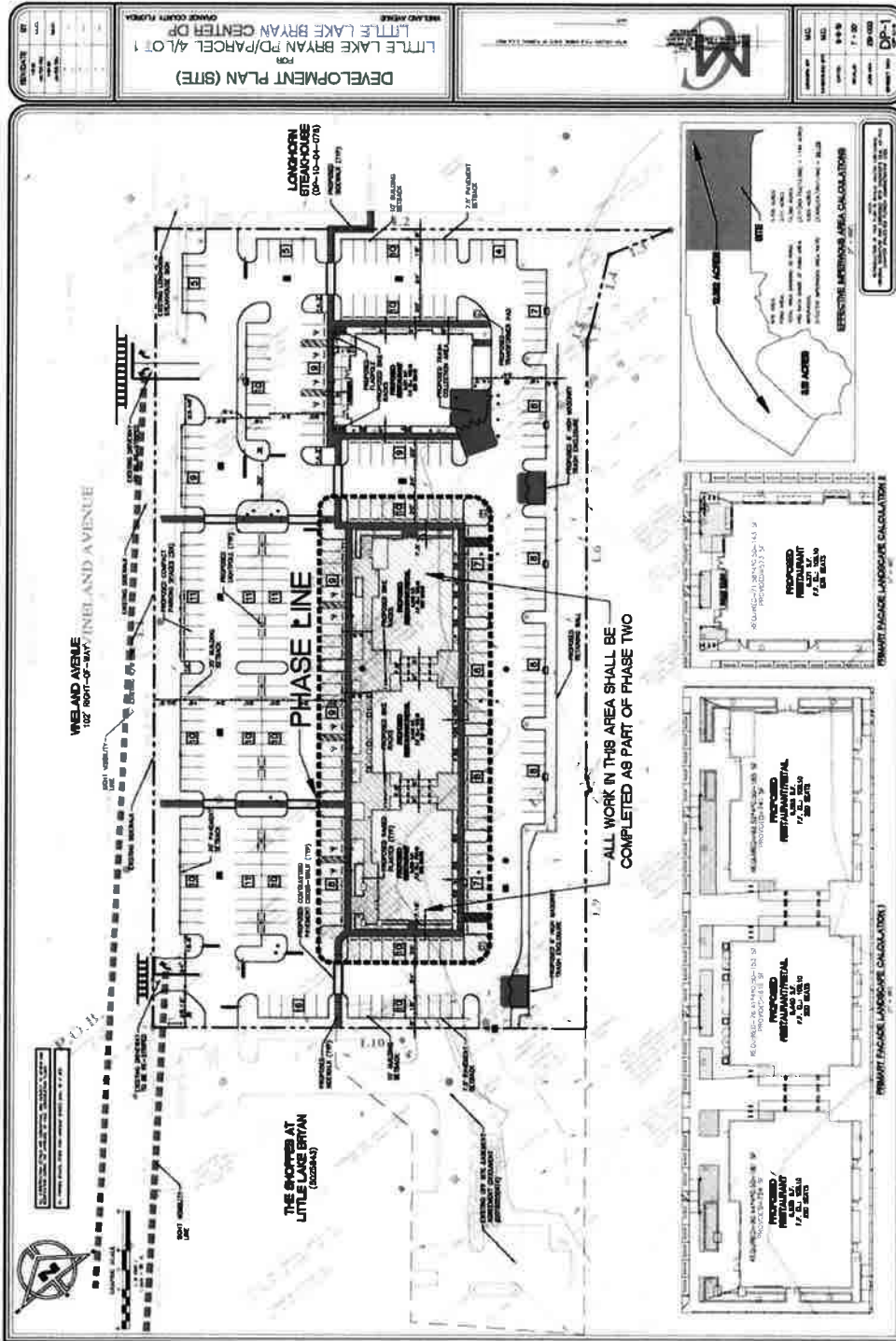
DISTRICT: # 1

S/T/R: 22/24/28

1 Inch = 850 feet



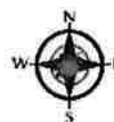
Site Plan



Aerial



**Little Lake Bryan PD Parcel 4
-- Lot 1 -- Little Lake Bryan Center
DP Case # DP-19-11-377**



 Parcels	 Subject Property	 Jurisdiction	 Hydrology
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1 : 1,200
1 in : 100 ft