

CASE # CDR-16-06-214

Commission District: # 1

GENERAL INFORMATION

APPLICANT	Thomas Cloud, Gray Robinson
OWNERS	WGML Investments, LTD, and PRN Real Estate and Investments, LTD
PROJECT NAME	Lake Bryan Planned Development / Land Use Plan (PD/LUP)
PARCEL ID NUMBER	22-20-27-0000-00-052; 26-24-28-0000-00-001; 27-24-28-0000-00-025; 27-24-28-0984-00-010; 27-24-28-5844-00-010; 27-24-28-5844-00-290; and 27-24-28-5844-00-330
TRACT SIZE	162.48 gross acres
LOCATION	East of Vineland Avenue, west of International Drive and north of World Center Drive
REQUEST	<p>A PD substantial change to incorporate the following PD/LUP, modifications, concurrent with a request to rescind the Lake Bryan Development of Regional Impact (DRI):</p> <ol style="list-style-type: none">1. Incorporate existing DRI / Development Order (DO) Conditions 3 (<i>Vegetation, Wildlife and Wetlands</i>), 4 (<i>Stormwater Management</i>), 5 (<i>Floodplains</i>), 6 (<i>Transportation Concurrency and Roadway Impact</i>), 11 (<i>Transportation Interconnectivity</i>), 12 (<i>Transit Systems</i>) and 15 (<i>Other / Historic Resources</i>) as PD Conditions of Approval (with modifications);2. Add / updated Parcel ID numbers;3. Add previous BCC Conditions of Approval; and4. Add notes related to wetland, buffer, mitigation / enhancement and conservation area acreages, boat docks or ramps and impact permit requirements.
PUBLIC NOTIFICATION	A notification area extending beyond five hundred (500) feet was used for this application [<i>Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet</i>]. Eight hundred twenty-nine (829) notices were mailed to those property owners in the notification buffer area. A community meeting was not required for this request.

IMPACT ANALYSIS

Special Information

The Lake Bryan PD / DRI contains 162.48 acres and was originally approved on April 16, 1996, with a development program consisting of 225,000 square feet of tourist commercial uses and 2,000 hotel rooms / timeshare units.

Through this PD substantial change, and concurrent with a separate request to rescind the DRI, the applicant is seeking to incorporate pertinent or outstanding DRI / Development Order (DO) conditions as PD conditions; while amending the PD/LUP to include updated Parcel ID Numbers, existing BCC Conditions of Approval, and other notes related to wetland, buffer, mitigation / enhancement and conservation area acreages, boat docks or ramps, and impact permit requirements. No changes to the overall development program have been requested.

Land Use Compatibility

The proposed substantial change request would not adversely impact any adjacent properties or result in an incompatible land use pattern.

Comprehensive Plan (CP) Consistency

The subject property has an underlying Future Land Use Map (FLUM) designation of Activity Center Mixed Use (ACMU). The proposed PD substantial change is consistent with this FLUM designation and all other applicable provisions of the Comprehensive Plan.

Overlay District Ordinance

The subject property is not located within an Overlay District.

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.

Environmental

All revised plan comments provided by Environmental Protection Division (EPD) staff have been addressed or satisfied by the applicant.

Transportation / Concurrency

This project shall comply with the County's International Drive Activity Center Comprehensive Plan requirement for a 15-foot transit easement and a separate 20-foot landscape, pedestrian and utility easement needed for future roadway improvements. The easement areas shall be conveyed concurrently at time of platting or dedicated to the County via separate instrument prior to Development Plan Approval.

Upon the rescission of the DRI, final permitting of any development on this site will be subject to review and approval under capacity constraints of the County's Transportation Concurrency Management System and such approval will not exclude the possibility of a proportionate share payment in order to mitigate any transportation deficiencies.

Schools

This request would not result in any impacts to Orange County Public Schools.

Parks and Recreation

This request would not result in any impacts to Orange County Parks.

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 – (August 10, 2016)

Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Lake Bryan Planned Development / Land Use Plan (PD/LUP) dated "Received July 8, 2016", subject to the following conditions:

1. Development shall conform to the Lake Bryan Planned Development / Land Use Plan (PD/LUP) dated "Received July 8, 2016," 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 8, 2016," 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. Subject to final wetland jurisdictional determinations by Orange County and the SFWMD, wetlands to remain unaltered and wetlands which may be removed are shown on the land use plan, dated "Received July 8, 2016 ", exclusive of wetlands which may be altered to allow recreational access to the Lake Bryan shoreline. The wetland that extends from east to west and severs Parcel 4 may be removed if the SFWMD and Orange County approve the encroachment and approve a mitigation plan that addresses this impact. Buffer areas of native transitional and/or upland vegetation averaging 50 feet wide and with a minimum width of 25 feet shall be retained around all wetlands that are to remain unaltered, as shown on the land use plan. Development of wetlands to remain unaltered and their buffers shall be

restricted by conservation easement or fee simple transfer that is conveyed to Orange County, the SFWMD or a non-profit conservation organization that has both the commitment and resources to manage and preserve the site in perpetuity. Such easements or other transfers shall name Orange County and the State of Florida as benefiting parties with the rights to require restoration and enforcement should the conservation intent of the transfer be violated. Such transfers shall be accomplished and recorded in the Public Records of Orange County before development occurs on the site.

7. All wetland buffers shall be delineated with temporary construction fencing or similar barriers prior to construction within adjacent parcels to allow these areas to be maintained with existing native vegetation. Use of these buffers shall be limited to docks, boardwalks, pervious trails and passive, natural systems based recreation, all of which require appropriate permitting prior to use. Approval of such uses is neither granted nor implied by the approval of this land use plan. Exotic vegetation may not be planted in these buffers, but may be removed if it is now established, or if it should become established within these areas.
8. Clearing and alteration of the Lake Bryan shoreline and its associated wetlands shall be subject to Chapter 15, Article VII (Lakeshore Protection Regulations) and Article X (Wetland Conservation Areas) of the Orange County Code, and all other applicable federal, state and local regulations. All shoreline wetlands not approved for removal shall be preserved
9. 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).
10. Earthen fill or other activities within the 100 year floodplain shall not be allowed without corresponding compensatory storage. Earthen fill or other activities which would degrade the functional values of the 100 year floodplain shall not be allowed. The project site design and floodplain compensatory storage requirements shall be based on the information contained in the official FEMA Florida Insurance Rate Maps, supplemented by detailed topographical data, unless official FEMA acceptance of other floodplain data has been received.
11. 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.
12. Approval of this plan does not constitute approval of a permit for the construction 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 for an Orange County Dock Construction Permit. Application shall be made to the Orange County Environmental Protection Division as specified in Orange County Code Chapter 15 Environmental Control, Article IX Dock Construction prior to installation.

13. The Developer shall obtain water, wastewater and reclaimed water service from Orange County Utilities.
14. 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.
15. The proposed development is adjacent to an existing and permitted Orange County Utilities Rapid Infiltration Basin (RIB) site. The design and permitting (stormwater, etc.) for the proposed development shall take into account the groundwater mounding produced by the adjacent RIBs when loaded at full permitted capacity and during wet weather conditions. At the time of construction plan submittal, the applicant shall coordinate with OCU to obtain information on the mounding produced by the RIBS, and submit geotechnical information and stormwater pond design calculations.
16. This property is benefitted by Concurrence Vested Rights Certificate #06-30 for 2,000 hotel rooms and 225,000 square feet of retail uses. In the event the vested rights certificate ceases to be valid or if development in excess of that allowed by the vested rights certificate is proposed, then 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.
17. The development plan's street system shall be interconnected to the maximum extent feasible in order to obviate the need to access higher classification roadways for internal access. Connections to adjacent projects and sharing of driveways along regional roadways are encouraged as indicated in the 2030 Orange County Comprehensive Plan policy ID2.1.5. Consistent with Policy ID 1.2.15, a landscape/pedestrian/utility easement, 20 feet in width, shall be required along each side of all collector and arterial road rights-of-way to the interior of any transit easement that also may be required.
18. The development shall comply with the County's International Drive Activity Center Comprehensive Plan requirement (Policy ID2.2.2) for a 15-foot transit easement and a separate 20-foot landscape, pedestrian, and utility easement needed for future roadway improvements. The easement areas required shall be shown on all plans and conveyed concurrently at time of platting or dedicated to the County via separate instrument prior to Development Plan Approval.
19. A shuttle service to the Orlando Airport and area attractions will be provided consistent with Orange County Plan Policy ID 2.2.3.
20. At the time it is determined by LYNX that transit service is needed within the project boundaries, the developer will coordinate with LYNX regarding the design and construction of bus shelters and amenities, signage, area lighting at bus stops/shelters, transit schedule, and information displays. Maintenance of the transit

amenities shall be the responsibility of each property owner or the property owner's association. The Developer will be required to enter into an agreement with LYNX regarding monitoring of these transit requirements to ensure proper implementation.

21. Sidewalks shall be constructed to provide continuity from one parcel to another and will be constructed with a minimum width of ten feet along all major roads consistent with Orange County Plan Policy ID 2.3.2.
22. Project construction personnel shall be notified through posted advisories or other methods, of the potential for artifact discoveries on the site and to report suspected findings to the project manager. In the event of discovery of artifacts of historical or archaeological significance during project construction, the Developer shall stop construction at the site of discovery and notify Orange County and the Division of Historic Resources of the Florida Department of State. From that date of notification, construction shall be suspended within a 100 foot radius of the site of discovery for a period of up to 120 days to allow evaluation of the site.
23. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated April 16, 1996, shall apply:
 - a. A dedicated access shall be provided to the north property line to allow access to the Little Lake Bryan PD/DRI consistent with the joint north, south easement to Little Lake Bryan at a location to be determined at development plan stage.
 - b. Prior to development plan submittal, a master drainage study consistent with Orange County requirements shall be submitted for approval.
 - c. To the extent required to comply with the consistency provisions of the Growth Management Act, the following additional conditions shall be added to the conditions of approval:
 - 1) Required stormwater management facilities shall be designed as an aesthetic feature, except: i) where determined by the County Engineer to be technically unfeasible or ii) where the facilities are not readily visible by the public.
 - 2) Sidewalks shall be a minimum of ten (10) feet wide along International Drive.
 - d. A 20-foot stabilized grassed and gated emergency access and utility easement shall be constructed from Vineland Avenue to the proposed hotel site.
 - e. Prior to approval of any development plan, an access plan for Tax Parcel Number 27-24-28-5844-00-310 (the Lamar Parcel) shall be approved by the County.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (April 16, 1996)

Upon a motion by Commissioner Freeman, seconded by Commissioner Hoenstine, and carried with all present members voting AYE by voice vote (Chairman Chapin and Commissioner Donegan were absent), the Board approved request by Miranda Fitzgerald,

Esquire, for Lake Bryan Planned Development / Land Use Plan (PD/LUP) - Development of Regional Impact (DRI), to rezone the 162.48-acre property from commercial and agricultural designations to Planned Development (PD), and further, approved the Land Use Plan (LUP) for a mixed-use project on the above-described property subject to conditions.

