

CASE # CDR-17-03-082

Commission District: # 1

GENERAL INFORMATION

APPLICANT	Abdul Alkadry, Harris Civil Engineers, LLC
OWNER	Carter-Vineland Pointe, LLLP
PROJECT NAME	Vineland Pointe Planned Development (PD)
PARCEL ID NUMBERS	14-24-28-4796-01-000, 14-24-28-0000-00-006, 14-24-28-0000-00-016, 14-24-28-0000-00-020, and 14-24-28-0000-00-021
TRACT SIZE	113.00 gross acres (<i>overall PD</i>)
LOCATION	North of Lake Street, south of Lake Willis Drive, and east of Interstate 4
REQUEST	A PD substantial change to consolidate all previously approved BCC Conditions of Approval
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>]. Seven hundred thirty- five (735) 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 Vineland Pointe PD was originally approved on September 24, 1991 and provides for up to 580,000 square feet of Tourist Commercial uses, 50,000 square feet of Commercial uses, 680 multi-family units and/or single-family attached (townhouse) dwelling units, and 245 hotel rooms.

Through this PD Change Determination Request (CDR), the applicant is seeking to reconcile and consolidate all previously approved BCC Conditions of Approval.

Land Use Compatibility

This PD Change Determination Request (CDR) would not adversely impact any adjacent properties.

Comprehensive Plan (CP) Amendment

The subject property has an underlying Future Land Use Map (FLUM) designation of ACMU (Activity Center Mixed Use) and ACR (Activity Center Residential). The

request would not affect existing or proposed uses; therefore, a CP amendment is not necessary.

Community Meeting Summary

A community meeting was not held for this application.

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 located within the Lake Willis Neighborhood and Tourist Commercial Signage Overlay Districts.

Environmental

Environmental Protection Division (EPD) did not provide any comments regarding this request.

Transportation / Concurrency

Transportation Planning did not provide any comments regarding this request.

Schools

Orange County Public Schools (OCPS) did not comment on this case, as it does not involve an increase in residential units or density.

Parks

Orange County Parks and Recreation staff has completed their review of 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 – (April 26, 2017)

Make a finding of consistency with the Comprehensive Plan (CP) and approve the substantial change to the Vineland Pointe Planned Development / Land Use Plan (PD/LUP) dated “Received April 4, 2017”, subject to the following conditions:

1. Development shall conform to the Vineland Pointe Planned Development / Land Use Plan (PD/LUP) dated "Received April 4, 2017," 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 of this land use plan and the land use plan dated "Received April 4, 2017," 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/LUP 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. The developer shall obtain water, wastewater, and reclaimed water from Orange County Utilities.
7. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated March 15, 2016, shall apply:
 - a. A current Level One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review and approval as part of any Preliminary Subdivision Plan (PSP) and/or Development Plan (DP) submittal.
 - b. 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.
 - 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. Developer shall comply with the terms of the Vineland Pointe Road Impact Fee Agreement (OR Book 07703, Page 1210).
 - e. 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 land use plan / preliminary subdivision 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.
 - f. The following Education Condition of Approval shall apply:
 - 1) Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board and effective on November 20, 2015.

- 2) Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Capacity Enhancement Agreement, the County shall immediately cease issuing building permits for any residential units in excess of the 440 residential units allowed under the zoning existing prior to the approval of the PD zoning. The County may 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 Capacity Enhancement Agreement. The developer and its successor(s) and/or assign(s) under the Capacity Enhancement 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.
- 3) Developer, and its successor(s) and/or assign(s) under the Capacity Enhancement 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 rights.
- 4) Orange County shall be held harmless by the developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Capacity Enhancement Agreement.
- 5) Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.
- g. A Master Utility Plan (MUP) shall be submitted to Orange County Utilities at least thirty (30) days prior to submittal of the first set of construction plans. The MUP must be approved prior to Construction Plan approval, and include main sizes supporting demands.
- h. Right-of-way for Lake Street shall be dedicated to Orange County as depicted on the Land Use Plan, prior to approval of the first PSP / DP.
- i. Any Development Plan for Commercial or residential in excess of 440 units in Phase 1 shall require a community meeting and public hearing by the Board of County Commissioners.
8. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated August 20, 2013 shall apply:
 - a. Pole signs and new billboards shall be prohibited. Existing billboard may remain, as stipulated in the Agreement dated August 14, 2000, and amended on June 18, 2013, and August 20, 2013.
9. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated April 19, 2005 shall apply:
 - a. Outdoor storage and display shall be prohibited.

- b. Project shall conform to the Lake Willis Guidelines.
 - c. No access to Lake Willis Drive or the East Road.
10. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated April 18, 1995 shall apply:
- a. To allow for agricultural uses (cattle grazing) until such time that the property is submitted for development in accordance with the Planned Development regulations and the approved Land Use Plan; which constitutes a substantial change to the development on the above-described property subject to a maximum of 20 cows; and further, complaints from area residents will trigger further Board review.
11. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated September 24, 1991 shall apply:
- a. Any conversion from multi-family to timeshare will require a change determination. Timeshare uses shall be considered a commercial use.
 - b. Building heights for the attractions, timeshare and multi-family uses shall be limited to one (1) story in height within 100 feet of the residential uses abutting Lake Willis. Building heights for the attraction and tourist commercial uses shall be limited to one (1) story in height within 60-feet of the residential uses to the south and west. A minimum 25-foot wide landscape buffer and a six (6) foot high masonry wall shall be provided between this project and the Lake Willis Camp Subdivisions. Natural vegetation shall be preserved to the maximum extent possible.
 - c. Signage shall comply with the Sign Regulations, Chapter 31.5 Orange County Code.
 - d. Existing right-of-way shall not be vacated unless alternate access is provided to affected parcel.
 - e. Pave Vineland Avenue between International Drive and existing pavement at Vineland Avenue, with intersection improvement at two (2) access locations.
 - f. Uses shall be limited to those stated in Policy 1.1.3 of the International Drive Activity Center Plan. Furthermore Policy 1.1.6 of the International Drive Activity Center Plan, dealing with prohibited uses, shall apply to development approvals.
 - g. The following densities shall apply:
 - 1) Commercial uses limited to a maximum of .34 FAR.
 - 2) Hotel / motel / timeshare limited to a maximum of 60 rooms per acre.
 - 3) Office limited to a maximum of 1.5 FAR.

- 4) Residential density shall be a minimum of 12 units per acre and a maximum of 20 units per acre.
- h. If the housing linkage program is in place prior to Development Plan approval, development of non-residential development shall be conditioned upon the development of residential units with the area designated as Activity Center Residential on the Future Land Use Map.
- i. The Development Guidelines for the International Drive Activity Center shall apply to the subject property if they are established prior to building permit submittal including, but not limited to, lighting standards, sign regulations, landscape regulations, open space regulations, trip reduction program, access management controls, transit access design standards, building orientation and location of parking lots.
- j. The property owner shall be required to participate in a property owner's association upon its creation.
- k. Stormwater management facilities shall be designed as an aesthetic feature, except where determined by the County Engineer to be technically unfeasible.
- l. The property owner understands and concedes that the property is located within the International Drive Activity Center as adopted by the Orange County Comprehensive Plan and as such development on the property shall be subject to:
 - 1) A funding mechanism, such as, but not limited to, an MSTU(s) and/or MSBU(s), for financing underground utilities and lighting along major roads, including International Drive;
 - 2) 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;
 - 3) Participation in a mass transit utility district or some other mechanism established to fund the acquisition, construction and operation of the transportation system.

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. Specifically, the road right-of-way for Lake Avenue/Vineland Avenue improvements shall be depicted on the Development Plan either as shown on the Master Roadway Plan or in a different alignment provided such alignment is consistent with the intent of the Master Roadway Plan for the Activity center.

Until either a Developer's Agreement is entered into for the project or an overall funding mechanism is established to acquire needed right-of-way for the Lake Avenue/Vineland Avenue improvements within the Activity Center, building permits shall not be issued. When an overall funding mechanism is eventually established or when a Developer's Agreement is executed, the Property owner shall:

- 1) Convey to the county fee simple title to such lands necessary to accommodate the right-of-way for the Lake Avenue/Vineland Avenue improvements as proposed on the Master Roadway Plan; and
 - 2) In the event the purchase of right-of-way by the County to accommodate the Master Roadway Plan is required within the project, to the extent permitted by law, the property owner recognizes by virtue of this PD land use approval, land uses within the project will escalate and therefore:
 - a) The parties agree that a maximum purchase price shall be no more than \$150,000 per acre for the required right-of-way; and
 - b) If a Developer's Agreement is entered into, then the property owner shall grant to the County an option to purchase such proposed right-of-way for a minimum of five (5) years from the date of PD approval.
- m. Electrical distribution lines shall be underground.
- n. Participation in a shuttle service connection area attraction, major transportation centers, and on-site development shall be required.
- o. No commercial use shall be allowed within the 50-foot setback from the lake.
- p. Stormwater management systems shall be designed to retain the 100-year storm event with bleed-down allowed for 72 hours of recovery. All stormwater shall receive pollution control treatment prior to discharge into Lake Willis. Post-development discharge shall not exceed predevelopment conditions and shall be equal to the water quality of Lake Willis. The developer may appeal to the BCC for changes to this condition when Orange County develops new guidelines and criteria for stormwater discharge.
- q. The project shall be limited to 12 non-motorized water craft and one (1) safety boat powered by a maximum 25 HP engine.
- r. One dock shall be permitted subject to Orange County regulations.
- s. No construction traffic shall be allowed on East Road or Lake Willis Drive.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION *(March 15, 2016)*

Upon a motion by Commissioner Boyd, seconded by Commissioner Clarke, and carried by all members voting AYE, The Board made a finding of consistency with the Comprehensive Plan; and further, approved the substantial change request by Thomas Sullivan, Gray-Robinson, Vineland Pointe Planned Development / Land Use Plan (PD / LUP), Case # CDR-15-05-145, to amend the Vineland Pointe PD by increasing PD Phase I development entitlements from 440 residential units to 680 residential units and 50,000 square feet of commercial, and by adding "Tourist Commercial" as a permitted use within PD Phase I.