

GENERAL INFORMATION

APPLICANT	Moriah Kosch Worth, Contravest Development Partners, LLC
OWNER	Porto Orlando, LLC
PROJECT NAME	Lake Bryan Resort Planned Development (PD)
HEARING TYPE	Planned Development / Land Use Plan (PD / LUP)
REQUEST	C-1 (Retail Commercial District) <i>and</i> PD (Planned Development District) <i>to</i> PD (Planned Development District) A request to rezone a 13.45 gross acre portion of the subject parcel from C-1 (Retail Commercial District) to PD (Planned Development District) and incorporate the portion of the parcel into the Lake Bryan Resort PD, and revise the development program to construct 266 multi-family dwelling units and 1,766 hotel and timeshare units. No waivers from Orange County Code are requested.
LOCATION	International Drive South; or generally located west of International Drive South, east of Lake Bryan, approximately 2,600 feet north of World Center Drive
PARCEL ID NUMBER	26-24-28-4735-00-010
TRACT SIZE	37.37 gross acres (<i>existing PD</i>) <u>13.45 gross acres (<i>portion of parcel to be aggregated</i>)</u> 50.82 gross acres (<i>overall aggregated PD</i>)
PUBLIC NOTIFICATION	The notification area for this public hearing extended beyond 1,500 feet [<i>Chapter 30-40(c)(3)(a) of Orange County Code requires 300 feet</i>]. Four hundred thirty-two (432) notices were mailed to those property owners in the mailing area. A community meeting was not required for this request.
PROPOSED USE	266 multi-family dwelling units and 1,766 hotel / timeshare units

STAFF RECOMMENDATION

Development Review Committee – (March 27, 2019)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Lake Bryan Resort Planned Development / Land Use Plan (PD/LUP), dated "Received February 8, 2019", subject to the following conditions:

1. Development shall conform to the Lake Bryan Resort PD Land Use Plan Amendment (LUPA) dated "Received February 8, 2019," 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 February 8, 2019," 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. The following Education Condition of Approval shall apply:
 - a) Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of March 12, 2019.
 - b) 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 140 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.
 - c) 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.

- d) 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.

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.

7. 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, 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.
8. 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 required shall be shown on all plans and shall be conveyed concurrently at time of platting or dedicated to the County via separate instrument prior to Development Plan Approval.
9. 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.
10. 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 to the Orange County Environmental Protection Division, as specified in Orange County Code Chapter 15 Environmental Control, Article IX Dock Construction, prior to installation, for an Orange County Dock Construction Permit, as well as to any other Orange County Division(s) for any other applicable permits.
11. 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).
12. Approval of this plan does not constitute approval of a permit for the construction of a boat ramp. Any person desiring to construct a boat ramp shall apply to the Orange County Environmental Protection Division as specified in Orange County Code Chapter 15 Environmental Control, Article XV Boat Ramps, prior to installation, for

an Orange County Boat Ramp Facility Permit, as well as to any other Orange County Division(s) for any other applicable permits.

13. Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP). MUP updates shall be submitted to Orange County Utilities at least thirty (30) days prior to the corresponding construction plan submittal. The updated MUP must be approved prior to construction plan approval.
14. A Master Utility Plan (MUP) for the PD 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.
15. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
16. The proposed development is adjacent to the existing and permitted Orange County Western Effluent Disposal site (WEDS). The design and permitting (stormwater, etc.) for the proposed development shall take into account the groundwater mounding produced by the adjacent WEDs when loaded at full permitted capacity and during wet weather conditions. At the time of construction plan submittal, provide calculations and documentation certifying that the design complies with this condition.
17. Short term/transient rental is prohibited within property designated as residential. Length of stay shall be for 180 consecutive days or greater.
18. Outside sales, storage, and display shall be prohibited.
19. Length of stay shall not exceed 179 consecutive days within property designated as hotel/timeshare.
20. 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.
21. 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.
22. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated September 8, 1992 shall apply:
 - a. 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:
 - i. Stormwater management facilities shall be designed as an aesthetic feature, except where determined by the County Engineer to be technically unfeasible.
 - ii. The property owner understands and concedes that the property is located within the International Drive Activity Center as adopted by 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 Rights-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.
- iii. Sidewalks shall be a minimum of ten-feet (10') wide along all major roads.
- iv. Electrical distribution lines shall be underground.
- v. Participation in a shuttle service connecting area attractions, major transportation centers and on-site development shall be required.

IMPACT ANALYSIS

Land Use Compatibility

The proposed development program is compatible with existing development in the area, and would not adversely impact any adjacent properties.

Comprehensive Plan (CP) Consistency

The subject property has an underlying Future Land Use Map (FLUM) designation of Activity Center Mixed Use (ACMU), which allows for retail commercial development at a Floor to Area Ratio (FAR) of 3.0. The proposed PD zoning district and development program is consistent with the ACMU FLUM designations and the following CP provisions:

FLU1.1.5 states that Orange County shall encourage mixed-use development, infill development and transit-oriented development to promote compact urban form and efficiently use land and infrastructure in the Urban Service Area. The County may require minimum FARs and densities in its Land Development Code to achieve the County's desired urban framework. Infill is defined as development consistent with the Infill Master Plan (2008).

FLU1.4.1 states Orange County shall promote a range of living environments and employment opportunities in order to achieve a stable and diversified population and community.

FLU1.4.2 states that Orange County shall ensure that land uses changes are compatible with and serve existing neighborhoods.

GOAL FLU2 states that Orange County will encourage urban strategies such as infill development, coordinated land use and transportation planning, and mixed-use development, which promote efficient use of infrastructure, compact development and an urban experience with a range of choices and living options.

FLU2.2.1 states that within the Urban Service Area, Orange County shall encourage a mixture of land uses within activity and mixed-use commercial centers. Office and residential land uses shall be part of the balanced land use mixture, in addition to the commercial component.

FLU8.1.1 states that the zoning and future land use correlation shall be used to determine consistency with the Future Land Use Map. Land use compatibility, the location, availability and capacity of services and facilities, market demand, and environmental features shall also be used in determining which specific zoning district is most appropriate. Density is restricted to the maximum and minimum allowed by the Future Land Use Map designation regardless of zoning.

OBJ FLU8.2 states that compatibility will continue to be the fundamental consideration in all land use and zoning decisions.

FLU8.2.1 states that land use changes shall be required to be compatible with existing development and development trend in the area. Performance restrictions and/or conditions may be placed on property through the appropriate development order to ensure compatibility. No restrictions or conditions shall be placed on a Future Land Use Map change.

FLU8.2.11 states that compatibility may not necessarily be determined to be a land use that is identical to those uses that surround it. Other factors may be considered, such as the design attributes of the project, its urban form, the physical integration of a project and its function in the broader community, as well its contribution toward the Goals and Objectives in the CP. The CP shall specifically allow for such a balance of considerations to occur.

ID2.2.2 states that to the extent permitted by law, the reservation of a 15 foot wide transit easement along each side of all major road rights-of-way shall be a condition of approval for development within the International Drive Activity Center. When the Activity Center Transit Plan is completed, any unused portions of easements shall be abandoned and vacated. Until the easement is utilized or abandoned, the fee title holder shall be entitled to make use of such easement areas for temporary uses such as, but not limited to, non-code required parking, landscaping and recreation areas. Such easement areas shall be considered as a part of the site area for development purposes.

ID2.3.3 states that to the extent permitted by law, the reservation of a 20 foot wide landscape / pedestrian / utility easement, on all properties with road frontage, shall be a condition of approval for development within the Activity Center. The pedestrian easement shall be adjacent to the development side of the required transit easement as opposed to the road side if a transit easement is required.

Community Meeting Summary

A community meeting was not required for this request.

SITE DATA

Existing Use	Undeveloped Land
Adjacent Zoning	N: PD (Planned Development District) (Lake Bryan PD) (1996) E: A-2 (Farmland Rural District) (1957) W: PD (Planned Development District) (Blackton PD) (1997) S: PD (Planned Development District) (Buena Vista Shores PD) (1996)
Adjacent Land Uses	N: Undeveloped Commercial E: Reclaim Water Spray Field, Utilities W: Lake Bryan S: Undeveloped Commercial

APPLICABLE PD DEVELOPMENT STANDARDS

PD Perimeter Setback	25 feet
Maximum Building Height:	200 feet (Hotel/Timeshare), 60 feet (Other Uses)
Minimum PD Open Space:	25%
Maximum Lot Coverage:	70 %
Minimum Living Area:	500 Square Feet (under HVAC)

Minimum Building Setbacks

Front Setback:	60 feet
Rear Setback:	20 feet
Side Setback:	30 feet / (adjacent to International Drive)

SPECIAL INFORMATION

Subject Property Analysis

The applicant is seeking to rezone a 13.45 gross acre portion of the subject parcel from C-1 (Retail Commercial District) to PD (Planned Development District) and incorporate the portion of the parcel into the Lake Bryan Resort PD, and revise the development program to construct 266 multi-family dwelling units and 1,766 hotel and timeshare units. No waivers are associated with this request. A comparison of uses between the approved PD today and the proposed PD is shown below:

Use	Approved	Proposed
Commercial	93,000 SF	0 SF
Hotel / Timeshare	340 rooms	1,766 rooms / timeshare units
Multi- Family	140 dwelling units	266 dwelling units

Comprehensive Plan (CP) Amendment

The property has an underlying Future Land Use Map (FLUM) designation of Activity Center Mixed Use (ACMU). The proposed use is consistent with this designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

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 Tourist Commercial Signage overlay district. Compliance with this overlay will be addressed at Development Plan submittal or through the addition of a Master Sign Plan to this PD.

Airport Noise Zone

The subject property is not located within an Airport Noise Zone.

Environmental

All storm drain inlets constructed as part of new development projects in Orange County shall have metal medallion inlet markers installed. Text on the marker shall be evenly spaced and read "No Dumping, Only Rain in the Drain". Markers must be commercial grade stainless steel, aluminum, brass or bronze and either stamped from sheet metal or cast. Metal marker color must be non-reflective blue or green. Aquatic creature or symbol shown on marker shall be consistent throughout the subdivision. Markers must be affixed to a clean, prepared surface with adhesives, fasteners, or heat as recommended by the manufacturer. Markers shall be aligned with the center of drainage inlets at the top of the curb. Lettering must be between 0.4 - 0.5 inches and the total diameter of the marker between 3.75 - 4.25 inches.

Development of the subject property shall comply with all state and federal regulations regarding wildlife and plants listed as imperiled species (endangered, threatened, or species of special concern). The applicant is responsible to determine the presence of these concerns and to verify and obtain, if necessary, any required habitat permitting of the U.S. Fish and Wildlife Service (USFWS) and the Florida Fish & Wildlife Conservation Commission (FWC).

No construction, clearing, filling, alteration or grading is allowed within or immediately adjacent to a conservation area or easement (includes the conservation area and the wetland setback/buffer) without first obtaining a wetland impact permit approved by the county and obtaining other applicable jurisdictional agency permits.

This review does not release the applicant from complying with all other Federal, State, and Local rules and regulations. If this review conflicts with rules and regulations of any other Agency, Department or Division, the permittee must comply with the most stringent requirements.

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 required shall be shown on all plans and shall be conveyed concurrently at time of platting or dedicated to the County via separate instrument prior to Development Plan (DP) approval.

Unless the property is otherwise vested or exempt, 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.

Based on the Concurrency Management System database dated October 3, 2018, there are two failing roadways within a one mile radius: 1) Vineland Avenue from Winter Garden-Vineland Road to Little Lake Bryan Parkway and 2) Winter Garden-Vineland Road from the Osceola County Line to State Road 536. These segments are currently operating at Level of Service "F" and there is no available capacity. A traffic study will be required prior to obtaining an approved Capacity Encumbrance Letter.

Water / Wastewater / Reclaim

	<u>Existing service or provider</u>
Water:	Orange County Utilities
Wastewater:	Orange County Utilities
Reclaimed:	Orange County Utilities

Schools

A Capacity Enhancement Agreement (CEA) application, #OC-19-09-136, was approved by the Orange County School Board on March 12, 2019. Approval of this request must occur, barring any extensions, by June 11, 2019 to the CEA will expire.

Parks and Recreation

Orange County Parks and Recreation reviewed this request, but did not provide any comments or concerns.

Code Enforcement

No code enforcement, special magistrate or lot clearing issues on the subject property have been identified.

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.

PLANNING AND ZONING COMMISSION (PZC) FINDINGS

The staff report was presented to the PZC with the recommendation that they make a finding of consistency with the Comprehensive Plan and recommend approval of the requested Lake Bryan Resort Planned Development (PD), subject to twenty-two (22) conditions.

Staff indicated that four hundred thirty-two (432) notices were mailed to surrounding property owners within a buffer of 1,500 feet from the subject property, with zero (0) commentaries received in support or in opposition of the request. The applicant was present for the hearing and concurred with staff's recommendation. No members of the public were present to speak on this request.

After limited discussion, a motion was made by Commissioner Dunn to find the request to be consistent with the Comprehensive Plan and recommend APPROVAL of the Lake Bryan Resort Planned Development (PD) zoning, subject to twenty-two (22) conditions. Commissioner Cantero seconded the motion, which then carried on a 7-0 vote.

Motion / Second

Jimmy Dunn / Jose Cantero

Voting in Favor

Jimmy Dunn, Jose Cantero, Carlos Nazario, JaJa Wade, Gordon Spears, Diane Velazquez, and Yog Melwani

Voting in Opposition

None

Absent

Eddie Fernandez

Mohammed Abdallah declared a conflict of interest and recused himself from the vote.

PZC RECOMMENDED ACTION

Planning and Zoning Commission (PZC) Recommendation – (April 18, 2019)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Lake Bryan Resort Planned Development / Land Use Plan (PD/LUP), dated "Received February 8, 2019", subject to the following conditions:

1. Development shall conform to the Lake Bryan Resort PD Land Use Plan Amendment (LUPA) dated "Received February 8, 2019," 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 February 8, 2019," 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).
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 - a) Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of March 12, 2019.
 - b) 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 140 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.
 - c) 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.
 - d) 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.

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.

7. 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, 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.
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10. 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 to the Orange County Environmental Protection Division, as specified in Orange County Code Chapter 15 Environmental Control, Article IX Dock Construction, prior to installation, for an Orange County Dock Construction Permit, as well as to any other Orange County Division(s) for any other applicable permits.
11. 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).
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 - a. 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:
 - i. Stormwater management facilities shall be designed as an aesthetic feature, except where determined by the County Engineer to be technically unfeasible.
 - ii. The property owner understands and concedes that the property is located within the International Drive Activity Center as adopted by 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 Rights-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.
- iii. Sidewalks shall be a minimum of ten-feet (10') wide along all major roads.
- iv. Electrical distribution lines shall be underground.
- v. Participation in a shuttle service connecting area attractions, major transportation centers and on-site development shall be required.