

Rezoning Application: PD 22-0152

Zoning Hearing Master Date: April 18, 2022

BOCC Land Use Meeting Date: June 7, 2022



**Hillsborough
County Florida**

Development Services Department

1.0 APPLICATION SUMMARY

Applicant: Mark Bentley, Esq., B.C.C., AICP

FLU Category: RES-4 (flex to RES-12)

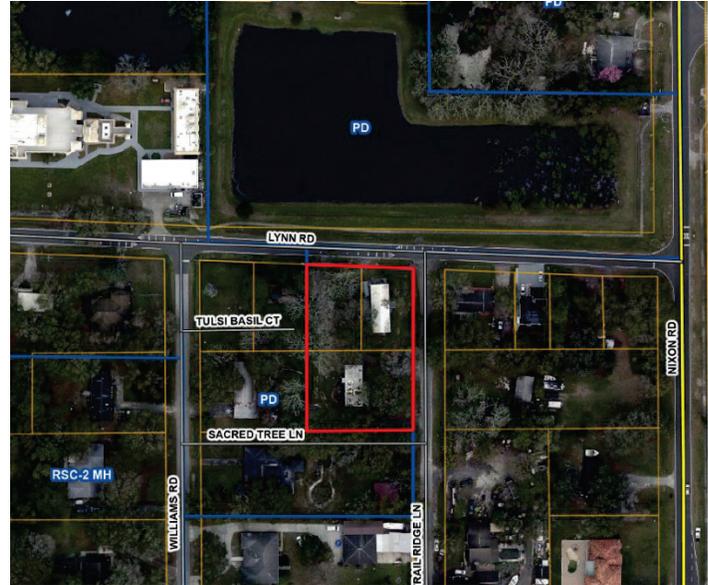
Service Area: Urban

Site Acreage: 0.83 AC +/-

Community Plan Area: Greater Carrollwood Northdale

Overlay: None

Request: Rezoning to Planned Development



Request Summary:

The existing zoning is AS-1 (Agricultural Single Family) which permits single family and agricultural uses pursuant to the development standards in the table below. The proposed zoning for Planned Development (site plan controlled district) to allow 8 multifamily attached units pursuant to the development standards in the table below and site plan depicted in 2.4 of the report.

Zoning:

	Current AS-1 Zoning	Proposed PD Zoning
Uses	Single family and agricultural uses	8 attached multifamily units
Mathematical Maximums *	0.83 Dwelling Units	9 attached multifamily units

*Mathematical Maximums may be reduced due to roads, stormwater and other improvements

Development Standards:

	Current AS-1 Zoning	Proposed PD Zoning
Density / Intensity	Under the existing AS-1 zoning district for the three parcels, a 0.83 DU/AC is allowable.	Under the proposed PD 22-0152 for the three parcels, a maximum of 8 dwelling units are allowable (under the maximum 9 DU/GA in RES-12)
Lot Size / Lot Width	43,560 sf / 150'	36,189 sf. / 70'
Setbacks/Buffering and Screening	50' Front 15' Side 50' Rear	30' Front 0-feet and no screening to multifamily residential.

APPLICATION NUMBER: PD 22-0152

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Case Reviewer: Tania C. Chapela

Height	50 feet	35 feet, except as defined in LDC 6.01.01 Lot Development standards, Endnotes 8 and 11.
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Additional Information:

PD Variations	None requested
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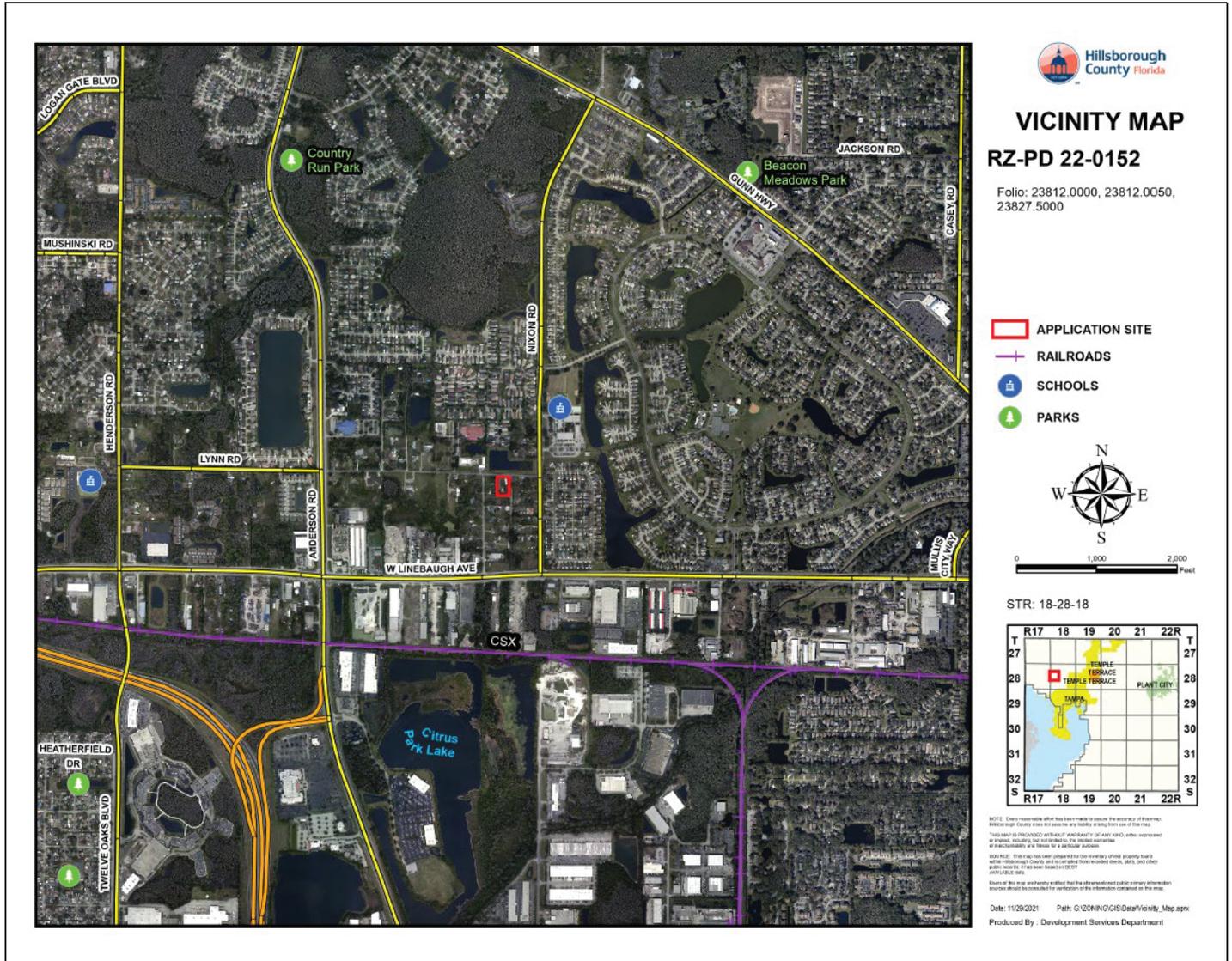
Waiver(s) to the Land Development Code	None requested
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Planning Commission Recommendation	Consistent
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Development Services Department Recommendation	Approvable, subject to conditions
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2.0 LAND USE MAP SET AND SUMMARY DATA

2.1 Vicinity Map

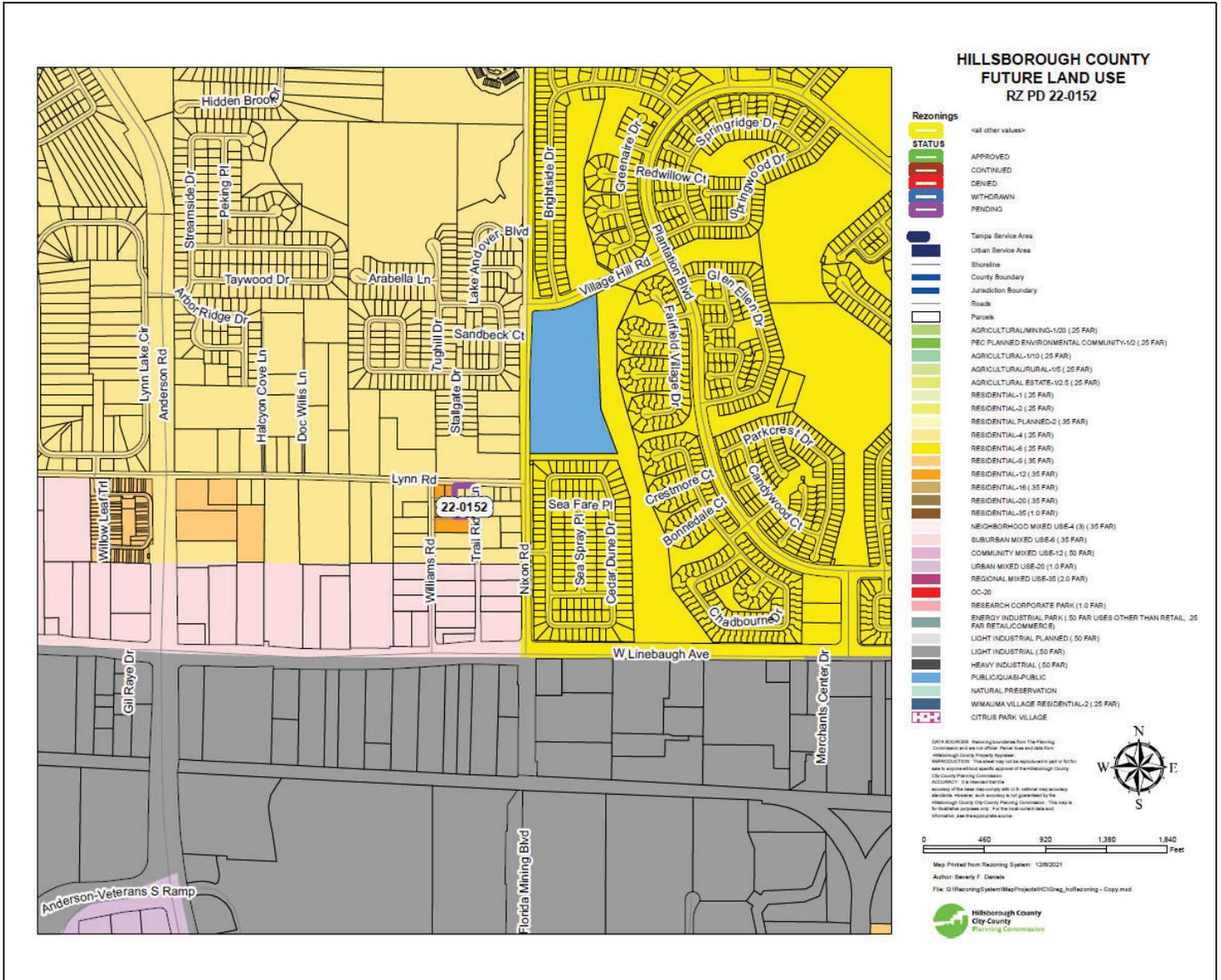


Context of Surrounding Area:

The parcel is located along Lynn Road, a local road, with parcels approved for single family and multifamily residential uses. Across Lynn road to the north is a vacant parcel zoned PD and approved for single family uses. The PD zoned parcel to the west and south is approved for multifamily uses. The properties to the east, across Trail Ridge Ln are zoned AS-1 and developed with single family conventional houses and mobile homes.

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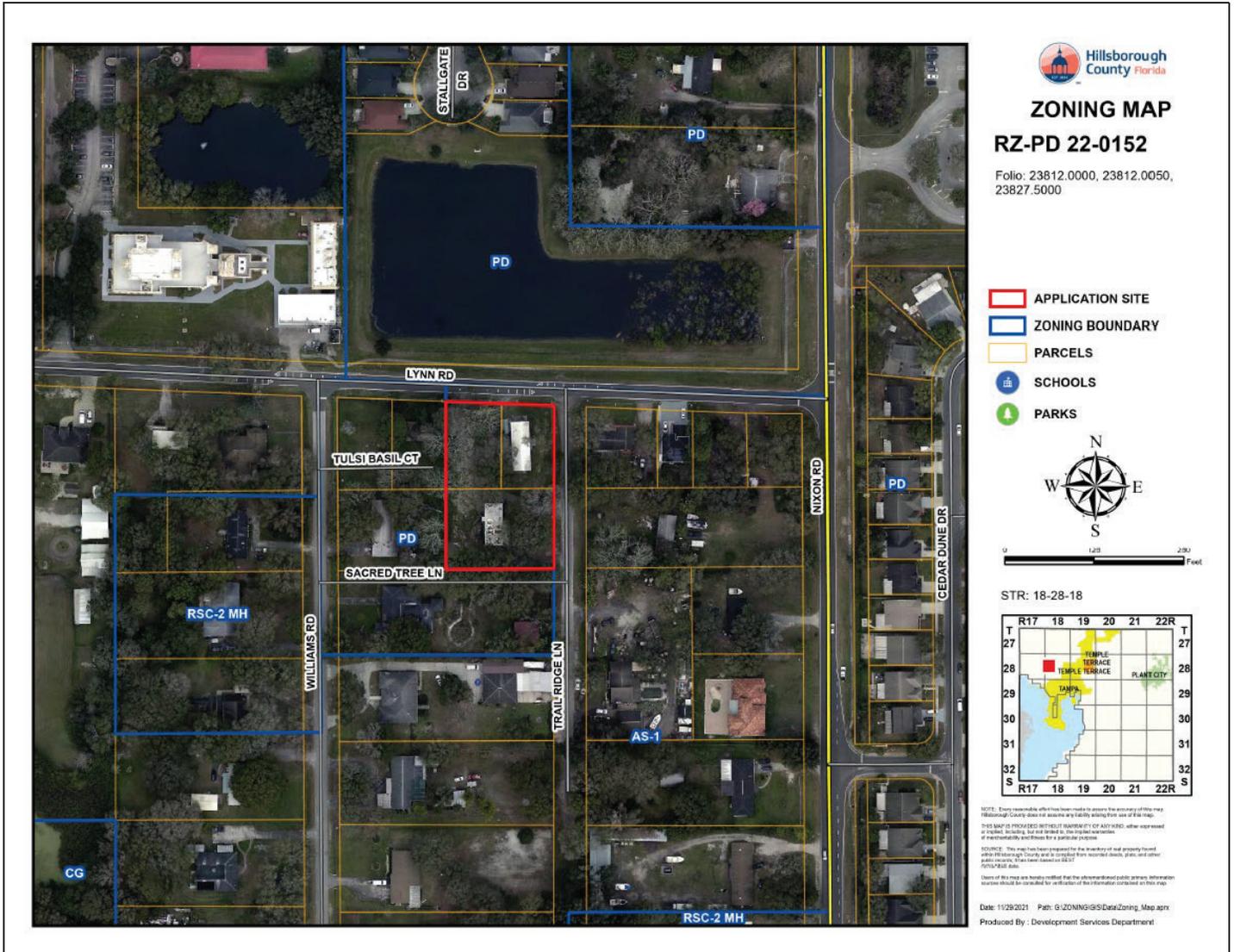
2.2 Future Land Use Map



Subject Site Future Land Use Category:	Residential -4 (Flex to RES-12)
Maximum Density/F.A.R.:	12 DU/AC
Typical Uses:	Residential, urban commercial, offices, multi-purpose projects, mixed-use development

2.0 LAND USE MAP SET AND SUMMARY DATA

2.3 Immediate Area Map

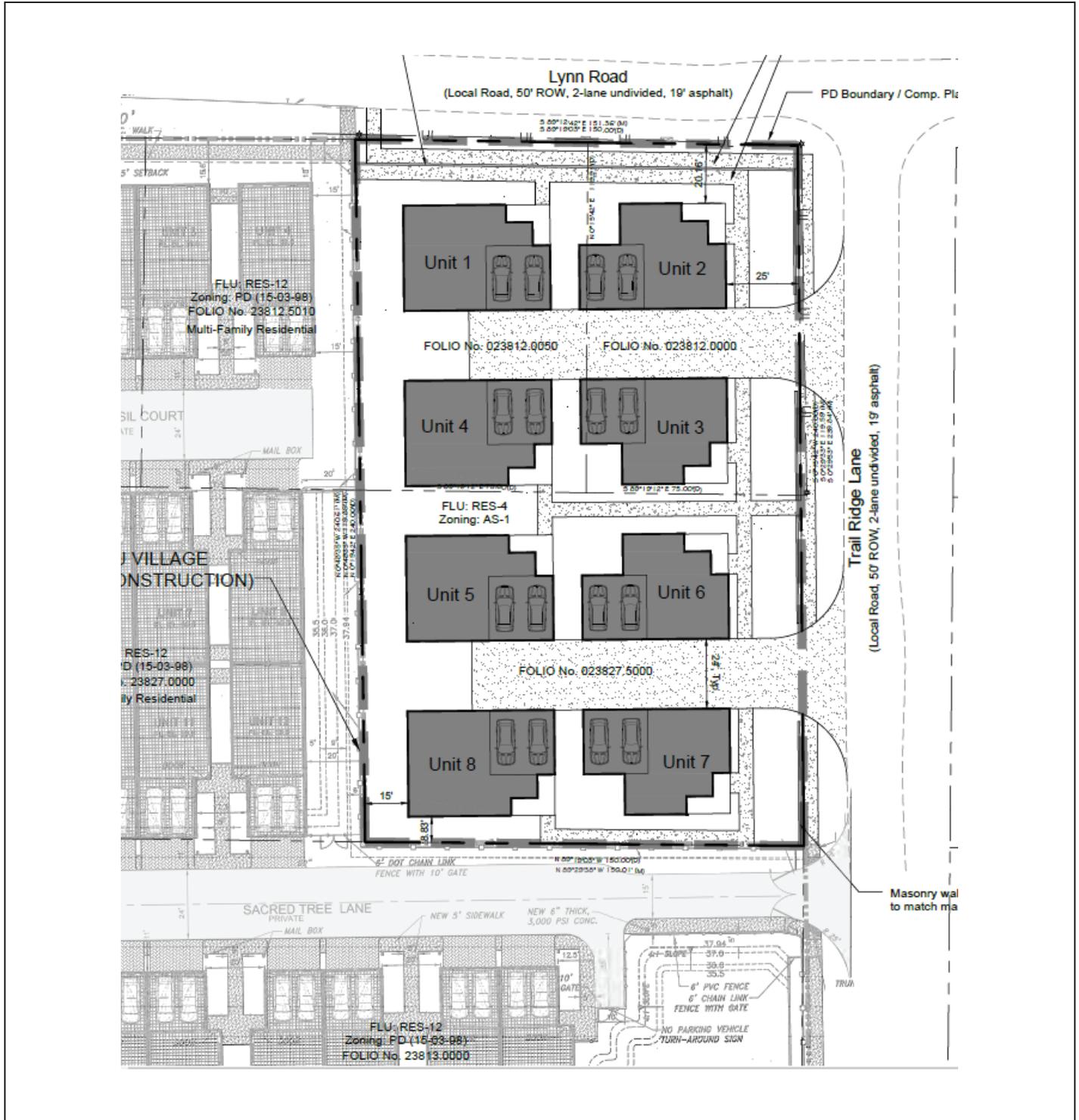


Adjacent Zonings and Uses

Location:	Zoning:	Maximum Density/F.A.R. Permitted by Zoning District:	Allowable Use:	Existing Use:
North	PD	3.44 DU/AC	Single Family	Single Family
South	PD	12 DU/AC	Multifamily	Single family
East	AS-1	1 DU/AC	Single Family	Single Family
West	PD	12 DU/AC	Multifamily	Single family

2.0 LAND USE MAP SET AND SUMMARY DATA

2.4 Proposed Site Plan (partial provided below for size and orientation purposes. See Section 8.0 for full site plan)



3.0 TRANSPORTATION SUMMARY (FULL TRANSPORTATION REPORT IN SECTION 9 OF STAFF REPORT)

Adjoining Roadways (check if applicable)

Road Name	Classification	Current Conditions	Select Future Improvements
Trail Ridge Ln.	County Local - Rural	2 Lanes <input checked="" type="checkbox"/> Substandard Road <input checked="" type="checkbox"/> Sufficient ROW Width (for Urban Section)	<input type="checkbox"/> Corridor Preservation Plan <input type="checkbox"/> Site Access Improvements <input type="checkbox"/> Substandard Road Improvements <input type="checkbox"/> Other
	Choose an item.	Choose an item. Lanes <input type="checkbox"/> Substandard Road <input type="checkbox"/> Sufficient ROW Width	<input type="checkbox"/> Corridor Preservation Plan <input type="checkbox"/> Site Access Improvements <input type="checkbox"/> Substandard Road Improvements <input type="checkbox"/> Other
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Project Trip Generation Not applicable for this request

	Average Annual Daily Trips	A.M. Peak Hour Trips	P.M. Peak Hour Trips
Existing	28	2	3
Proposed	59	4	4
Difference (+/-)	(+) 31	(+) 2	(+) 1

*Trips reported are based on net new external trips unless otherwise noted.

Connectivity and Cross Access Not applicable for this request

Project Boundary	Primary Access	Additional Connectivity/Access	Cross Access	Finding
North		None	None	Meets LDC
South		None	None	Meets LDC
East	X	Vehicular & Pedestrian	None	Meets LDC
West		None	None	Meets LDC
Notes:				

Design Exception/Administrative Variance Not applicable for this request

Road Name/Nature of Request	Type	Finding
	Choose an item.	Choose an item.
	Choose an item.	Choose an item.

Notes: Although Trail Ridge Ln. is a substandard roadway, a Section 6.04.02.B. Administrative Variance was not needed since the project meets the County Engineer’s de minimis criteria and the roadway meets minimum life safety standards.

4.0 ADDITIONAL SITE INFORMATION & AGENCY COMMENTS SUMMARY

INFORMATION/REVIEWING AGENCY			
Environmental:	Objections	Conditions Requested	Additional Information/Comments
Environmental Protection Commission	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Natural Resources	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Conservation & Environmental Lands Mgmt.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Check if Applicable: <input type="checkbox"/> Wetlands/Other Surface Waters <input type="checkbox"/> Use of Environmentally Sensitive Land Credit <input type="checkbox"/> Wellhead Protection Area <input type="checkbox"/> Surface Water Resource Protection Area <input type="checkbox"/> Potable Water Wellfield Protection Area <input type="checkbox"/> Significant Wildlife Habitat <input type="checkbox"/> Coastal High Hazard Area <input type="checkbox"/> Urban/Suburban/Rural Scenic Corridor <input type="checkbox"/> Adjacent to ELAPP property <input checked="" type="checkbox"/> Other _Airport conditions_____			
Public Facilities:	Objections	Conditions Requested	Additional Information/Comments
Transportation <input type="checkbox"/> Design Exception/Adm. Variance Requested <input type="checkbox"/> Off-site Improvements Provided	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Utilities Service Area/ Water & Wastewater <input checked="" type="checkbox"/> Urban <input type="checkbox"/> City of Tampa <input type="checkbox"/> Rural <input type="checkbox"/> City of Temple Terrace	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Connection is required to the County's potable water and wastewater systems.
Hillsborough County School Board Adequate <input checked="" type="checkbox"/> K-5 <input checked="" type="checkbox"/> 6-8 <input checked="" type="checkbox"/> 9-12 <input type="checkbox"/> N/A Inadequate <input type="checkbox"/> K-5 <input type="checkbox"/> 6-8 <input type="checkbox"/> 9-12 <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Impact/Mobility Fees (Fee estimate is based on a 1,200 square foot, 2 bedroom, Multi-Family Units 1-2 story) Mobility: \$5,995 * 8 units = \$47,960 Parks: \$1,555 * 8 units = \$12,440 School: \$3,891 * 8 units = \$31,128 Fire: \$249 * 8 units = \$ 1,992 Total Multi-Family (1-2 story) = \$93,520			
Comprehensive Plan:	Findings	Conditions Requested	Additional Information/Comments

Planning Commission			
<input type="checkbox"/> Meets Locational Criteria	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Inconsistent	<input type="checkbox"/> Yes
<input type="checkbox"/> Locational Criteria Waiver Requested		<input checked="" type="checkbox"/> Consistent	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Minimum Density Met	<input checked="" type="checkbox"/> N/A		

5.0 IMPLEMENTATION RECOMMENDATIONS

5.1 Compatibility

The proposed uses are comparable to the multifamily uses allowed for the adjacent property, to the east and south. The residential development to the south and west is zoned PD 15-0398 and was approved for a density of 12 DU/AC.

The proposed residential project will not intrude into the required setbacks, will decrease the required buffers, nor will entail a reduction of the required screening. A 35-foot building height requires a 30-foot buffer, which is comprised of a 15-foot separation to the west, 8.83-feet to the south, and an additional buffer provided by the adjacent development.

Based on the above, Staff finds the request is approvable, subject to conditions.

5.2 Recommendation

Approval - Approval of the request, subject to the conditions listed below, is based on the general site plan submitted March 29, 2022.

1. The project shall be permitted a maximum of 8 attached multi-family units.
2. The location of structures shall be as generally shown on the site plan. The project shall be developed in accordance with the development standards of the RMC-12 zoning district, unless otherwise specified herein. The project shall not be subject to the 2-to-1 setback for structure height over 20 feet.
3. The project shall be restricted to two (2) vehicular connections to Trail Ridge Ln.
4. Notwithstanding anything herein these conditions or on the PD site plan to the contrary, bicycle and pedestrian access may be permitted anywhere along the PD boundaries.
5. Pursuant to the County Engineer’s de minimis criteria, and because Trail Ridge Ln. meets minimum life safety standards, the project shall not be required to make substandard road improvements to Trail Ridge Ln.
6. The developer shall combine all three project parcels into a single parcel, and all multi-family units shall be located on the new parcel.
7. The developer shall construct minimum 5-foot wide internal and external sidewalks as generally shown on the PD site plan. The primary pedestrian entrance to each unit shall occur to the side or rear of the structure and be connected to the internal sidewalk network. Pedestrian entrances shall not be permitted along the building façade facing the 24-foot wide driveway.

8. Potential buyers should be informed this location is within the flight path to Tampa International Airport and will be subject to aircraft overflight. The property falls outside of the 65 dnl noise contour around the airport and is a compatible but occupants may be subjected to noise from aircraft operating to and from the airport. The Aviation Authority suggests a noise reduction level of at least 25 db be incorporated into design.

9. Approval of this zoning petition by Hillsborough County does not constitute a guarantee that the Environmental Protection Commission of Hillsborough County (EPC) approvals/permits necessary for the development as proposed will be issued, does not itself serve to justify any impact to wetlands, and does not grant any implied or vested right to environmental approvals.

10. If the notes and/or graphic on the site plan are in conflict with specific zoning conditions and/or the Land Development Code (LDC) regulations, the more restrictive regulation shall apply, unless specifically conditioned otherwise. References to development standards of the LDC in the above stated conditions shall be interpreted as the regulations in effect at the time of preliminary site plan/plat approval, unless otherwise stated herein.

11. The development of the project shall proceed in strict accordance with the terms and conditions contained in the Development Order, the General Site Plan, the land use conditions contained herein, and all applicable rules, regulations, and ordinances of Hillsborough County.

Zoning Administrator Sign Off:



J. Brian Grady
Mon Apr 11 2022 09:24:51

SITE, SUBDIVISION AND BUILDING CONSTRUCTION IN ACCORDANCE WITH HILLSBOROUGH COUNTY SITE DEVELOPMENT PLAN & BUILDING REVIEW AND APPROVAL.

Approval of this re-zoning petition by Hillsborough County does not constitute a guarantee that the project will receive approvals/permits necessary for site development as proposed will be issued, nor does it imply that other required permits needed for site development or building construction are being waived or otherwise approved. The project will be required to comply with the Site Development Plan Review approval process in addition to obtain all necessary building permits for on-site structures.

7.0 ADDITIONAL INFORMATION AND/OR GRAPHICS

8.0 PROPOSED SITE PLAN (FULL)

Vicinity Map

PROJECT DATA TABLE

Parcel No. -	0.03 AC. MCL / 36,198 s.f.
Parcel No. -	23612.0000, 23613.0000 & 23617.0000
Existing Zoning -	RES-12
Proposed Zoning -	RES-12
Existing Zoning -	AS-1
Proposed Zoning -	FO
Existing Use -	Single-Family Residential
Proposed Use -	Multi-Family Residential
Gross Building Area -	21,280 s.f.
Max. Allowable Dwelling Units -	8 units
- 0.03 AC ± 12 DU / AC ±	8 units
Proposed Dwelling Units -	8 units
Community Parking Area -	Greater Carboarded Northside
Proposed -	
- Front Yard -	20'
- Side Yard -	5'
- Rear Yard -	5'
- Max. Bldg. Height -	15' (Three stories)
- Max. Slope Coverage -	25%
- Max. Impervious Surface Ratio -	0.05
Water/Wastewater Service Provider -	Hillsborough County
Required Parking -	
- 2' Dwelling Unit ± 0.5 Dwelling Units ±	10 spaces
Proposed Parking -	10 spaces

LEGAL DESCRIPTION

THE WEST 10 FEET OF THE EAST 400 FEET OF THE NORTH 05 FEET OF THE SOUTH 10 FEET OF THE SOUTHWEST 1/4 OF SECTION 18, TOWNSHIP 28 SOUTH, RANGE 18 EAST, ALL LINES HILLSBOROUGH COUNTY, FLORIDA.

AND

THE WEST 100 FEET OF THE EAST 05 FEET OF THE SOUTH 05 FEET OF THE NORTH 1/4 SECTION OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 28 SOUTH, RANGE 18 EAST, ALL LINES HILLSBOROUGH COUNTY, FLORIDA.

OWNER / DEVELOPER

Hindu Temple of Florida, Inc.
5509 Lynn Rd.
Tampa, FL 33624
Attn: Mr. Chris Gauthier
T: (813) 962-6990
crgang@yahoo.com

REPRESENTATIVE

Mark Bentley, Esq.
401 E. Jackson St., Ste. 3100
Tampa, FL 33602
T: (813) 225-2500
markb@pfm.com

PLANNER / ENGINEER

Planning, Inc.
3737 Lake Joyce Dr.
Land O Lakes, FL 34639
Attn: Russell Ottenberg
T: (813) 962-1752
russell@planeng.com

ARCHITECT

Invision Design & Development Consulting, Inc.
1001 South Fort Harrison Ave., Ste. 202
Clearwater, FL 33756
Attention: Oscar Benavides
T: (727) 478-7373
oscarb72@gmail.com

NOTES

- The subject property is in the Urban Service Area.
- The proposed use will provide an (8 PM) Peak Hour trip.
- The "Hindu Village" indicated development adjoins the subject property along the subject property's north and west parcel lines includes a masonry wall along said property lines.
- Stormwater will be accommodated via an under pavement chamber system and may be improved with open ponds.

PLAN ENGINEERING

Hindu Temple Multi-Family Development

5416 Lynn Road, Tampa, Florida

DATE: _____

REVISION: _____

THIS DRAWING: PD Rezoning Site Plan

SHEET NO: PD1

9.0 FULL TRANSPORTATION REPORT (see following pages)

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**COUNTY OF HILLSBOROUGH
LAND USE HEARING OFFICER'S RECOMMENDATION**

Application number:	RZ PD 22-0152
Hearing date:	April 18, 2022
Applicant:	Mark Bentley
Request:	Rezone to Planned Development
Location:	Southwest corner of Lynn Road and Trail Ridge Lane
Parcel size:	0.83 acres +/-
Existing zoning:	AS-1
Future land use designation:	Residential-4
Service area:	Urban
Community planning area:	Greater Carrollwood-Northdale

A. APPLICATION REVIEW

**DEVELOPMENT SERVICES STAFF REPORT
APPLICATION REVIEW SUMMARY AND RECOMMENDATION**

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Zoning Hearing Master Date: April 18, 2022

BOCC Land Use Meeting Date: June 7, 2022



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County Florida**

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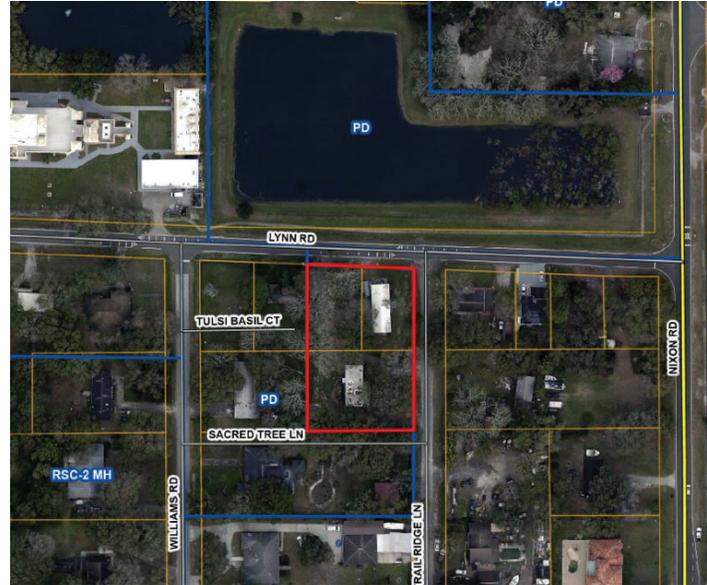
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Case Reviewer: Tania C. Chapela

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Additional Information:

PD Variations	None requested
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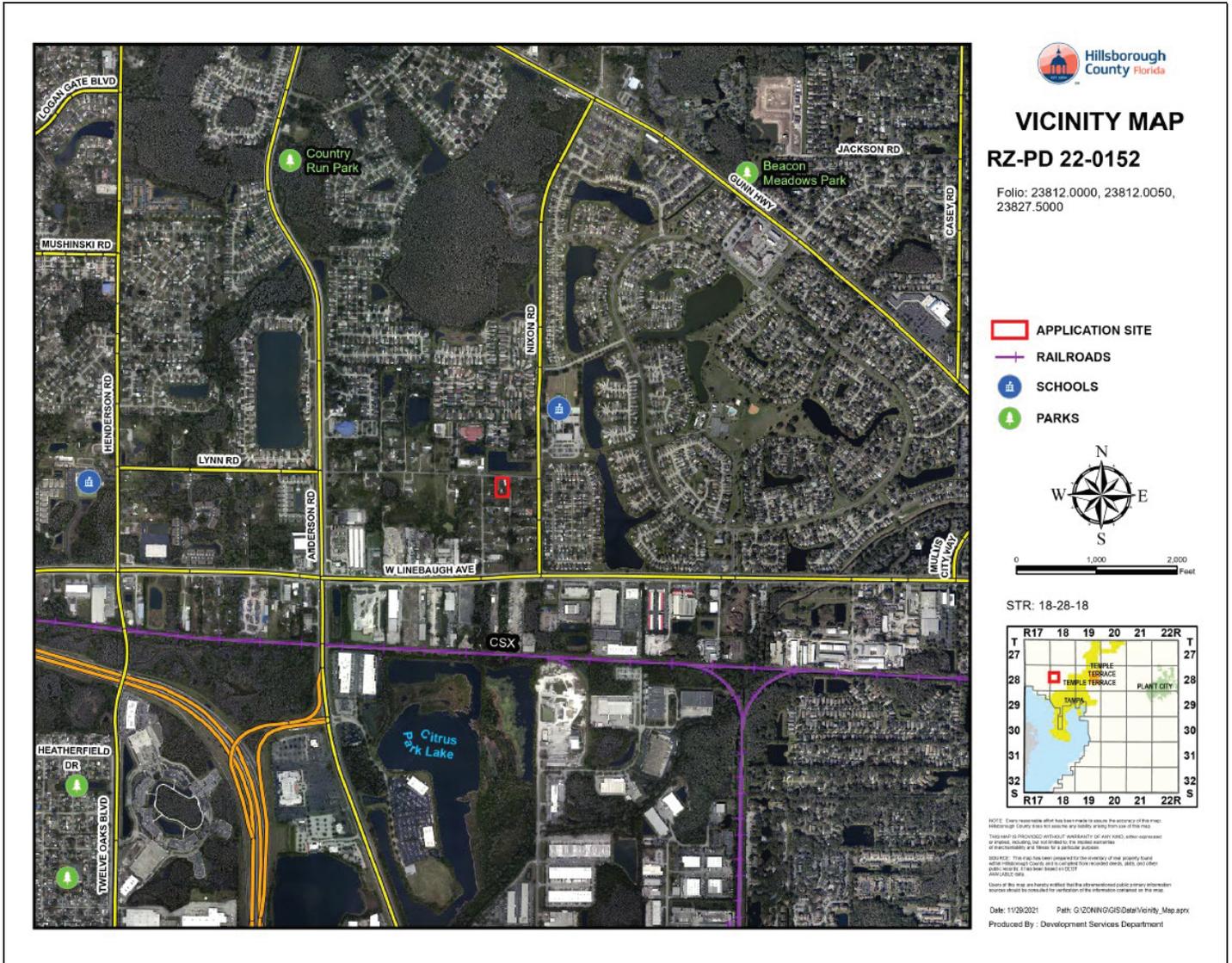
Waiver(s) to the Land Development Code	None requested
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Planning Commission Recommendation	Consistent
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Development Services Department Recommendation	Approvable, subject to conditions
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2.0 LAND USE MAP SET AND SUMMARY DATA

2.1 Vicinity Map

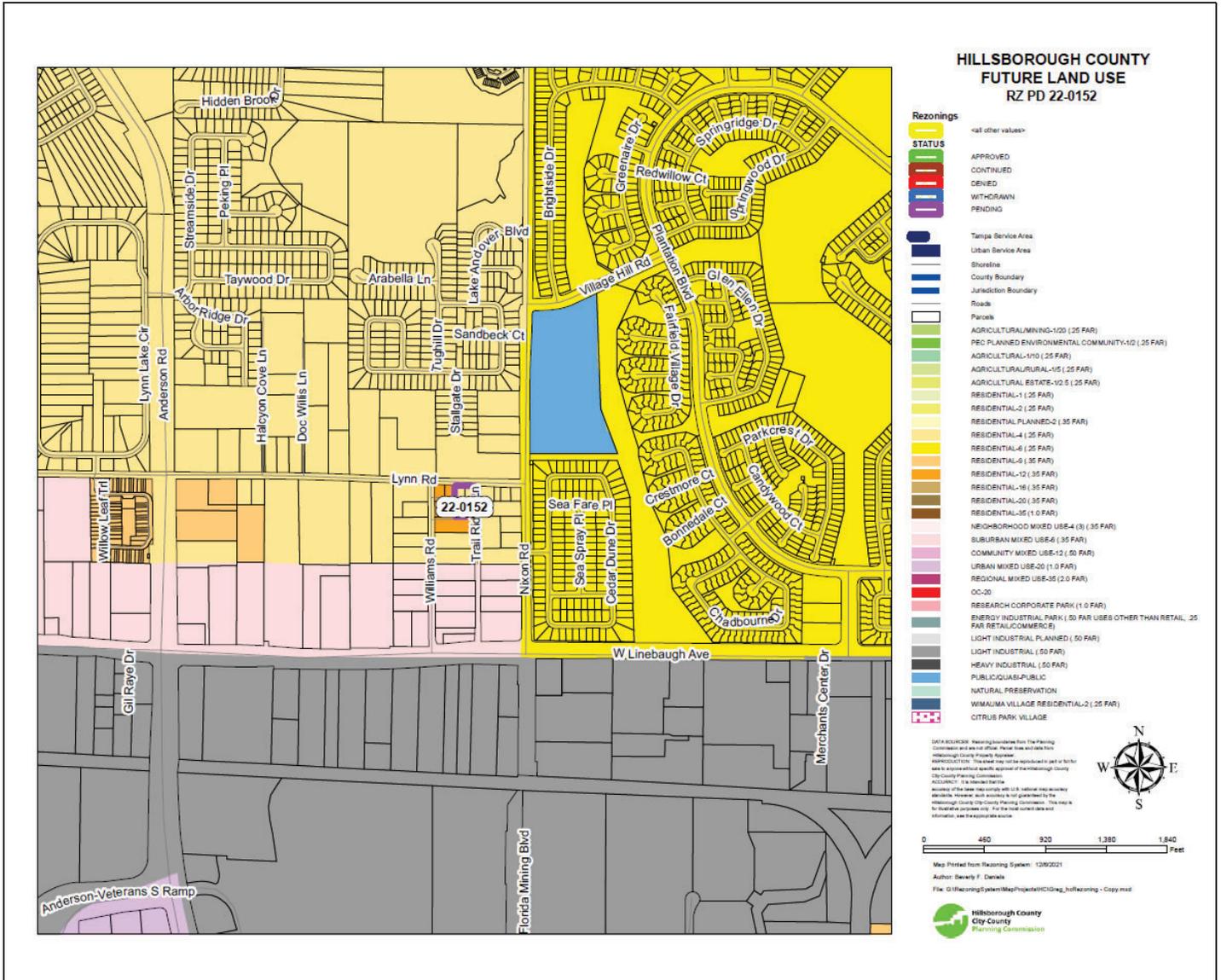


Context of Surrounding Area:

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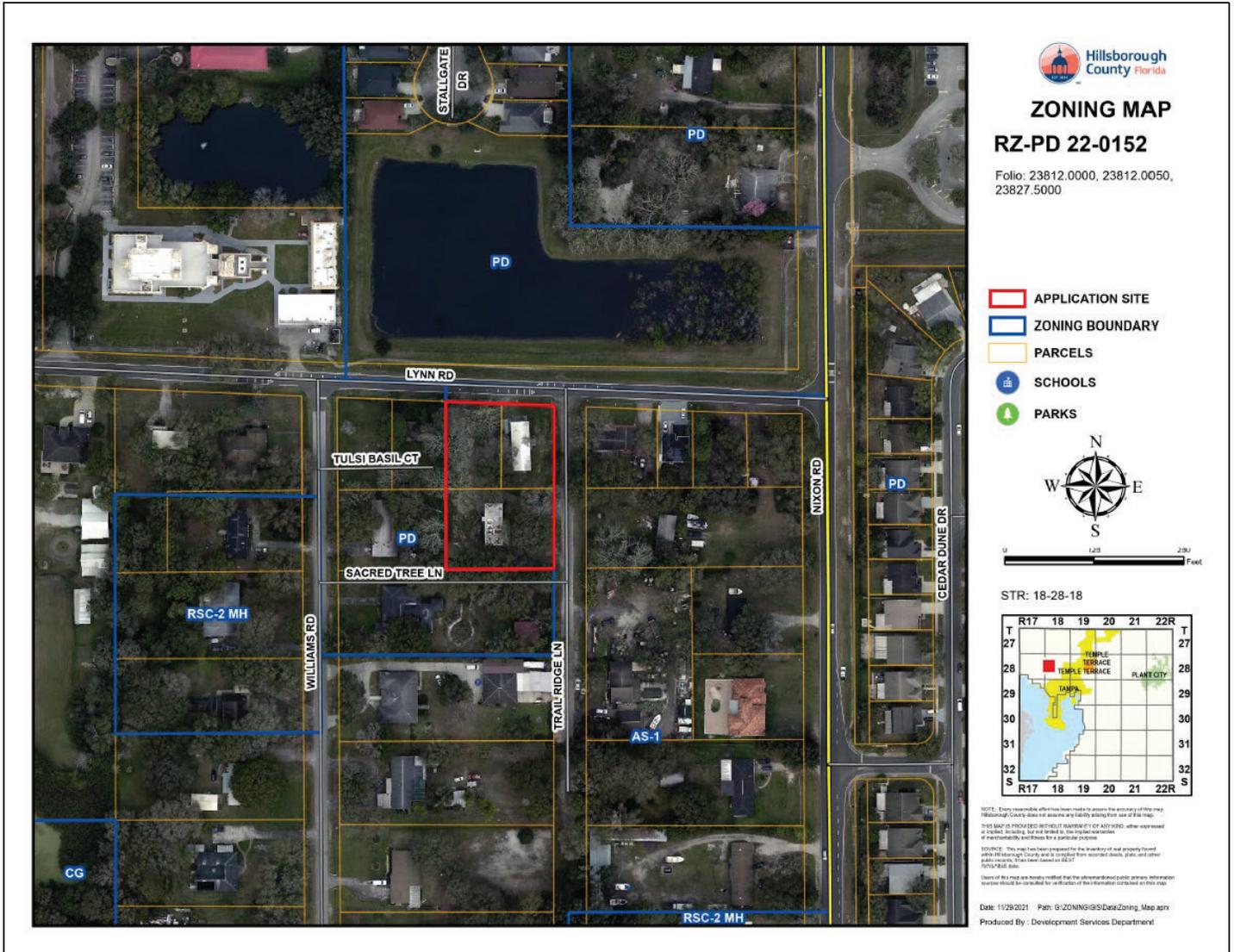
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Maximum Density/F.A.R.:	12 DU/AC
Typical Uses:	Residential, urban commercial, offices, multi-purpose projects, mixed-use development

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2.3 Immediate Area Map

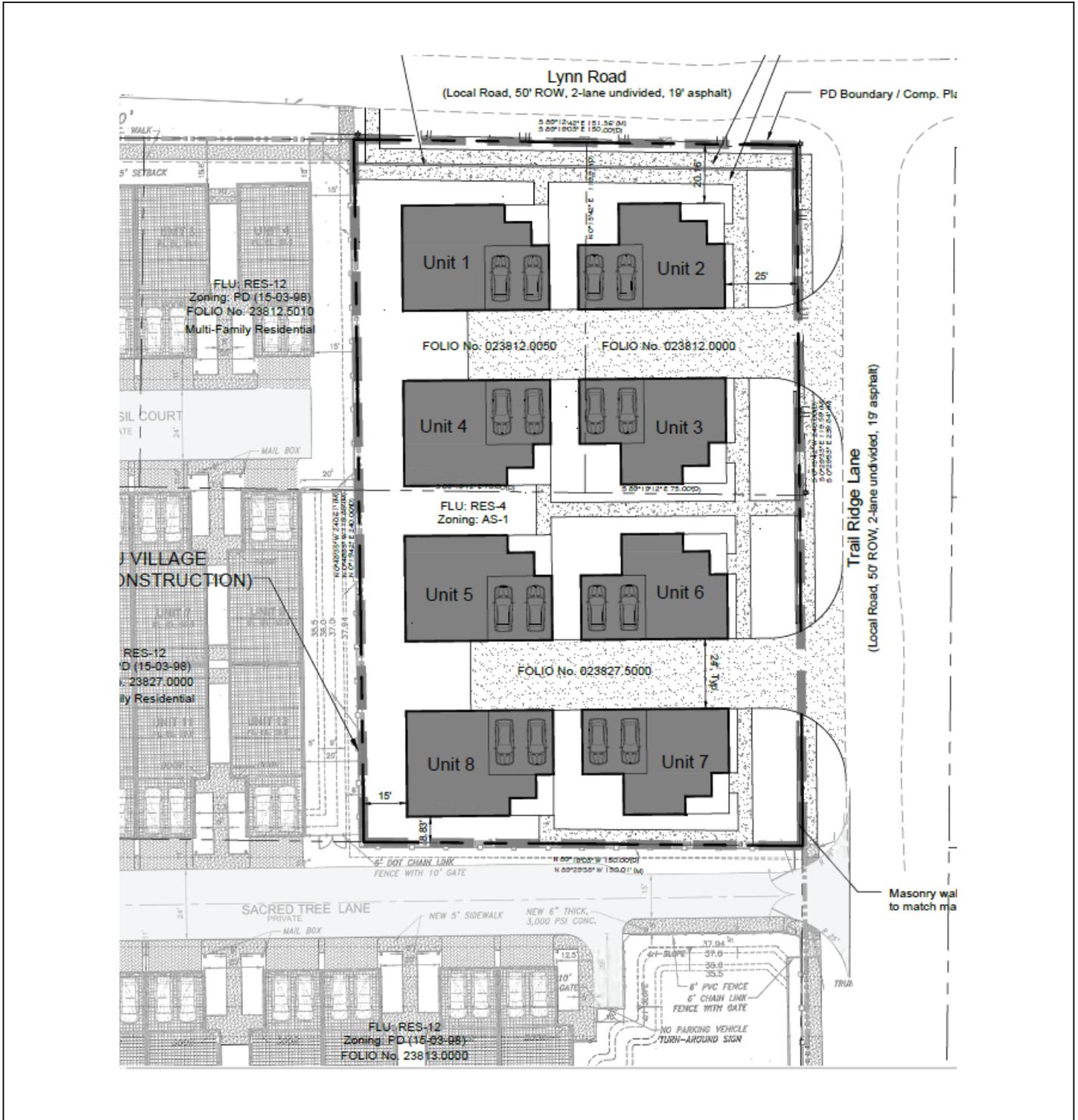


Adjacent Zonings and Uses

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2.0 LAND USE MAP SET AND SUMMARY DATA

2.4 Proposed Site Plan (partial provided below for size and orientation purposes. See Section 8.0 for full site plan)



3.0 TRANSPORTATION SUMMARY (FULL TRANSPORTATION REPORT IN SECTION 9 OF STAFF REPORT)

Adjoining Roadways (check if applicable)

Road Name	Classification	Current Conditions	Select Future Improvements
Trail Ridge Ln.	County Local - Rural	2 Lanes <input checked="" type="checkbox"/> Substandard Road <input checked="" type="checkbox"/> Sufficient ROW Width (for Urban Section)	<input type="checkbox"/> Corridor Preservation Plan <input type="checkbox"/> Site Access Improvements <input type="checkbox"/> Substandard Road Improvements <input type="checkbox"/> Other
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Existing	28	2	3
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Difference (+/-)	(+) 31	(+) 2	(+) 1

*Trips reported are based on net new external trips unless otherwise noted.

Connectivity and Cross Access Not applicable for this request

Project Boundary	Primary Access	Additional Connectivity/Access	Cross Access	Finding
North		None	None	Meets LDC
South		None	None	Meets LDC
East	X	Vehicular & Pedestrian	None	Meets LDC
West		None	None	Meets LDC
Notes:				

Design Exception/Administrative Variance Not applicable for this request

Road Name/Nature of Request	Type	Finding
	Choose an item.	Choose an item.
	Choose an item.	Choose an item.

Notes: Although Trail Ridge Ln. is a substandard roadway, a Section 6.04.02.B. Administrative Variance was not needed since the project meets the County Engineer’s de minimis criteria and the roadway meets minimum life safety standards.

4.0 ADDITIONAL SITE INFORMATION & AGENCY COMMENTS SUMMARY

INFORMATION/REVIEWING AGENCY			
Environmental:	Objections	Conditions Requested	Additional Information/Comments
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Natural Resources	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Conservation & Environmental Lands Mgmt.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Check if Applicable: <input type="checkbox"/> Wetlands/Other Surface Waters <input type="checkbox"/> Use of Environmentally Sensitive Land Credit <input type="checkbox"/> Wellhead Protection Area <input type="checkbox"/> Surface Water Resource Protection Area <input type="checkbox"/> Potable Water Wellfield Protection Area <input type="checkbox"/> Significant Wildlife Habitat <input type="checkbox"/> Coastal High Hazard Area <input type="checkbox"/> Urban/Suburban/Rural Scenic Corridor <input type="checkbox"/> Adjacent to ELAPP property <input checked="" type="checkbox"/> Other _Airport conditions_____			
Public Facilities:	Objections	Conditions Requested	Additional Information/Comments
Transportation <input type="checkbox"/> Design Exception/Adm. Variance Requested <input type="checkbox"/> Off-site Improvements Provided	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Utilities Service Area/ Water & Wastewater <input checked="" type="checkbox"/> Urban <input type="checkbox"/> City of Tampa <input type="checkbox"/> Rural <input type="checkbox"/> City of Temple Terrace	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Connection is required to the County's potable water and wastewater systems.
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Impact/Mobility Fees (Fee estimate is based on a 1,200 square foot, 2 bedroom, Multi-Family Units 1-2 story) Mobility: \$5,995 * 8 units = \$47,960 Parks: \$1,555 * 8 units = \$12,440 School: \$3,891 * 8 units = \$31,128 Fire: \$249 * 8 units = \$ 1,992 Total Multi-Family (1-2 story) = \$93,520			
Comprehensive Plan:	Findings	Conditions Requested	Additional Information/Comments

Planning Commission			
<input type="checkbox"/> Meets Locational Criteria	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Inconsistent	<input type="checkbox"/> Yes
<input type="checkbox"/> Locational Criteria Waiver Requested		<input checked="" type="checkbox"/> Consistent	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Minimum Density Met	<input checked="" type="checkbox"/> N/A		

5.0 IMPLEMENTATION RECOMMENDATIONS

5.1 Compatibility

The proposed uses are comparable to the multifamily uses allowed for the adjacent property, to the east and south. The residential development to the south and west is zoned PD 15-0398 and was approved for a density of 12 DU/AC.

The proposed residential project will not intrude into the required setbacks, will decrease the required buffers, nor will entail a reduction of the required screening. A 35-foot building height requires a 30-foot buffer, which is comprised of a 15-foot separation to the west, 8.83-feet to the south, and an additional buffer provided by the adjacent development.

Based on the above, Staff finds the request is approvable, subject to conditions.

5.2 Recommendation

Approval - Approval of the request, subject to the conditions listed below, is based on the general site plan submitted March 29, 2022.

1. The project shall be permitted a maximum of 8 attached multi-family units.
2. The location of structures shall be as generally shown on the site plan. The project shall be developed in accordance with the development standards of the RMC-12 zoning district, unless otherwise specified herein. The project shall not be subject to the 2-to-1 setback for structure height over 20 feet.
3. The project shall be restricted to two (2) vehicular connections to Trail Ridge Ln.
4. Notwithstanding anything herein these conditions or on the PD site plan to the contrary, bicycle and pedestrian access may be permitted anywhere along the PD boundaries.
5. Pursuant to the County Engineer’s de minimis criteria, and because Trail Ridge Ln. meets minimum life safety standards, the project shall not be required to make substandard road improvements to Trail Ridge Ln.
6. The developer shall combine all three project parcels into a single parcel, and all multi-family units shall be located on the new parcel.
7. The developer shall construct minimum 5-foot wide internal and external sidewalks as generally shown on the PD site plan. The primary pedestrian entrance to each unit shall occur to the side or rear of the structure and be connected to the internal sidewalk network. Pedestrian entrances shall not be permitted along the building façade facing the 24-foot wide driveway.

8. Potential buyers should be informed this location is within the flight path to Tampa International Airport and will be subject to aircraft overflight. The property falls outside of the 65 dnl noise contour around the airport and is a compatible but occupants may be subjected to noise from aircraft operating to and from the airport. The Aviation Authority suggests a noise reduction level of at least 25 db be incorporated into design.

9. Approval of this zoning petition by Hillsborough County does not constitute a guarantee that the Environmental Protection Commission of Hillsborough County (EPC) approvals/permits necessary for the development as proposed will be issued, does not itself serve to justify any impact to wetlands, and does not grant any implied or vested right to environmental approvals.

10. If the notes and/or graphic on the site plan are in conflict with specific zoning conditions and/or the Land Development Code (LDC) regulations, the more restrictive regulation shall apply, unless specifically conditioned otherwise. References to development standards of the LDC in the above stated conditions shall be interpreted as the regulations in effect at the time of preliminary site plan/plat approval, unless otherwise stated herein.

11. The development of the project shall proceed in strict accordance with the terms and conditions contained in the Development Order, the General Site Plan, the land use conditions contained herein, and all applicable rules, regulations, and ordinances of Hillsborough County.

Zoning Administrator Sign Off:



J. Brian Grady
Mon Apr 11 2022 09:24:51

SITE, SUBDIVISION AND BUILDING CONSTRUCTION IN ACCORDANCE WITH HILLSBOROUGH COUNTY SITE DEVELOPMENT PLAN & BUILDING REVIEW AND APPROVAL.

Approval of this re-zoning petition by Hillsborough County does not constitute a guarantee that the project will receive approvals/permits necessary for site development as proposed will be issued, nor does it imply that other required permits needed for site development or building construction are being waived or otherwise approved. The project will be required to comply with the Site Development Plan Review approval process in addition to obtain all necessary building permits for on-site structures.

B. HEARING SUMMARY

This case was heard by the Hillsborough County Land Use Hearing Officer on April 18, 2022. Mr. Brian Grady of the Hillsborough County Development Services Department introduced the petition.

Applicant

Mr. Mark Bentley spoke on behalf of the property owner, Hindu Temple of Florida. He stated the owner is seeking to rezone the subject property from AS-1 to PD to allow eight multi-family attached units. He stated the project will be accomplished through the PD rezoning and use of the flex provision. He stated the property to the west of the subject property is designated Res-12. He stated the applicant's narrative and the Planning Commission staff report address the justification for use of the flex provision.

Mr. Bentley provided background on the adjacent property, which is designated Res-12 on the Future Land Use Map, and on which the applicant is relying to implement the flex provision. Mr. Bentley stated he would submit documents into the record from the Future Land Use Map amendment and rezoning of that property. He displayed an aerial view of the subject property and surrounding properties owned by his client. He stated the proposed project is intended to be used as housing for priests associated with the Hindu Temple. He stated they do not need cars, but the project includes parking because the county requires it. He stated the traffic impact is *de minimis*. He stated the county did not require any changes or modifications to roadways in the area.

Mr. Bentley stated he would submit into the record a copy of the Religious Land Use and Institutionalized Persons Act, the intent of which is to provide protection for free exercise of religion in the context of local government land use regulation and allow for religious exercise. He stated Florida has a similar law, the Religious Freedom Act, chapter 761, Florida Statutes. Mr. Bentley asked Mr. Russell Ottenberg to speak about the applicant's site plan.

Mr. Russell Ottenberg displayed the applicant's site plan. He stated the project adjoins the Hindu Village project to the west and south. He stated this is the parcel that is designated Res-12. He stated the applicant is using the Hindu Village parcel to flex the Res-12 eastward to cover the subject property.

Mr. Ottenberg stated the county transportation staff had concerns about the applicant's previous site plan, and the applicant has reworked the site plan considerably to address those concerns. He stated transportation staff now supports the rezoning with conditions.

Mr. Ottenberg pointed out the Hindu Village development has 12 units in roughly the same area in which the proposed rezoning project will have eight units. He stated the Hindu Village project is surrounded by a masonry wall, and the proposed project will also be surrounded by a masonry wall. He stated the proposed project will have two access points on Trail Ridge Lane, which will serve the eight units.

Mr. Ottenberg stated the Hindu religion has specific requirements related to the location and orientation of certain residence components. He stated the applicant reoriented the project's pedestrian circulation and doorways while being very careful to lay out the units in a way that honors the religious requirements. He stated the project will have internal circulation that connects all the units to one another and to Trail Ridge Lane and up to Lynn Road. He stated the sidewalk to the north will be extended over to the Hindu Village property. He stated the applicant is required to provide that connection even though there is a solid wall that prevents actual connection.

Mr. Ottenberg stated stormwater management for the project will be via an under-pavement chamber system. He stated utilities will be standard. He stated the project is in proximity to the Hindu Temple and most traffic will be either foot traffic or via bicycle.

Mr. Bentley displayed an aerial view and pointed out the subject property owned by Hindu Temple and the adjacent parcels owned by Home Trendz, which is the Hindu Village property. He stated the Hindu Village project is under construction and that property has no affiliation with the temple property, so the projects are not integrated.

Development Services Department

Mr. Brian Grady, Hillsborough County Development Services Department, presented a summary of the findings and analysis as detailed in the staff report previously submitted into the record.

Planning Commission

Ms. Andrea Papandrew, Hillsborough County City-County Planning Commission, presented a summary of the findings and analysis as detailed in the Planning Commission report previously submitted into the record.

Proponents

The hearing officer asked whether there was anyone at the hearing in person or online to speak in support of the application. There were none.

Opponents

The hearing officer asked whether there was anyone at the hearing in person or online to speak in opposition to the application. There were none.

Development Services Department

Mr. Grady stated Development Services had nothing further.

Applicant Rebuttal

Mr. Bentley stated the applicant had nothing further.

The hearing officer closed the hearing on rezoning PD 22-0152.

C. EVIDENCE SUBMITTED

Mr. Bentley submitted into the record at the hearing a packet of exhibits including an aerial view of the Subject Property and surrounding properties; Ordinance No. 15-9 approving HC/CPA 15-04; Land Use Hearing Officer's recommendation for RZ-PD 15-0398; Chapter 761, Florida Statutes (2021); and 42 U.S.C. s. 2000.

D. FINDINGS OF FACT

1. The Subject Property consists of approximately 0.83 acres at the southwest corner of Lynn Road and Trail Ridge Lane in Tampa.
2. The Subject Property is zoned AS-1 and is designated Residential-4 on the *Future of Hillsborough Comprehensive Plan for Unincorporated Hillsborough County* Future Land Use Map.
3. The Subject Property is located within the boundaries of the Greater Carrollwood-Northdale Community Plan and is within the Urban Services Area.
4. Surrounding land uses include a retention pond and single-family uses to the north; PD zoned for multi-family uses to the west and south; and properties zoned AS-1 and developed with single-family conventional residences and mobile homes to the east across Trail Ridge Lane.
5. The applicant is requesting to rezone the Subject Property to a Planned Development for 8 multifamily attached units.
6. The applicant is requesting to use the flex provision of Future Land Use Policies 7.3 and 7.4 to flex the Residential-12 Future Land Use designation of the parcel west of the Subject Property.
7. Trail Ridge Lane is a substandard roadway; however, the County Engineer determined the project will have a *de minimis* traffic impact; therefore, no improvements or administrative variance are required.
8. County staff found the proposed rezoning approvable, subject to conditions enumerated in the staff report based on the applicant's general site plan submitted March 29, 2022.
9. Planning Commission staff found the Subject Property meets the criteria stated in Future Land Use Policy 7.3 for consideration of the flexible boundary land use category provision in that the flex area would not extend beyond 500 feet from the existing land use boundary, the flex is parallel to the land use category line and is not an extension of an existing flexed area, the Subject Property is in the Urban Services Area and not in the Coastal High Hazard Area, and the flex request is

part of a Planned Development application. Planning Commission staff found the flex request is justified, and recommended approval of the request.

10. Planning Commission staff found the proposed rezoning is consistent with the comprehensive plan and the Greater Carrollwood-Northdale Community Plan.

E. FINDINGS OF COMPLIANCE OR NON-COMPLIANCE WITH COMPREHENSIVE PLAN

The rezoning request is in compliance with, and does further the intent of the Goals, Objectives, and Policies of the *Future of Hillsborough Comprehensive Plan for Unincorporated Hillsborough County*.

F. CONCLUSIONS OF LAW

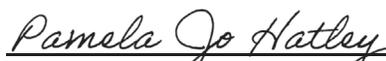
A development order is consistent with the comprehensive plan if “the land uses, densities or intensities, and other aspects of development permitted by such order...are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.” § 163.3194(3)(a), Fla. Stat. (2020). Based on the evidence and testimony submitted in the record and at the hearing, including reports and testimony of Development Services Staff and Planning Commission staff, applicant’s testimony and evidence, there is substantial competent evidence demonstrating the requested rezoning is consistent with the *Future of Hillsborough Comprehensive Plan for Unincorporated Hillsborough County*, and does comply with the applicable requirements of the Hillsborough County Land Development Code.

G. SUMMARY

The applicant is requesting to rezone the Subject Property to a Planned Development for 8 multifamily attached units. The applicant is requesting to use the flex provision of Future Land Use Policies 7.3 and 7.4 to flex the Residential-12 Future Land Use designation of the parcel west of the Subject Property.

H. RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, this recommendation is for **APPROVAL** of the rezoning request, subject to the conditions stated in the staff report based on the applicant’s general site plan submitted March 29, 2022.


Pamela Jo Hatley PhD, JD
Land Use Hearing Officer

5-9-2022
Date:



**Hillsborough County
City-County
Planning Commission**

Unincorporated Hillsborough County Rezoning	
Hearing Date: April 18, 2022 Report Prepared: April 6, 2022	Petition: PD 22-0152 5416 & 5418 West Lynn Road and 10310 Trail Ridge Lane <i>South of Lynn Road and west of Trail Ridge Lane</i>
Summary Data:	
Comprehensive Plan Finding:	CONSISTENT
Adopted Future Land Use:	Residential-4 (4 du/ac; 0.25 FAR)
Service Area	Urban
Community Plan:	Greater Carrollwood Northdale
Rezoning Request:	Agricultural Single Family (AS-1) to Planned Development (PD) allowing up to 8 multifamily units with attached parking utilizing the FLUE Policy 7.3 flex provision
Parcel Size (Approx.):	0.83 +/-acres (36,155 sq. ft.)
Street Functional Classification:	Lynn Road – Local Roadway Trail Ridge Lane – Local Roadway Nixon Road – Collector
Locational Criteria	N/A
Evacuation Zone	None



Context

- The subject property is located on approximately 0.83 acres south of Lynn Road, east of Williams Road, and west of Trail Ridge Lane. The property is located within the limits of the Greater Carrollwood Northdale Community Plan and is in the Urban Service Area (USA).
- The subject site's Future Land Use classification is Residential-4 (RES-4) on the Future Land Use Map. RES-4 is located to the north and east of the subject property. Residential-9 (RES-9) is located immediately to the west and south of the subject property. Res-12 is located directly to the west of the subject site.
- The subject property is zoned Agricultural Single Family (AS-1) with single family residential and public institutional uses. According to the Hillsborough County Property Appraiser, the public institutional portion of the site is doing business as the Hindu Temple of Florida. An aerial view of the site shows existing residential homes on the property. East of the site is AS-1 zoning with existing single family residential properties. North, south and west is comprised of vacant lots with Planned Development (PD) zoning. Further south is AS-1 zoning with single family residential properties.
- The applicant requests to rezone the subject property from Agricultural Single Family (AS-1) to Planned Development (PD) allowing up to 8 multifamily units with attached parking. The applicant has requested to utilize the flex provision in policies 7.3 and 7.4 and flex the Residential-12 (RES-12) Future Land Use Category to the west of the site.

Compliance with Comprehensive Plan:

The following Goals, Objectives and Policies apply to this rezoning request and are used as a basis for a consistency finding.

FUTURE LAND USE ELEMENT

Urban Service Area (USA)

Objective 1: Hillsborough County shall pro-actively direct new growth into the urban service area with the goal that at least 80% of all population growth will occur within the USA during the planning horizon of this Plan. Within the Urban Service Area, Hillsborough County will not impede agriculture. Building permit activity and other similar measures will be used to evaluate this objective.

Policy 1.2: Minimum Density: All new residential or mixed use land use categories within the USA shall have a density of 4 du/ga or greater unless environmental features or existing development patterns do not support those densities. Within the USA and in categories allowing 4 units per acre or greater, new development or redevelopment shall occur at a density of at least 75% of the allowable density of the land use category, unless the development meets the criteria of Policy 1.3.

Policy 1.4: Compatibility is defined as the characteristics of different uses or activities or design which allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include the following: height, scale, mass and bulk of structures, pedestrian or vehicular traffic, circulation, access and parking impacts, landscaping, lighting, noise, odor and

architecture. Compatibility does not mean “the same as.” Rather, it refers to the sensitivity of development proposals in maintaining the character of existing development.

Policy 1.7: *The County will create incentives to make development within the USA desirable and cost affordable. Such incentives may include but are not limited to expedited review processes, retrofitting existing development, increased density bonuses, tax incentives, impact fee structuring and pre-zoning of vacant, underutilized lands to achieve planned densities.*

Relationship to the Future Land Use Map

Objective 7: *The Future Land Use Map is a graphic illustration of the county's policies governing the determination of its pattern of development in the unincorporated areas of Hillsborough County through the year 2025.*

Policy 7.1: *The Future Land Use Map shall be used to make an initial determination regarding the permissible locations for various land uses and the maximum possible levels of residential densities and/or non-residential intensities, subject to any special density provisions, locational criteria and exceptions of the Future Land Use Element text.*

Policy 7.2: *All land use category boundaries on the Future Land Use Map coinciding with and delineated by man-made or natural features, such as but not limited to roads, section lines, property boundaries, surface utility rights-of-way, railroad tracks, rivers, streams or other water bodies or wetlands are precise lines.*

Policy 7.3: *The land use category boundaries may be considered for interpretation as flexible boundaries in accordance with the Flex Provision as follows:*

- *Through application of the flex provision, the land use category boundaries shall be deemed to extend beyond the precise line to include property adjoining or separated by a man made or natural feature from the existing boundary line.*
- *The line may be relocated a maximum of 500 feet from the existing land use boundary of the adopted Land Use Plan Map. Right-of-Way is not included in the measurement of the 500 foot flex.*
- *No new flexes can be extended from an existing flexed area.*
- *All flexes must be parallel to the land use category line.*
- *Flexes are not permitted in the Rural Area or in areas specified in Community Plans. Flexes are also not permitted from the Urban Service Area into the Rural Area. All flexes in the Rural Area approved prior to July 2007 are recognized and are not to be considered non-conforming.*
- *Flexes to increase residential density are not permitted in the Coastal High Hazard Area.*
- *Flexes are not permitted from a municipality into the unincorporated county.*
- *A flex must be requested as part of planned development or site plan oriented rezoning application. Major Modification to approved zoning that changes the intensity, density or the range of uses will require that the previous flex request be re-evaluated for consistency and a new flex request may be required.*
- *Applicants requesting a flex must provide written justification that they meet the criteria for a flex as outlined below.*
- *The Board of County Commissioners may flex the plan category boundary to recognize or grant a zoning district which is not permitted in the land use category but lies within the distance of a conforming land use category, as described above. Prior*

to the determination by the Board of County Commissioner, the staff of the Planning Commission shall make a recommendation on the consistency of the request with the Comprehensive Plan.

Policy 7.4: The criteria for consideration of a flex request are as follows:

- The availability and adequacy of public facilities to serve the proposed development accommodated by the flex;
- The compatibility with surrounding land uses and their density and intensity;
- The utilization of the flex furthers other goals, objectives and policies of the Future Land Use Element.

Neighborhood/Community Development

Objective 16: Neighborhood Protection The neighborhood is the functional unit of community development. There is a need to protect existing, neighborhoods and communities and those that will emerge in the future. To preserve, protect, and enhance neighborhoods and communities, all new development must conform to the following policies.

Policy 16.1: Established and planned neighborhoods and communities shall be protected by restricting incompatible land uses through mechanisms such as:

- a) locational criteria for the placement of non-residential uses as identified in this Plan,
- b) limiting commercial development in residential land use categories to neighborhood scale;
- c) requiring buffer areas and screening devices between unlike land uses;

Policy 16.2: Gradual transitions of intensities between different land uses shall be provided for as new development is proposed and approved, through the use of professional site planning, buffering and screening techniques and control of specific land uses.

Policy 16.3: Development and redevelopment shall be integrated with the adjacent land uses through:

- a) the creation of like uses; or
- b) creation of complementary uses; or
- c) mitigation of adverse impacts; and
- d) transportation/pedestrian connections

Policy 16.7: Residential neighborhoods shall be designed to include an efficient system of internal circulation and street stub-outs to connect adjacent neighborhoods together.

Policy 16.8: The overall density and lot sizes of new residential projects shall reflect the character of the surrounding area, recognizing the choice of lifestyles described in this Plan.

Policy 16.13: Medium and high density residential and mixed use development is encouraged to be located along transit emphasis corridors, potential transit corridors on the MPO 2050 Transit Concept Map and collector and arterial roadways within the Urban Service Area.

COMMUNITY PLANNING

Objective 18: Hillsborough County is comprised of many diverse communities and neighborhoods, each with its own unique identity. While the comprehensive plan is effective in

providing an overall growth management strategy for development within the entire County, it does not have detailed planning strategies for individual communities. The County shall develop strategies that ensure the long-range viability of its communities through a community and special area studies planning effort.

Policy 18.1: The County shall assist the Hillsborough County City-County Planning Commission in developing community plans for each planning area that are consistent with and further the Comprehensive Plan. The community plans will be adopted as part of the Comprehensive Plan in the Livable Communities Element; these more restrictive community-specific policies will apply in guiding the development of the community.

Additional policies regarding community planning and the adopted community plans can be found in the Livable Communities Element.

LIVABLE COMMUNITIES ELEMENT

Greater Carrollwood-Northdale

Vision

The Greater Carrollwood-Northdale Communities Plan completed in 2009 resulted in development and redevelopment opportunities reflected our vision for an aesthetically pleasing, well designed, transit supported, mixed use activity centers and residential neighborhoods which created our vibrant and economically sustainable community.

We enjoy our walkable, family friendly, community focal points at the community activity centers that bring everyone together from their distinct communities; they include landscaped open space, shops, offices, parking on upper floors, and entertainment opportunities.

2. Community Design/Culture

Maintain and enhance community pride by promoting the areas' history, culture and volunteerism while preserving each community's value and unique character. As the area redevelops it is important that the existing residential neighborhoods remain suburban in nature.

Goal 2: Reinforce community identity through maintenance and enhancement of the community's unique characteristics, assets and physical appearance.

Strategies:

- Promote focal points and landmarks that reflect the uniqueness of the each neighborhood within community area.
- New development and redevelopment shall use compatibility design techniques to ensure the appearance (architectural style), mass and scale of development is integrated with the existing suburban nature of each neighborhood. (i.e. transitions, buffers etc).
- Preserve the character and integrity of existing neighborhoods through increased code enforcement.

Goal 5: Create a walkable environment that is safe and convenient through the connection of sidewalks, crosswalks, paths and trails that link both natural and built environments.

Strategies:

- *New development will provide pedestrian infrastructure and amenities that connect to existing facilities along roadway network. Priority shall be given to designing in a manner that fosters safe walkable/biking along Dale Mabry Highway, Bearss Ave, Fletcher Ave, Linebaugh Ave, Gunn Hwy and Handy Road.*
- *Use the adopted Livable Roadways Guidelines to maximum extent possible to accomplish Goal 5.*
- *Provide interconnected system of parks, open spaces and other amenities that is easily accessible and pedestrian friendly, with special attention to the Upper Tampa Bay trail and other greenways/trails on the adopted Greenways and Trails Master Plan.*
- *Provide sidewalks along both sides of roadways connecting to public parks. (such as along Four Oaks Road to Timberlane Park, Lake Park etc).*
- *Ensure that pedestrian facilities such as sidewalks and trails are implemented concurrent with or before the vehicular improvements. Prioritize pedestrian circulation and facilities over vehicular improvements.*
- *Provide direct and multiple street and sidewalk connections within development projects and their building entrances as well as to adjacent projects to form a cohesive connected and integrated development pattern.*
- *Provide pedestrian access to the cultural amenities and other assets within the neighborhoods such as the Carrollwood Cultural Center, parks such as Northdale Park and Lake Park, libraries, existing shopping areas and future community activity centers.*
- *Focus efforts on building facilities that will complete the existing sidewalk, bicycle, pedestrian and trail network.*

Staff Analysis of Goals, Objectives, and Policies:

The subject property is located on approximately 0.83 acres south of Lynn Road, east of Williams Road, and west of Trail Ridge Lane. The property is located within the limits of the Greater Carrollwood Community Plan and is in the Urban Service Area (USA). The applicant requests to rezone the subject property from Agricultural Single Family-1 (AS-1) to Planned Development (PD) allowing up to 8 multifamily units with attached parking. The applicant has requested to utilize the FLUE Policy 7.3 flex provision and flex the Residential-12 (RES-12) Future Land Use Category to the west of the site.

The subject property is located within the Urban Service Area. Per Policy 1.2 (FLUE), the site must satisfy minimum density requirements. The maximum allowable density on the subject site with the flex of the RES-12 is 9 dwelling units and the minimum allowable density is 7 dwelling units. The application requests 8 multifamily units and satisfies Policy 1.2 (FLUE).

The subject property is designated Residential- (RES-4) on the Future Land Use Map. The intent of the RES-4 Future Land Use category is to designate areas that are suitable for low density residential development. In addition, suburban scale neighborhood commercial, office, multi-purpose and mixed use projects serving the area may be permitted subject to the Goals, Objectives, and Policies of the Land Use Element and applicable development regulations and conforming to established locational criteria for specific land use.

The applicant seeks to utilize the flex provision as outlined in Policies 7.3 and 7.4 in the Future Land Use Element (FLUE) to flex the RES-12 portion of the subject site to the entire parcel for greater density. The site meets the criteria stated in Policy 7.3. The flex would not extend beyond the maximum of 500 feet from the existing land use boundary of the

adopted Future Land Use Map. The flex is parallel to the land use category line and is not an extension of an existing flexed area. The flex is in the Urban Service Area and is not in the Coastal High Hazard Area. The flex request is part of a Planned Development application.

The intent of the RES-12 Future Land Use category is to designate areas that are suitable for medium density residential, as well as urban scale neighborhood commercial, office, multi-purpose projects, and mixed-use developments when in compliance with the Goals, Objectives, and Policies of the Land Use Element and applicable development regulations and locational criteria for specific land uses.

As requested by Planning Commission staff's preliminary comments, the applicant has provided written justification for the flex request. According to the applicant, the flex request is justified as the BOCC approved the Future Land Use Map Amendment change to RES-12 and a PD rezoning (11 .5 units per acre) for the adjacent project to the west, the Hindu Village in 2015. The proposed development will be compatible with the adjacent Hindu Village in relation to the following: density, use, height, scale, mass and bulk of structures, pedestrian and vehicular traffic, circulation, access and parking impacts, landscaping, lighting, noise, odor, and architecture. The applicant has stated that the proposed development is extremely similar to the adjacent RES-12 property and the project is compatible with contiguous and adjacent land uses and intensities. The project is affiliated with the Hindu Temple religious institution and associated uses located to the north and west and is intended as residential accommodations for priests. The Temple will provide meals, social and religious services, and support. The applicant has also stated there are available and adequate public facilities to serve the proposed development.

The applicant has also stated that the project is designed to be integrated with the Hindu Village and is a good transitional use between the multi-family use and the large- scale Hindu Temple religious institution to the north and west, and the single-family residential to the south and east. The applicant states using the flex allows the project to be located on the same block as adjacent multi-family uses and this protects the character of the single family residential uses. The design component includes units with inner courtyards and parking spaces for each unit instead of shared paved parking. The units are designed as detached single units, which is a less dense appearance. The subject property also proposes buffering and screening through a masonry wall which will be architecturally finished to match the adjacent Hindu Temple wall. Lastly, the project provides public sidewalks that connect to the existing pedestrian network. The applicant contends that the site furthers the following objective policies of the Future Land Use Element: Policy 1.4, Objective 16, Policy 16.2, Policy 16.3, Policy 16.8, Policy 16.10, Policy 16.3, 6-1, 6-1.1, and the Greater Carrollwood Northdale Community Plan Goals 1, 2, and 5. Planning Commission Staff have reviewed the flex request and concur with the applicant that they meet the justification criteria for the flex and advise the BOCC to grant approval of the flex request.

The subject property is within the Greater Carrollwood-Northdale Community Plan. Goal 5 of the Plan states that new development will provide pedestrian facilities that connect to the existing roadway network. Pedestrian facilities are implemented concurrent with vehicular improvement. Goal 5 also states that an integrated development pattern must be formed through direct street and sidewalk connections within development projects as well as to adjacent projects. The proposed development will provide 5 foot internal and external sidewalk facilities on Lynn Road and Trail Ridge Lane. The development is also

adjacent to the newly constructed Hindu Village development. The site will not have cross access connections to the adjacent residential property to the west, the Hindu Village. The applicant has stated that the Hindu Village has constructed a wall on its western property boundary prohibiting cross access. The request is consistent with the *Greater Carrollwood-Northdale Community Plan*.

Overall, staff finds that the proposed modification is consistent with Urban Service Area policies and supports the vision of the *Greater Carrollwood-Northdale Community Plan*. The request is compatible with the existing development pattern in the area. The flex request and the proposed residential development are also consistent with the RES-4 and RES-12 Future Land Use categories. The request would allow for a development that is consistent with the Goals, Objectives and Policies of the *Future of Hillsborough Comprehensive Plan for Unincorporated Hillsborough County*.

Recommendation

Based upon the above considerations, Planning Commission staff finds the proposed Planned Development **CONSISTENT** with the *Future of Hillsborough Comprehensive Plan for Unincorporated Hillsborough County*, subject to conditions proposed by the Development Services Department.

HILLSBOROUGH COUNTY FUTURE LAND USE RZ PD 22-0152

Rezonings

<all other values>

STATUS

- APPROVED
- CONTINUED
- DENIED
- WITHDRAWN
- PENDING

Tampa Service Area

Urban Service Area

Shoreline

County Boundary

Jurisdiction Boundary

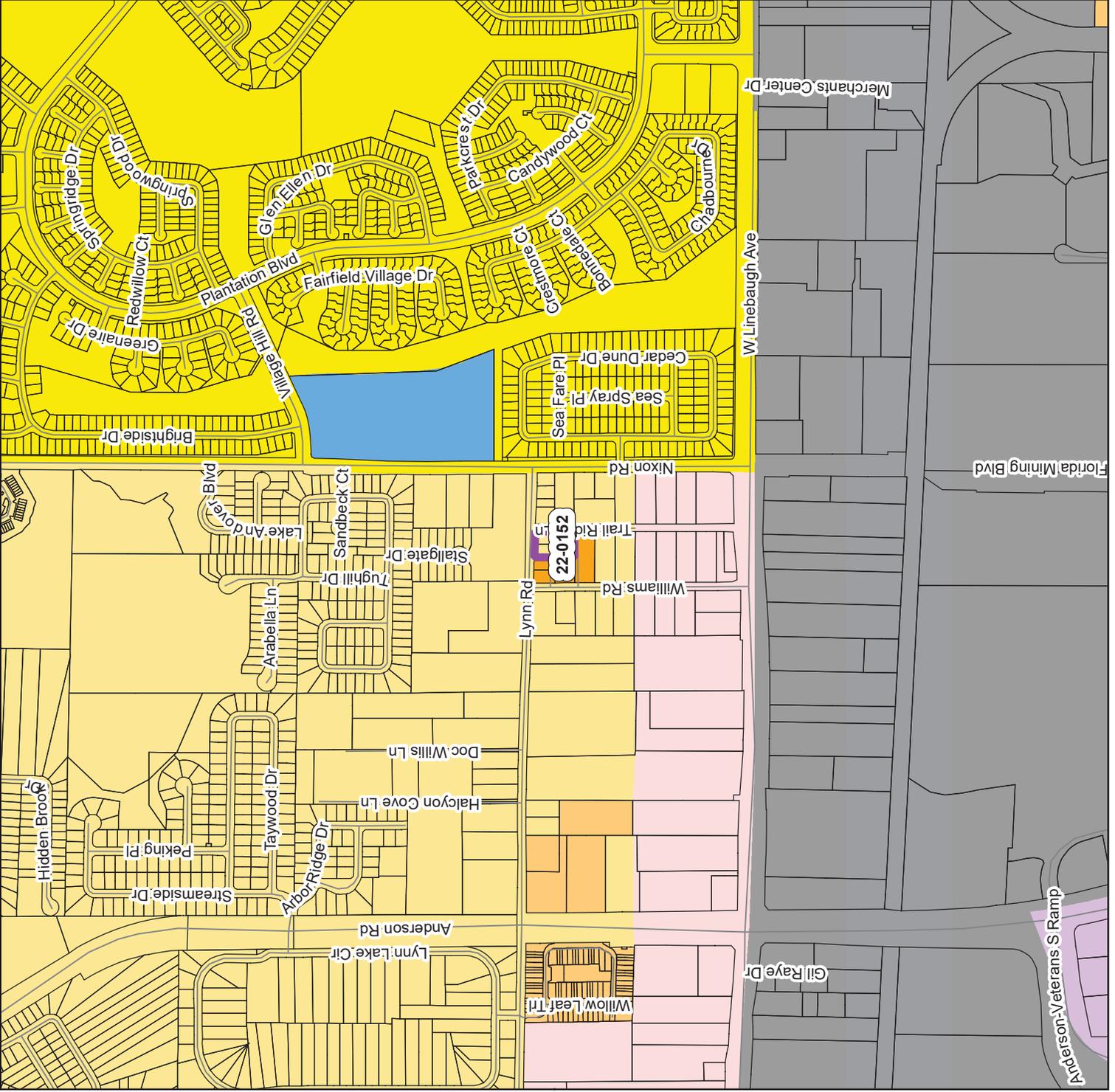
Roads

Parcels

- AGRICULTURAL/MINING-120 (.25 FAR)
- PEC PLANNED ENVIRONMENTAL COMMUNITY-1/2 (.25 FAR)
- AGRICULTURAL-1/10 (.25 FAR)
- AGRICULTURAL-RURAL-1/5 (.25 FAR)
- AGRICULTURAL-ESTATE-1/2.5 (.25 FAR)
- RESIDENTIAL-1 (.25 FAR)
- RESIDENTIAL-2 (.25 FAR)
- RESIDENTIAL-4 (.25 FAR)
- RESIDENTIAL-6 (.25 FAR)
- RESIDENTIAL-9 (.35 FAR)
- RESIDENTIAL-12 (.35 FAR)
- RESIDENTIAL-16 (.35 FAR)
- RESIDENTIAL-20 (.35 FAR)
- RESIDENTIAL-35 (1.0 FAR)
- NEIGHBORHOOD MIXED USE-4 (3) (.35 FAR)
- SUBURBAN MIXED USE-6 (.35 FAR)
- COMMUNITY MIXED USE-12 (.50 FAR)
- URBAN MIXED USE-20 (1.0 FAR)
- REGIONAL MIXED USE-35 (2.0 FAR)
- OC-20
- RESEARCH CORPORATE PARK (1.0 FAR)
- ENERGY INDUSTRIAL PARK (.50 FAR USES OTHER THAN RETAIL, .25 FAR RETAIL/COMMERCE)
- LIGHT INDUSTRIAL PLANNED (.50 FAR)
- LIGHT INDUSTRIAL (.50 FAR)
- HEAVY INDUSTRIAL (.50 FAR)
- PUBLIC/QUASH-PUBLIC
- NATURAL PRESERVATION
- WIMAUVA VILLAGE RESIDENTIAL-2 (.25 FAR)
- CITRUS PARK VILLAGE

DATA SOURCES: Rezonings boundaries from The Planning Commission and are not official. Parcel lines and data from Hillsborough County Property Appraiser. The information on this map is for informational purposes only. It is intended that the information on this map be used in conjunction with the official City-County Planning Commission. ACCURACY: It is intended that the information on this map be used in conjunction with the official standards. However, such accuracy is not guaranteed by the Hillsborough County City-County Planning Commission. This map is for illustrative purposes only. For the most current data and information, visit the appropriate website.

0 460 920 1,380 1,840 Feet





**GENERAL
SITE PLAN
FOR
CERTIFICATION**



DEVELOPMENT SERVICES

PO Box 1110, Tampa, FL 33601-1110
(813) 272-5600

**HILLSBOROUGH COUNTY
DEVELOPMENT SERVICES DEPARTMENT**

GENERAL SITE PLAN REVIEW/CERTIFICATION

**BOARD OF COUNTY
COMMISSIONERS**

Harry Cohen
Ken Hagan
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Gwendolyn "Gwen" Myers
Kimberly Overman
Mariella Smith
Stacy R. White

COUNTY ADMINISTRATOR

Bonnie M. Wise

COUNTY ATTORNEY

Christine M. Beck

INTERNAL AUDITOR

Peggy Caskey

DEPUTY COUNTY ADMINISTRATOR

Gregory S. Horwedel

Project Name: Hindu Temple Multi-Family Development

Zoning File: RZ-PD (22-0152) Modification: None

Atlas Page: None Submitted: 05/19/22

To Planner for Review: 05/23/22 Date Due: ASAP

Contact Person: Mark Bentley, B.C.S, AICP Phone: (813)225-2500/ markb@jpfirm.com

Right-Of-Way or Land Required for Dedication: Yes No

The Development Services Department HAS NO OBJECTION to this General Site Plan.

The Development Services Department RECOMMENDS DISAPPROVAL of this General Site Plan for the following reasons:

Reviewed by: Tania C. Chapela Date: 05/24/22

Date Agent/Owner notified of Disapproval: _____

Project:
2812.0000, 2812.0000 & 23827.5000
RES-4
RES-12
AS-1
PD
Single-Family Residential
Multi-Family Residential
21,289 s.f.
Units
Greater Carrollwood Northside
20'
15'
30'
0.85
Hillsborough County
16 spaces
16 spaces

Revisions:
1. 05/23/22
2. 05/23/22
3. 05/23/22
4. 05/23/22
5. 05/23/22
6. 05/23/22
7. 05/23/22
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100. 05/23/22



Scale: AS Noted

Hindu Temple Multi-Family Development
5416 Lynn Road, Tampa, Florida

Plan Division
PD Rezoning
Site Plan

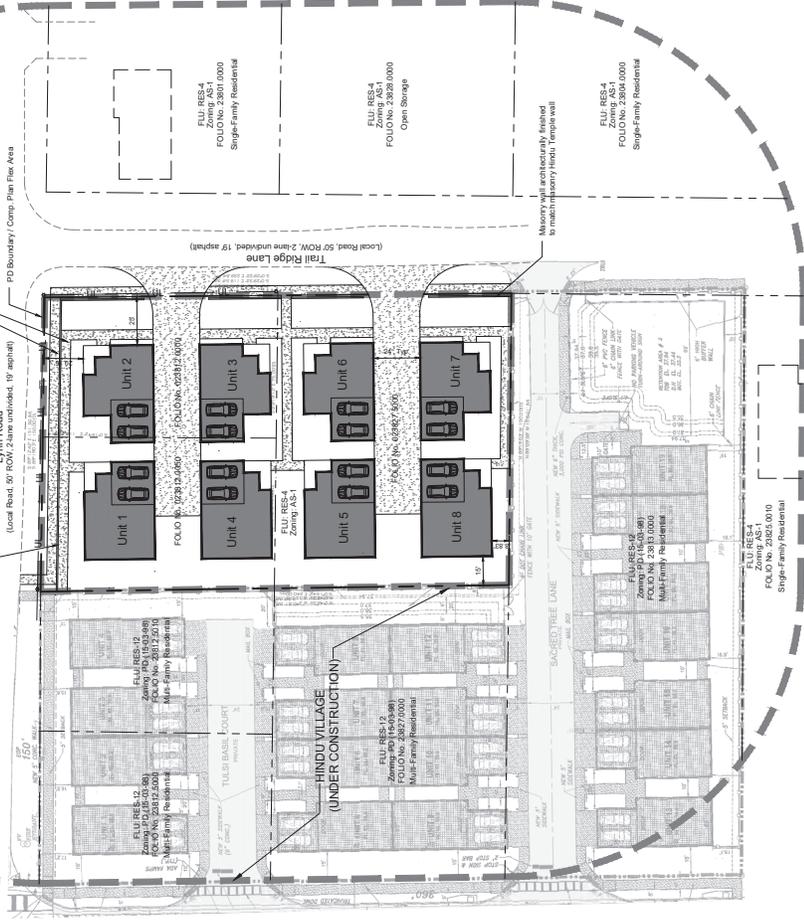
Sheet No.
PD1

PROJECT DATA TABLE

Gross Acreage -	0.83 Ac. MCL 1,961,189 s.f.
FOLO No.	2812.0000, 2812.0000 & 23827.5000
Existing FUI Designation -	RES-4
Proposed FUI Pbx -	RES-12
Existing Zoning -	AS-1
Proposed Zoning -	PD
Existing Use -	Single-Family Residential
Proposed Use -	Multi-Family Residential
Gross Building Area	21,289 s.f.
Max. Allowable Dwelling Units:	Units
- 0.83 Ac. x 12 DU / Ac. =	Units
Proposed Dwelling Units -	Greater Carrollwood Northside
Community Planning Area -	20'
Proposed:	15'
- Front Yard -	30'
- Rear Yard -	0.85
- Max. Impervious Surface Ratio	Hillsborough County
- Water/Wastewater Service Provider -	16 spaces
Required Parking:	16 spaces
- 2 / dwelling unit x 8 dwelling units =	16 spaces
Provided Parking -	

NOTES:

1. The subject property is in the Urban Service Area.
2. The proposed use will generate six (6) PM Peak Hour trips.
3. The Hindu Village residential development adjoining the subject property along the subject line is under construction and will generate a primary source of traffic but during the property line.
4. Stormwater will be accommodated via an under-pavement chamber system and may be augmented with open ponds.



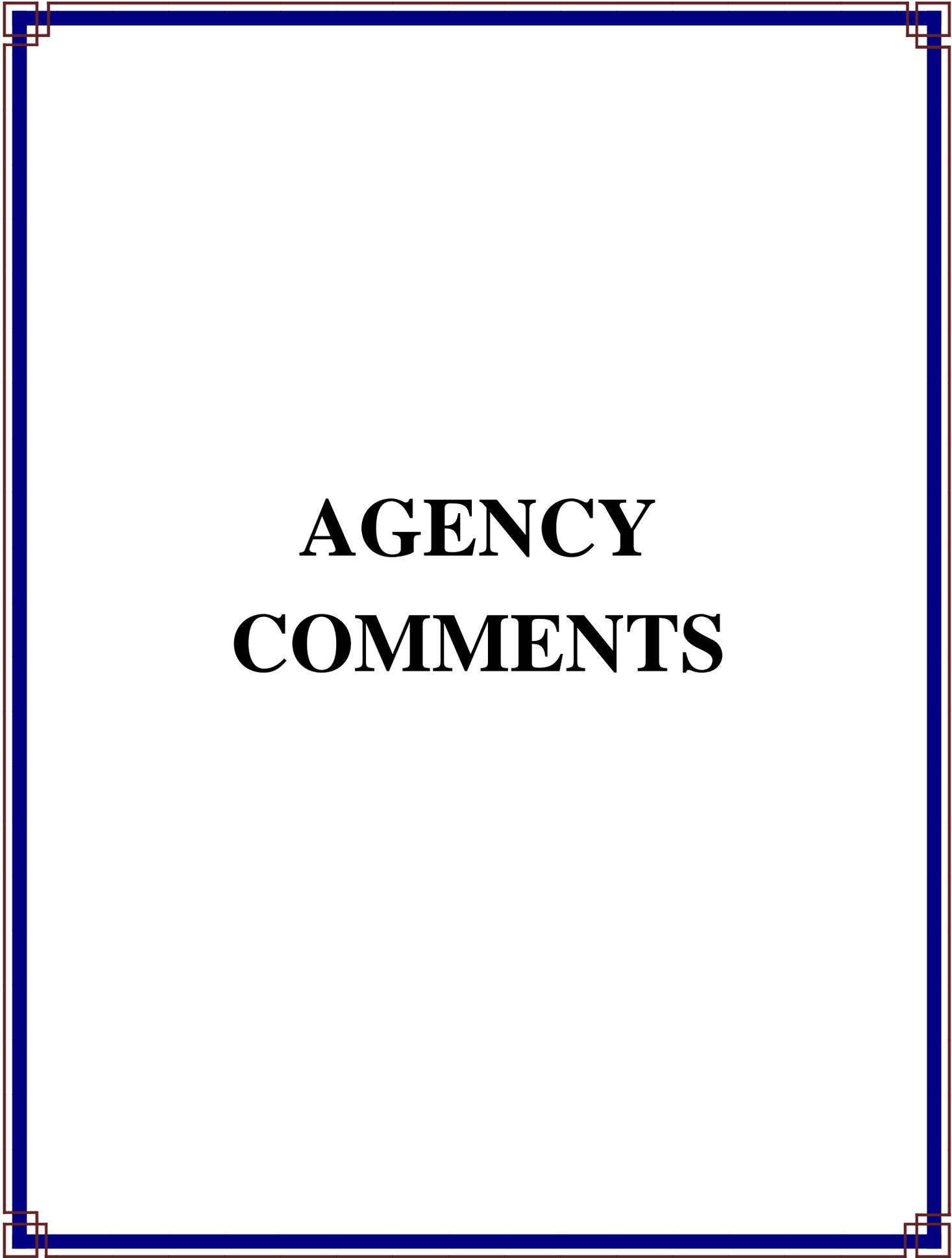
LEGAL DESCRIPTION:
THE WEST 75 FEET OF THE EAST 400 FEET OF THE WEST 1/4 SECTION 14 OF SECTION 14, TOWNSHIP 28 SOUTH, RANGE 18 WEST, COUNTY OF HILLSBOROUGH COUNTY, FLORIDA,
AND
THE NORTH 90 FEET OF THE WEST 200 FEET OF THE SOUTH 1/4 SECTION 14 OF SECTION 14 OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 28 SOUTH, RANGE 18 WEST, COUNTY OF HILLSBOROUGH COUNTY, FLORIDA.

OWNER / DEVELOPER:
Hindu Temple of Florida, Inc.
5509 Lynn Rd.
Tampa, FL 33624
Attn: Chandra Southikonda
T: (813) 962-8866
bigang@yahoo.com

REPRESENTATIVE:
Mark Bentley, Esq.
401 E. Jackson St., Ste. 3100
Tampa, FL 33602
T: (813) 225-2500
markb@rffm.com

PLANNER / ENGINEER:
Planeng, Inc.
3737 Park Joys Dr.
Clearwater, FL 34630
Attn: Russell Ottenberg
T: (813) 962-1752
russell@planeng.com

ARCHITECT:
Invision Design & Development Consulting, Inc.
1001 South Fort Harrison Ave., Ste. 202
Clearwater, FL 33756
Attention: Oscar Benavidas
T: (727) 478-7373
oscarb72@gmail.com



AGENCY COMMENTS

AGENCY REVIEW COMMENT SHEET

TO: Zoning Technician, Development Services Department

DATE: 4/6/2022

REVIEWER: James Ratliff, AICP, PTP

AGENCY/DEPT: Transportation

PLANNING AREA/SECTOR: GCN/ Northwest

PETITION NO: RZ 22-0152

- This agency has no comments.
- This agency has no objection.
- This agency has no objection, subject to the listed or attached conditions.
- This agency objects for the reasons set forth below.

CONDITIONS OF APPROVAL

1. The project shall be restricted to two (2) vehicular connections to Trail Ridge Ln.
2. Notwithstanding anything herein these conditions or on the PD site plan to the contrary, bicycle and pedestrian access may be permitted anywhere along the PD boundaries.
3. Pursuant to the County Engineer's de minimis criteria, and because Trail Ridge Ln. meets minimum life safety standards, the project shall not be required to make substandard road improvements to Trail Ridge Ln.
4. The developer shall combine all three project parcels into a single parcel, and all multi-family units shall be located on the new parcel.
5. The developer shall construct minimum 5-foot wide internal and external sidewalks as generally shown on the PD site plan. The primary pedestrian entrance to each unit shall occur to the side or rear of the structure and be connected to the internal sidewalk network. Pedestrian entrances shall not be permitted along the building façade facing the 24-foot wide driveway.

PROJECT SUMMARY AND ANALYSIS

The applicant is requesting to rezone three parcels, totaling +/- 0.82 ac., from Agricultural Single-Family – 1 (AS-1) to Planned Development (PD). The applicant is seeking entitlements for up to 8 multi-family dwelling units.

As required by the Development Review Procedures Manual (DRPM), the applicant submitted a letter indicating the project would generate fewer than 50 peak hour trips and, as such, no transportation analysis was required to process this rezoning. Utilizing data from the Institute of Transportation Engineer's Trip Generation Manual, 10th Edition, and based upon a generalized worst-case scenario, staff has prepared a comparison of the trip generation potential at project buildout under the existing and proposed zoning designations.

Existing Use:

Land Use/Size	24 Hour Two-Way Volume	Total Peak hour Trips	
		AM	PM
AS-1, 3 Single Family Detached Dwelling Units (ITE LUC 210)	28	2	3

Proposed Use:

Land Use/Size	24 Hour Two-Way Volume	Total Peak Hour Trips	
		AM	PM
PD, 13 Multi-Family Dwelling Units (ITE LUC 220)	59	4	4

Trip Generation Difference:

Land Use/Size	24 Hour Two-Way Volume	Total Peak Hour Trips	
		AM	PM
Difference	(+) 31	(+) 2	(+) 1

TRANSPORTATION INFRASTRUCTURE SERVING THE SITE

Trail Ridge Ln. is a 2-lane, undivided, substandard, local, dead-end roadway characterized by +/- 17-feet of pavement in poor condition. Along the project’s frontage, the roadway lies within a +/- 50-foot wide right-of-way. There are +/- no sidewalks along Trail Ridge Ln. There are no bicycle facilities (or paved shoulders) along Trail Ridge Ln.

Although Trail Ridge Ln. is substandard, by policy of the County Engineer projects generating fewer than 10 peak hour trips in total are generally exempt from the Section 6.04.03.L. LDC requirement whereby a project taking access to a substandard road must improve the road between the project access and nearest standard roadway, provided the roadway being accessed meets minimum life safety standards (i.e. 15 feet of pavement within a 20-foot wide clear area). Trail Ridge Ln. meets these minimum standards and staff has no concerns regarding the ability of emergency vehicles to access the site. As such, no substandard road improvements shall be required.

SITE ACCESS AND DESIGN

Site Access

Vehicular access to site is being served by two ungated connections to Trail Ridge Ln. Pedestrian access is being accommodated via a single access connection to Trail Ridge Ln. Cross access is not required pursuant to Section 6.0.403.Q of the LDC.

Site Design

The project is being arranged in clusters of four units, each served by an access driveway to Trail Ridge Ln. Given the small size of the site, the developer is proposing a unique design which separates vehicular and pedestrian traffic by placing the pedestrian entrance to the structure an alternate side of the structure from the vehicular entrance/garage (i.e. by placing the “front door” on either the rear or side of the structure, depending upon the unit).

This design, akin to an alley loaded concept (albeit with a small overall right-of-way, no outlet, no green strips and a wider drive-aisle than would be required in an alley), prevents conflicts with vehicles backing out of the garage from unintentionally hitting or backing over pedestrian. Given the small size of the site, it wasn't possible to configure these units in a more traditional arrangement where both pedestrian and vehicular access in the front of the each unit, given the need for garage entrances to be separated a minimum of 15 feet from the closet edge of the sidewalk for site visibility purposes.

Given the proposed transportation infrastructure (i.e. 24-foot wide private driveways) and the fact that only 2-unit buildings are proposed, these units would be considered single-family dwellings if constructed on individual lots which could be separately sold. As such, and given the design of these particular multi-family units, all units must be constructed on a single parcel and cannot be subdivided without further improvements (i.e. construction of an alleyway or Typical Section – 3 roadway meeting Transportation Technical Manual (TTM) standards and other requirements). Given the size and proposed design of the site, such improvements would likely not be possible without reduction in size and/or relocation of the proposed buildings (which would require a zoning modification).

ROADWAY LEVEL OF SERVICE (LOS) INFORMATION

Trail Ridge Ln. is not a regulated roadway, nor is the section of Lynn Rd. immediate adjacent to the site, and as such were not included in the Hillsborough County 2020 LOS report. As such, LOS information for adjacent roadway sections cannot be provided.

Transportation Comment Sheet

3.0 TRANSPORTATION SUMMARY (FULL TRANSPORTATION REPORT IN SECTION 9 OF STAFF REPORT)

Adjoining Roadways (check if applicable)			
Road Name	Classification	Current Conditions	Select Future Improvements
Trail Ridge Ln.	County Local - Rural	2 Lanes <input checked="" type="checkbox"/> Substandard Road <input checked="" type="checkbox"/> Sufficient ROW Width (for Urban Section)	<input type="checkbox"/> Corridor Preservation Plan <input type="checkbox"/> Site Access Improvements <input type="checkbox"/> Substandard Road Improvements <input type="checkbox"/> Other
	Choose an item.	Choose an item. Lanes <input type="checkbox"/> Substandard Road <input type="checkbox"/> Sufficient ROW Width	<input type="checkbox"/> Corridor Preservation Plan <input type="checkbox"/> Site Access Improvements <input type="checkbox"/> Substandard Road Improvements <input type="checkbox"/> Other
	Choose an item.	Choose an item. Lanes <input type="checkbox"/> Substandard Road <input type="checkbox"/> Sufficient ROW Width	<input type="checkbox"/> Corridor Preservation Plan <input type="checkbox"/> Site Access Improvements <input type="checkbox"/> Substandard Road Improvements <input type="checkbox"/> Other
	Choose an item.	Choose an item. Lanes <input type="checkbox"/> Substandard Road <input type="checkbox"/> Sufficient ROW Width	<input type="checkbox"/> Corridor Preservation Plan <input type="checkbox"/> Site Access Improvements <input type="checkbox"/> Substandard Road Improvements <input type="checkbox"/> Other

Project Trip Generation <input type="checkbox"/> Not applicable for this request			
	Average Annual Daily Trips	A.M. Peak Hour Trips	P.M. Peak Hour Trips
Existing	28	2	3
Proposed	59	4	4
Difference (+/-)	(+) 31	(+) 2	(+) 1

*Trips reported are based on net new external trips unless otherwise noted.

Connectivity and Cross Access <input type="checkbox"/> Not applicable for this request				
Project Boundary	Primary Access	Additional Connectivity/Access	Cross Access	Finding
North		None	None	Meets LDC
South		None	None	Meets LDC
East	X	Vehicular & Pedestrian	None	Meets LDC
West		None	None	Meets LDC
Notes:				

Design Exception/Administrative Variance <input checked="" type="checkbox"/> Not applicable for this request		
Road Name/Nature of Request	Type	Finding
	Choose an item.	Choose an item.
	Choose an item.	Choose an item.
Notes: Although Trail Ridge Ln. is a substandard roadway, a Section 6.04.02.B. Administrative Variance was not needed since the project meets the County Engineer's de minimis criteria and the roadway meets minimum life safety standards.		

Transportation Comment Sheet

4.0 Additional Site Information & Agency Comments Summary			
Transportation	Objections	Conditions Requested	Additional Information/Comments
<input type="checkbox"/> Design Exception/Adm. Variance Requested <input type="checkbox"/> Off-Site Improvements Provided	<input type="checkbox"/> Yes <input type="checkbox"/> N/A <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

COMMISSION

Mariella Smith CHAIR
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 Harry Cohen
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 Gwendolyn “Gwen” W. Myers
 Kimberly Overman
 Stacy White



DIRECTORS

Janet L. Dougherty EXECUTIVE DIRECTOR
 Elaine S. DeLeeuw ADMIN DIVISION
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 Reginald Sanford, MPH AIR DIVISION
 Steffanie L. Wickham WASTE DIVISION
 Sterlin Woodard, P.E. WETLANDS DIVISION

AGENCY COMMENT SHEET

REZONING	
<p>HEARING DATE: February 14, 2022</p> <p>PETITION NO.: 22-0152</p> <p>EPC REVIEWER: Sarah Hartshorn</p> <p>CONTACT INFORMATION: (813) 627-2600 X 1237</p> <p>EMAIL: hartshorns@epchc.org</p>	<p>COMMENT DATE: December 14, 2021</p> <p>PROPERTY ADDRESS: 5416, 5418 Lynn Rd, 10310 Trail Ridge Ln, Tampa, FL 33624</p> <p>FOLIO #: 023812-0000, 023812-0050, 023827-5000</p> <p>STR: 18-28S-18E</p>
<p>REQUESTED ZONING: AS-1 to R-4</p>	
FINDINGS	
WETLANDS PRESENT	NO
SITE INSPECTION DATE	12/13/2021
WETLAND LINE VALIDITY	NA
WETLANDS VERIFICATION (AERIAL PHOTO, SOILS SURVEY, EPC FILES)	NA
<p>INFORMATIONAL COMMENTS:</p> <p>Wetlands Division staff of the Environmental Protection Commission of Hillsborough County (EPC) inspected the above referenced site in order to determine the extent of any wetlands and other surface waters pursuant to Chapter 1-11, Rules of the EPC. This determination was performed using the methodology described within Chapter 62-340, Florida Administrative Code, and adopted into Chapter 1-11. The site inspection revealed that no wetlands or other surface waters exist within the above referenced parcel.</p> <p>Please be advised this wetland determination is informal and non-binding. A formal wetland delineation may be applied for by submitting a “WDR30 - Delineation Request Application”. Once approved, the formal wetland delineation would be binding for five years.</p>	

Sjh/mst



Adequate Facilities Analysis: Rezoning

Date: 2/22/2022

Acreage: 0.83 (+/- acres)

Jurisdiction: Hillsborough

Proposed Zoning: Planned Development

Case Number: RZ 22-0152

Future Land Use: Residential-4

HCPS #: RZ-430

Maximum Residential Units: 9

Address: Southwest of Lynn Road and Trail Ridge Lane, Tampa, 33624

Residential Type: Multifamily

Parcel Folio Number(s): 23812.0000, 23812.0050 & 23827.5000

School Data	Cannella Elementary	Pierce Middle	Leto High
FISH Capacity Total school capacity as reported to the Florida Inventory of School Houses (FISH)	979	1221	2264
2021-22 Enrollment K-12 enrollment on 2021-22 40 th day of school. This count is used to evaluate school concurrency per Interlocal Agreements with area jurisdictions	505	802	1938
Current Utilization Percentage of school capacity utilized based on 40 th day enrollment and FISH capacity	52%	66%	86%
Concurrency Reservations Existing concurrency reservations due to previously approved development. Source: CSA Tracking Sheet as of 2/22/2022	7	22	14
Students Generated Estimated number of new students expected in development based on adopted generation rates. Source: Duncan Associates, School Impact Fee Study for Hillsborough County, Florida, Dec. 2019	2	1	1
Proposed Utilization School capacity utilization based on 40 th day enrollment, existing concurrency reservations, and estimated student generation for application	53%	68%	86%

Notes: Cannella Elementary, Pierce Middle, and Leto High School have capacity for the proposed development at this time.

This is an analysis for adequate facilities only and is NOT a determination of school concurrency. A school concurrency review will be issued PRIOR TO preliminary plat or site plan approval.

Matthew Pleasant
 Department Manager, Planning & Siting
 Growth Management Department
 Hillsborough County Public Schools
 E: matthew.pleasant@hcps.net
 P: 813.272.4429



AGENCY REVIEW COMMENT SHEET

NOTE: THIS IS ONLY FOR ESTIMATE PURPOSES, BASED ON THE FEES AT THE TIME THE REVIEW WAS MADE. ACTUAL FEES WILL BE ASSESSED BASED ON PERMIT APPLICATIONS RECEIVED AND BASED ON THE FEE SCHEDULE AT THE TIME OF BUILDING PERMIT APPLICATION.

TO: Zoning Review, Development Services

DATE: 04/06/2022

REVIEWER: Ron Barnes, Impact & Mobility Fee Coordinator

APPLICANT: Mark Bentley, Esq. BCS, AICP

PETITION NO: 22-0152

LOCATION: 5416 & 5418 Lynn Rd, & 10310 Trail Ridge Ln

FOLIO NO: 23812.0000, 23812.0050, 23827.5000

Estimated Fees:

(Fee estimate is based on a 1,200 square foot, 2 bedroom, Multi-Family Units 1-2 story)

Mobility: \$5,995 * 8 units = \$47,960

Parks: \$1,555 * 8 units = \$12,440

School: \$3,891 * 8 units = \$31,128

Fire: \$249 * 8 units = \$ 1,992

Total Multi-Family (1-2 story) = \$93,520

Project Summary/Description:

Urban Mobility, Northwest Park/Fire - 8 Multi-Family Units

AGENCY REVIEW COMMENT SHEET

TO: ZONING TECHNICIAN, Planning Growth Management

DATE: 3 Jan. 2022

REVIEWER: Bernard W. Kaiser, Conservation and Environmental Lands Management

APPLICANT: Mark Bentley

PETITION NO: RZ-PD 22-0152

LOCATION: Not listed

FOLIO NO: 23812.0000, 23812.0050, 23827.5000

SEC: _____ TWN: _____ RNG: _____

- This agency has no comments.

- This agency has no objection.

- This agency has no objection, subject to listed or attached conditions.

- This agency objects, based on the listed or attached conditions.

COMMENTS: _____.

**WATER RESOURCE SERVICES
REZONING REVIEW COMMENT SHEET: WATER & WASTEWATER**

PETITION NO.: PD22-0152 REVIEWED BY: Randy Rochelle DATE: 12/16/2021

FOLIO NO.: 23812.0000, 23812.0050 & 23827.5000

WATER

- The property lies within the _____ Water Service Area. The applicant should contact the provider to determine the availability of water service.
- A 8 inch water main exists (adjacent to the site), (approximately ___ feet from the site) and is located within the south Right-of-Way of Lynn Road. This will be the likely point-of-connection, however there could be additional and/or different points-of-connection determined at the time of the application for service. This is not a reservation of capacity.
- Water distribution system improvements will need to be completed prior to connection to the County's water system. The improvements include _____ and will need to be completed by the ___ prior to issuance of any building permits prior to June 1, 2022, that will create additional demand on the system.

WASTEWATER

- The property lies within the _____ Wastewater Service Area. The applicant should contact the provider to determine the availability of wastewater service.
- A 4 inch wastewater force main exists (adjacent to the site), (approximately 50 feet from the site) and is located north of the subject property within the north Right-of-Way of Lynn Road. This will be the likely point-of-connection, however there could be additional and/or different points-of-connection determined at the time of the application for service. This is not a reservation of capacity.
- Wastewater collection system improvements will need to be completed prior to connection to the County's wastewater system. The improvements include _____ and will need to be completed by the _____ prior to issuance of any building permits that will create additional demand on the system.

COMMENTS: The subject rezoning includes parcels that are within the Urban Service Area and would require connection to the County's potable water and wastewater systems



AVIATION AUTHORITY LAND USE REVIEW

Hillsborough County - OPTIX

DATE: November 24, 2021

PROPOSED USE INFORMATION:

Case No.: 22-0152 Reviewer: Tony Mantegna

Location: 5509 LYNN RD

Folio: 23812.0000

Current use of Land: Single family

Zoning: AS-1

REQUEST: multi-family units

COMMENTS:

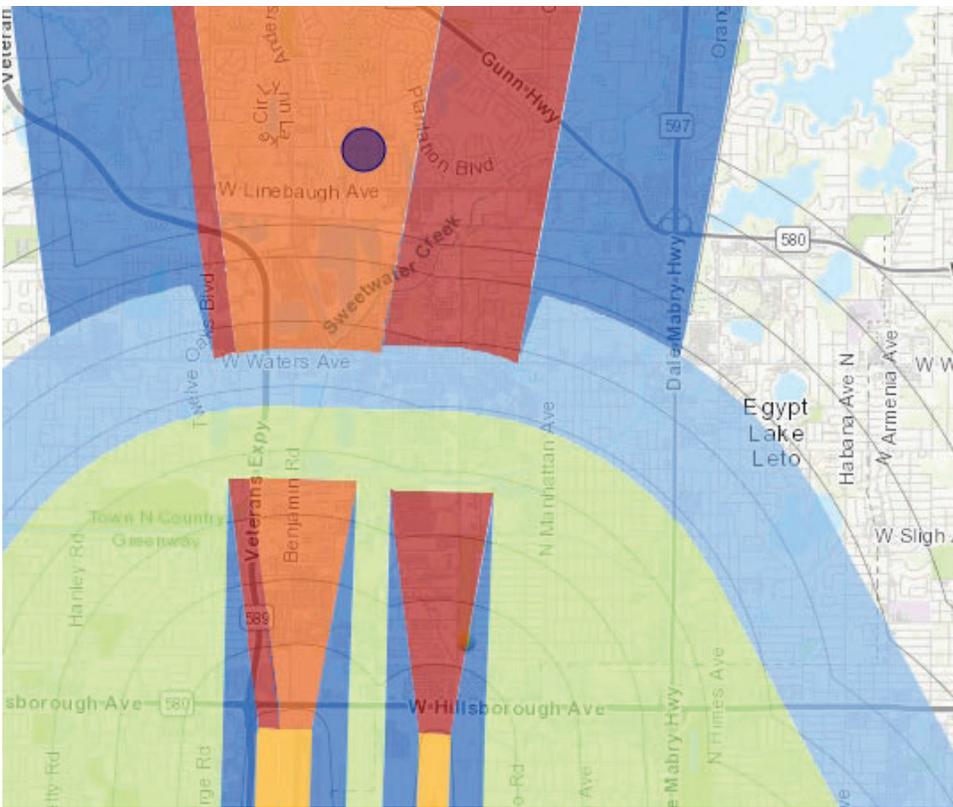
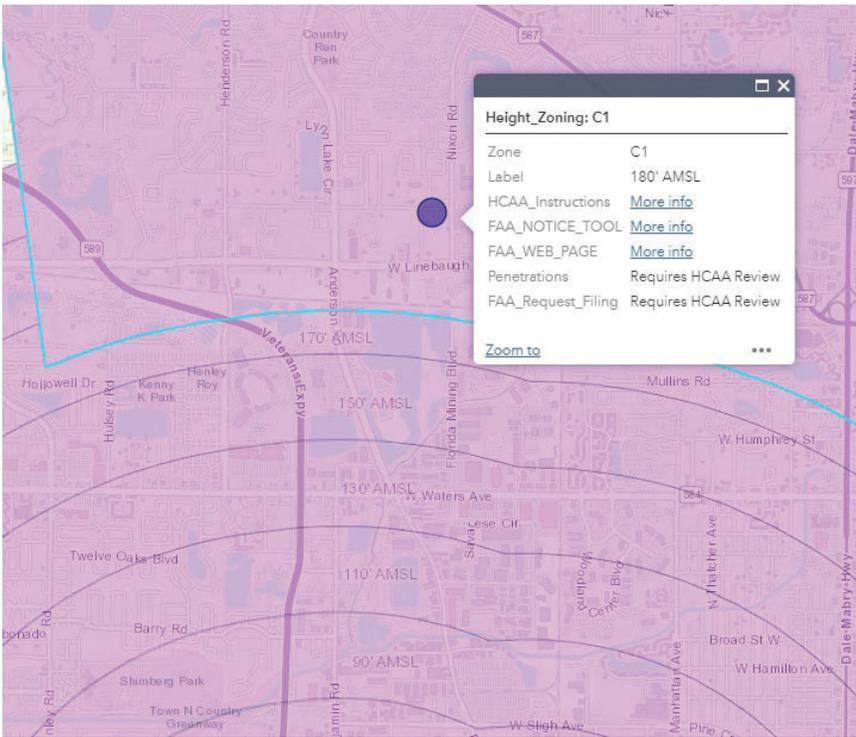
The proposed site falls within Zone "C1" on the Airport Height Zoning Map. Any structure including construction equipment that exceeds 180 feet Above Mean Sea Level may require an Airport Height Zoning Permit and must be reviewed by the Airport Zoning Director.

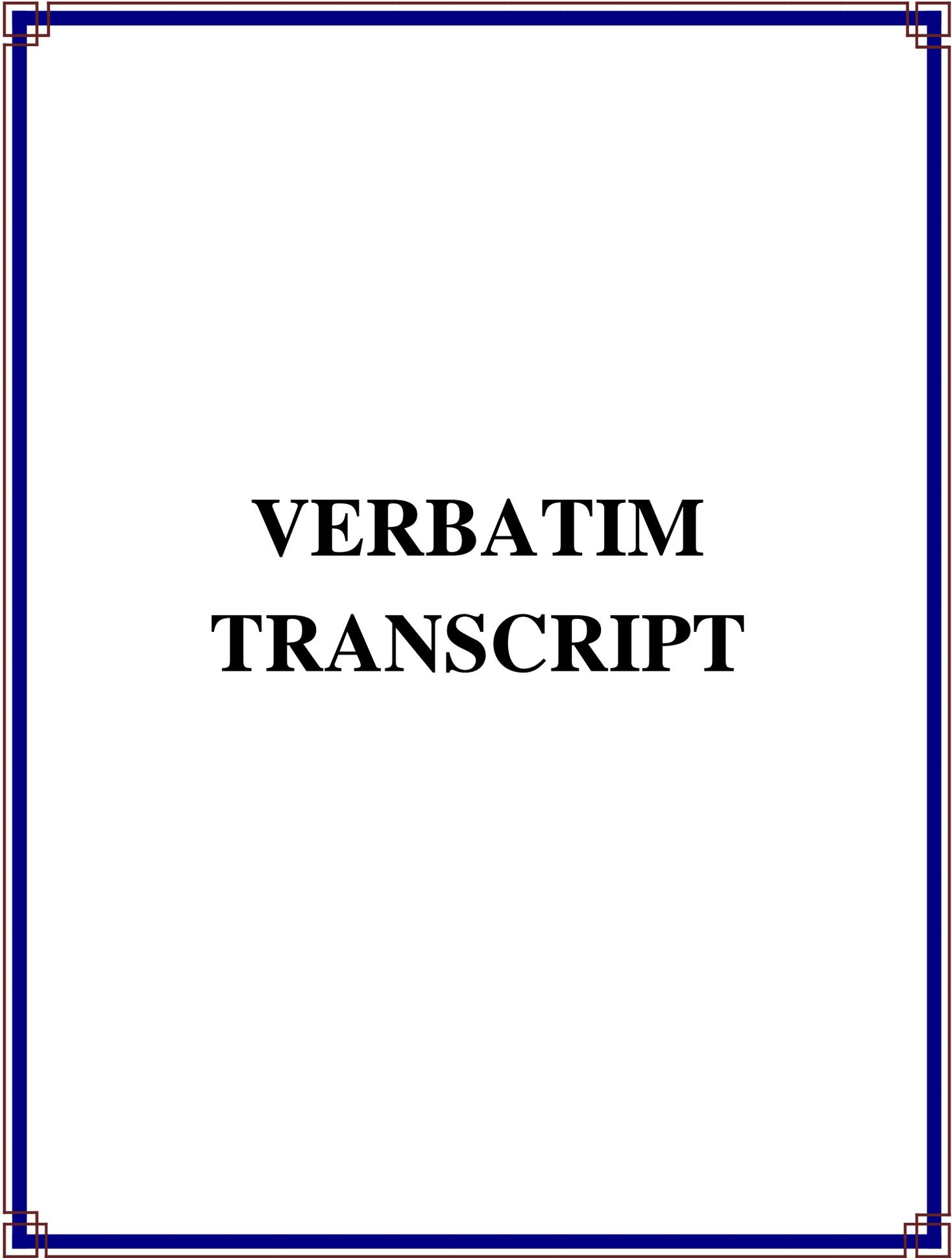
Compatible without conditions (see comments above) - _____

Not compatible (comments) - _____

Compatible with conditions (see comments above) – Potential buyers should be informed this location is within the flight path to Tampa International Airport and will be subject to aircraft overflight. The property falls outside of the 65 dnl noise contour around the airport and is a compatible but occupants may be subjected to noise from aircraft operating to and from the airport. The Aviation Authority suggests a noise reduction level of at least 25 db be incorporated into design.

cc: Aviation Authority Zoning Director/Legal/Records Management/Central Records





VERBATIM TRANSCRIPT

HILLSBOROUGH COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS

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-----X
)
IN RE: )
)
ZONE HEARING MASTER )
HEARINGS )
)
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ZONING HEARING MASTER HEARING
TRANSCRIPT OF TESTIMONY AND PROCEEDINGS

BEFORE: PAMELA JO HATLEY
Land Use Hearing Master

DATE: Monday, April 18, 2022

TIME: Commencing at 6:00 p.m.
Concluding at 7:37 p.m.

PLACE: Robert W. Saunders, Sr. Public
Library
Ada T. Payne Community Room
1505 N. Nebraska Avenue
Tampa, Florida 33602

Reported via Cisco Webex Videoconference by:

Christina M. Walsh, RPR
Executive Reporting Service
Ulmerton Business Center
13555 Automobile Blvd., Suite 130
Clearwater, FL 33762
(800) 337-7740

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HILLSBOROUGH COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS

ZONING HEARING MASTER HEARINGS
April 18, 2022
ZONING HEARING MASTER: PAMELA JO HATLEY

D2:
Application Number: RZ-PD 22-0152
Applicant: Mark Bentley
Location: SW corner of Lynn Rd. & Trail Ridge Ln.
Folio Number: 023812.0000, 023812.0050 & 023827.5000
Acreage: 0.83 acres, more or less
Comprehensive Plan: R-4
Service Area: Urban
Existing Zoning: AS-1
Request: Rezone to Planned Development

1 MR. GRADY: The next item is agenda item
2 D-2. It's Rezoning-PD 22-0152. The request is to
3 rezone from AS-1 to Planned Development.

4 I will provide staff recommendation after
5 presentation by the applicant.

6 HEARING MASTER HATLEY: All right.
7 Applicant.

8 MR. BENTLEY: My name is Mark Bentley, 401
9 East Jackson Street, Tampa, 33602.

10 I've got a book with some exhibits I'd like
11 to hand out, please. I have a little bit of a cold
12 here, so just bear with me. It'll be nice and
13 short anyhow.

14 I represent the Hindu Temple of Florida, and
15 they're seeking to rezone .83 acres from AS-1 to PD
16 to allow eight multifamily attached units. This
17 will be accomplished with not only the PD rezoning
18 but also the utilization of the flex of the
19 property to the west, which is RES-12, I believe.

20 There's substantial justification for the
21 application of the flex in both our narrative,
22 which is very lengthy, along with the Planning
23 Commission staff report. So I don't think it's
24 necessary to get into that unless you have any
25 questions, we can do that.

1 But there are three criteria, and we've
2 cited several policies and made various factual
3 arguments to support the application of a flex.

4 And before I go there, just a little bit of
5 background. In 2015, there's a contiguous property
6 directly to the west in the same block, and that
7 was zoned AS-1, and it was RES-4 on the Comp Plan.

8 They had applied for and received approval
9 for a Comp Plan Amendment to RES-12. And that's
10 the property that we'd be flexing to the east.

11 Thereafter, they received a PD rezoning
12 which was supported by both agencies and allowed a
13 density of 11.5 units per acre. And I have those
14 documents to submit into the record, along with the
15 recommendation of Jaime Scarola, who was the Land
16 Use Hearing Officer who heard that case.

17 Ms. Hatley, here's the subject property
18 where I'm pointing my finger, and then our client
19 also owns various properties. I don't know if
20 you've had the opportunity to go out there and see
21 the temple.

22 HEARING MASTER HATLEY: Yes. I'm familiar
23 with it.

24 MR. BENTLEY: Okay. That's great. Great.
25 I don't need to get into it then. But they own

1 most of these properties here and they're
2 identified. And that's an exhibit for you in the
3 record.

4 Here's a proposed project, and I failed to
5 mention that the intent was this would be utilized
6 for housing for priests associated with the temple.
7 Okay.

8 So even though they have -- they can
9 accommodate two cars each, they don't need cars.
10 It's just the County requirement. They're walking
11 across the street. Increase in traffic, I think in
12 a.m. -- existing right now, a.m. would be an
13 increase of two trips. P.m. would be an increase
14 in three trips.

15 So it's de minimis. So the County didn't
16 require any changes or modifications to any of the
17 roadway roads in the vicinity. Here's a copy of
18 the ordinance I gave you for your review.

19 This is the unanimous approval of the plan
20 amendment, and here's Mr. Scarola's recommendation.
21 And then a couple of things that I wanted to point
22 out to you.

23 HEARING MASTER HATLEY: Yes.

24 MR. BENTLEY: Because we're dealing with
25 housing that's associated with religious exercise,

1 we're dealing with the religious land use and the
2 Institutionalized Persons Act of 2000. And I know
3 you're familiar with that. I just want to get in
4 the record that the intent of that act was to
5 provide protection for free exercise of religion in
6 the context of local government, land use
7 regulation, allow for religious exercise.

8 And we can't treat that any differently than
9 any other applicant or property owner unless it's
10 in furtherance of a compelling governmental
11 interest, and it's the least restrictive means
12 available, okay, to achieve that compelling
13 governmental interest.

14 And then one thing I found pretty
15 interesting was Florida has kind of its own mini
16 version of the act. That's just simply the
17 Religious Freedom Act. It's in Chapter 761 Florida
18 Statute.

19 That basically states that the government
20 shall not substantially burden a person's exercise
21 of religion even if the burden results from a rural
22 general applicability. That's kind of a little bit
23 of a twist?

24 So if there are two properties both subject
25 to, you know, the same setback requirement, if they

1 apply to both, if it relates to exercise of
2 religion, there's supposed to be some deference,
3 apparently, I guess, the way you construe the
4 statute one way given toward the exercise of
5 religion.

6 So it's kind of meaning even if the
7 government is treating religious persons or
8 entities the same as religious entities is
9 prohibited from doing so. And impeding the free
10 exercise of religion unless here again the
11 government demonstrates compelling governmental
12 interest in its least restrictive means to achieve
13 the compelling governmental interest.

14 So with that in mind, I just had -- I was
15 going to give a brief presentation by Russ
16 Ottenberg. I just want to go over the site plan
17 with you because there is another project that's
18 under construction. Right now I want to show you
19 how they interrelate.

20 MR. OTTENBERG: Good evening. Russell
21 Ottenberg, Planeng, Incorporated. 3737 Lake Joyce
22 Drive. I have been sworn.

23 So this is the site plan that has been
24 submitted as part of the application, and the
25 property in question is this rectangle here. These

1 are the eight units that are proposed as part of
2 the rezoning.

3 Immediately adjoining to the west and to the
4 south is the Hindu Village project that Mark was
5 discussing that received the Comp Plan Amendment to
6 RES-12 and the subsequent PD. We are proposing the
7 flex that RES-12 eastward to cover this property.

8 I think we have -- we had submitted a site
9 plan previously and Transportation had some
10 concerns with that. So we have reworded the site
11 plan considerably to address Transportation's
12 comments. Transportation is now supportive of it
13 with conditions.

14 The -- I'd like to draw a little bit of
15 attention to the Hindu Village project immediately
16 to the west. They actually have 19 units
17 doglegging around to the south of us. And as you
18 can see, they actually have 12 units in, roughly,
19 the same area that we are proposing eight units.

20 So we're a little bit more spaced out than
21 what they have on their site. The Hindu Village
22 project is also surrounded by masonry wall. The
23 priest quarters project that we're doing would
24 likewise have a masonry wall surrounding it.

25 The Hindu Village project has three access

1 points. Two on this street. I can't remember the
2 name, unfortunately, and one on Trail Ridge. We
3 would have two on Trail Ridge, two driveways. That
4 would serve -- one driveway would serve four units.

5 We've also reoriented the pedestrian
6 circulation and the doorways. The -- the Hindu
7 religion has some very specific requirements as to
8 the location and orientation of various parts of
9 the residence, and it is directly related to the
10 religion.

11 So we had to be very careful to lay out
12 those units in a way that would reflect that and
13 honor their religion. So we're able to do that and
14 still keep pedestrian circulation towards the
15 perimeter away from the -- the driveways.

16 And ultimately, we'll have internal
17 circulation that connects all of the units to one
18 another, also out to Trail Ridge Lane and up to
19 Lynn Road.

20 Additionally, we've extended one sidewalk on
21 the northern end over to the Hindu Village
22 property. We're required to make that or provide
23 that connection even though there's a solid wall
24 there we can't physically make the connection. But
25 if in the future someone wants to put a gate in

1 there, then that is available.

2 Stormwater on this is going to be via a --
3 an underpavement chamber system for the most part
4 must be under these driveways or probably augment
5 it with some vertical wall system around the
6 perimeter. Utilities will be pretty standard.

7 And, again, this is a very close proximity
8 to the Hindu Temple. So most of the traffic, if
9 you will, will be either foot traffic or via
10 bicycle. Happy to answer any questions you may
11 have.

12 HEARING MASTER HATLEY: I don't have any for
13 you. Thank you.

14 MR. OTTENBERG: Thank you.

15 HEARING MASTER HATLEY: Please sign in. Is
16 that all for the applicant for now?

17 MR. BENTLEY: This is the subject property.

18 HEARING MASTER HATLEY: All right. Just
19 bring the mike down a little bit, Mr. Bentley.

20 MR. BENTLEY: I'm sorry.

21 HEARING MASTER HATLEY: That's all right.
22 Thank you.

23 MR. BENTLEY: Sure. So this is the subject
24 property owned by Hindu Temple. And this is owned
25 by Home Trends, but it goes by the name of Hindu

1 Village. So it has really no affiliation with the
2 temple per se, and so there was some discussion as
3 to why don't you integrate the two projects.

4 One's under construction, you know, probably
5 almost done at this point. So that's just the
6 explanation concerning that.

7 HEARING MASTER HATLEY: Okay. I understand.

8 MR. BENTLEY: Thank you.

9 HEARING MASTER HATLEY: Thank you.

10 All right. Development Services.

11 MR. GRADY: Brian Grady, Hillsborough County
12 Development Services.

13 The request is to rezone from AS-1,
14 Agricultural Single-Family, to a Planned
15 Development to permit eight multifamily attached
16 units.

17 As noted, the applicant is requesting a flex
18 of the RES-12 planned category that is adjacent to
19 this parcel in order to accommodate the proposed
20 eight multifamily dwelling units.

21 Staff did find the request comparable and
22 compatible with the surrounding development pattern
23 as noted by the applicant. There's existing
24 multifamily development located west and south of
25 this project.

1 Therefore, again, staff found it approvable
2 subject to conditions. I'm available for any
3 questions.

4 HEARING MASTER HATLEY: Thank you,
5 Mr. Grady.

6 Planning Commission.

7 MS. PAPANDREW: Good evening. Andrea
8 Papandrew, Planning Commission staff.

9 The subject property is within the
10 Residential-4 Future Land Use Category. It is
11 within the Urban Service Area and is located within
12 the Greater Carrollwood Northdale Community Plan.

13 Per Policy 1.2 of the Future Land Use
14 Element, the site must meet minimum density
15 requirements within the Urban Service Area. The
16 maximum allowable density on-site with the flex
17 request of Residential-12 is nine dwelling units
18 and the minimum allowable density is seven dwelling
19 units.

20 The applicant is requesting eight
21 multifamily units and satisfies the intent of
22 Policy 1.2.

23 Subject property is designated Residential-4
24 on the Future Land Use Map. The intent of that
25 category is to designate areas that are receivable

1 for low density residential development. The
2 applicant does seek to utilize the flex provision
3 outlined in Policy 7.3 and 7.4 to flex
4 Residential-12 further west to the entire site.

5 And the site meets the criteria stated in
6 Policy 7.3. The flex would not extend beyond the
7 maximum of 500 feet from the existing land use
8 boundary. The flex is parallel to the land use
9 category line. It is not an extension of existing
10 flex area.

11 The flex is in the Urban Service Area and is
12 not in the Coastal High-Hazard Area. And the flex
13 request is also part of a Planned Development
14 application.

15 According to the applicant, the flex request
16 is justified as the Board of County Commissioners
17 approved the Future Land Use Map amendment change
18 to Residential-12 and PD rezoning the adjacent
19 project to the west of Hindu Village in 2015.

20 The proposed development will be compatible
21 with the adjacent Hindu Village in relation to
22 density, use, height, scale, mass and bulk of
23 structures, pedestrian and vehicular traffic,
24 circulation, access and parking impacts,
25 landscaping, light, noise, odor, and architecture.

1 In addition, the proposed is extremely
2 similar to the adjacent Residential-12 property,
3 and the project is compatible to adjacent land uses
4 and intensities.

5 The applicant has stated the project is
6 designed to be integrated with Hindu Village and is
7 a good transitional use between the multifamily
8 surrounding uses and large scale Hindu Temple
9 religious institution to the north and west and a
10 single-family residential to the south and east.

11 The applicant has also stated that they're
12 available and adequate public facility to serve the
13 proposed development. The applicant has also
14 stated in his flex request that allows the project
15 to be located on the same block as adjacent
16 multifamily uses, and this protects the character
17 of the single-family residential uses.

18 The design component includes units with
19 inner courtyards and parking spaces for each unit
20 instead of shared paved parking. The units have
21 designed detached single units which is a less
22 dense appearance.

23 The subject property while buffering and
24 screening through masonry walls which will be
25 architecturally finished to match the adjacent

1 Hindu Temple wall.

2 Planning Commission staff have reviewed the
3 flex request and concur with the applicant if they
4 meet the justification criteria for the flex and
5 advise the Board of County Commissioners to grant
6 approval.

7 Properties within the Greater Carrollwood
8 Northdale Community Plan, Goal 5 of the plan states
9 that new development will provide pedestrian
10 facilities that connect to the existing roadway
11 network.

12 Pedestrian facilities are implemented
13 concurrent with vehicular improvements. Goal 5
14 also states that integrated development pattern
15 must be formed through direct street and sidewalk
16 connections within development projects as well as
17 through adjacent projects.

18 The proposed development will provide 5-foot
19 internal and external sidewalk facilities on land,
20 road, and Trail Ridge Lane. The site will not have
21 cross-access connections to the adjacent
22 residential property to the west as there is a wall
23 on the western boundary.

24 The request is consistent with the Greater
25 Carrollwood Northdale Community Plan. Based upon

1 the above considerations, Planning Commission staff
2 finds the proposed Planned Development consistent
3 with the Future of Hillsborough Comprehensive Plan
4 for unincorporated Hillsborough County subject to
5 conditions proposed by the Development Services.
6 Thank you.

7 HEARING MASTER HATLEY: Thank you.

8 All right. Is there anyone here or online
9 who wishes to speak in support of this item? Don't
10 hear anyone.

11 Is there anyone here or online who wishes to
12 speak in opposition to this item? I don't hear
13 anyone.

14 Development Services, anything further?

15 MR. GRADY: Nothing further.

16 HEARING MASTER HATLEY: All right.

17 Applicant, anything further? Nothing. Okay.

18 Thank you.

19 That closes the hearing then on 22-0152.

20

21

22

23

24

25

1 process.

2 A-22, Major Mod 22-0103. This application
3 is being continued by the applicant to the
4 March 14, 2022, Zoning Hearing Master Hearing.

5 Item A-23, Rezoning-PD 22-0107. This
6 application is being continued by the staff to the
7 March 14, 2022, Zoning Hearing Master Hearing.

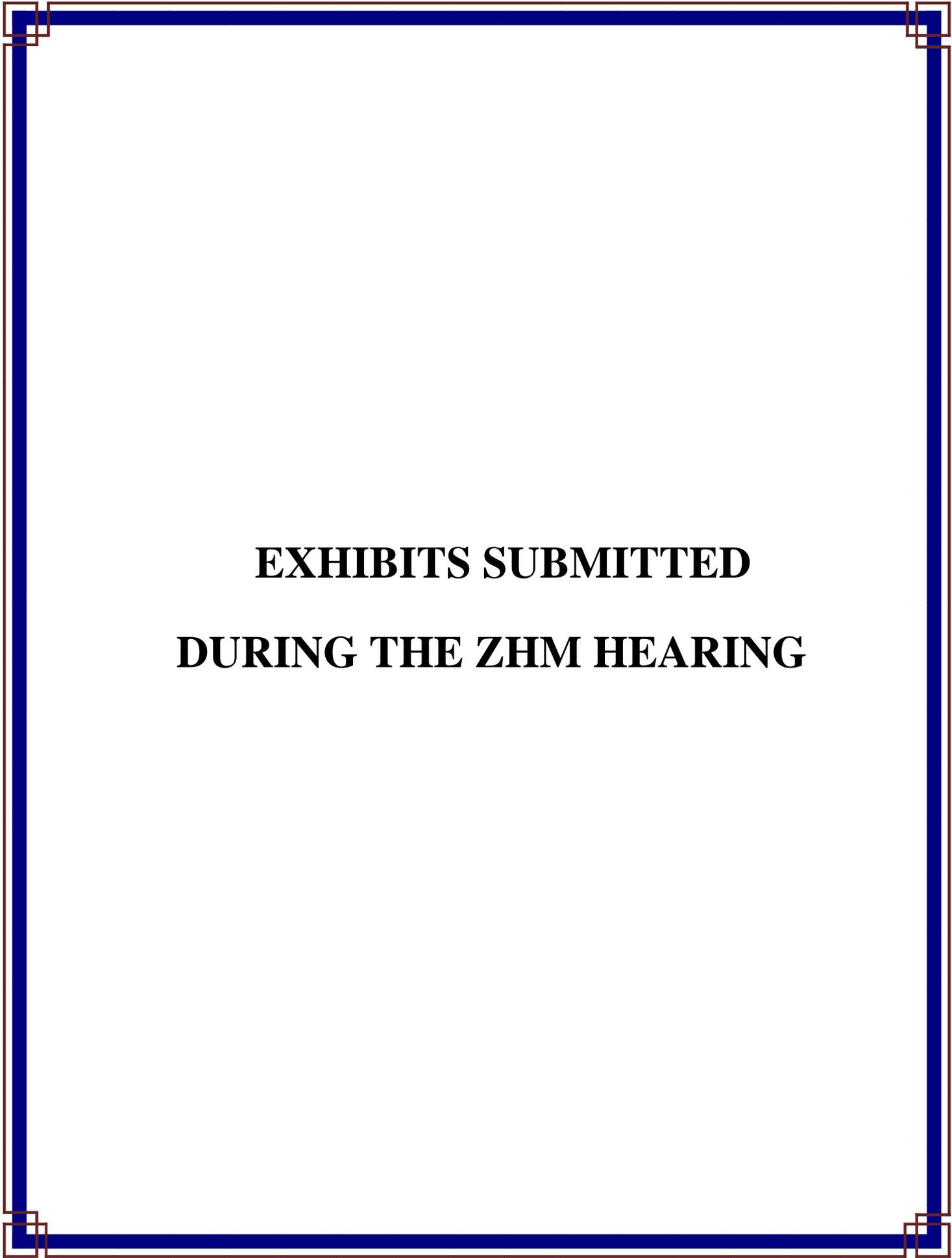
8 Item A-24, Major Mod Application 22-0109.
9 This application is out of order to be heard and is
10 being continued to the March 14, 2022, Zoning
11 Hearing Master Hearing.

12 Item A-25, Rezoning-PD 22-0152. This
13 application is being continued by the applicant to
14 the April 18, 2022, Zoning Hearing Master Hearing.

15 Item A-26 Rezoning-PD 22-0181. This
16 application is out of order to be heard and is
17 being continued to the March 14, 2022, Zoning
18 Hearing Master Hearing.

19 Item A-27, Rezoning-PD 22-0207. This
20 application is out of order to be heard and is
21 being continued to the April 18th, 2022, Zoning
22 Hearing Master Hearing.

23 Item A-28, Major Mod Application 21 --
24 22-0208. This application is out of order to be
25 heard and is being continued to the March 14, 2022,



**EXHIBITS SUBMITTED
DURING THE ZHM HEARING**

DATE/TIME: 4-18-2022 HEARING MASTER: Pamela Jo HatleyPLEASE **PRINT CLEARLY**, THIS INFORMATION WILL BE USED FOR MAILING

APPLICATION # <u>22-0102</u>	PLEASE PRINT NAME <u>MATT NEWTON</u> MAILING ADDRESS <u>101 E. KENNEDY BLVD #2800</u> CITY <u>TAMPA</u> STATE <u>FL</u> ZIP <u>33617</u> PHONE <u>813-727-4226</u>
APPLICATION # <u>22-0152</u>	PLEASE PRINT NAME <u>Mark Bentley</u> MAILING ADDRESS <u>401 E Jackson St</u> CITY <u>Tpa</u> STATE <u>FL</u> ZIP <u>33609</u> PHONE <u>813 825 2528</u>
APPLICATION # <u>22-0152</u>	PLEASE PRINT NAME <u>RUSSELL OTTENBERG</u> MAILING ADDRESS <u>3757 LAURE JOYCE DR.</u> CITY <u>LAND O LAKE</u> STATE <u>FL</u> ZIP <u>34639</u> PHONE <u>813.962.1952</u>
APPLICATION # <u>22-0440</u>	PLEASE PRINT NAME <u>Jessica Terman</u> MAILING ADDRESS <u>401 East Jackson St.</u> CITY <u>Tampa</u> STATE <u>FL</u> ZIP <u>33602</u> PHONE <u>813 222 5060</u>
APPLICATION # <u>22-0440</u>	PLEASE PRINT NAME <u>Michael Yates</u> MAILING ADDRESS <u>PALM TRAFFIC 400 N Tampa St, 15th FL</u> CITY <u>Tampa</u> STATE <u>FL</u> ZIP <u>33602</u> PHONE <u>813 205 8057</u>
APPLICATION # <u>22-0440</u>	PLEASE PRINT NAME <u>David M. Smith</u> MAILING ADDRESS <u>401 E Jackson St. Ste 2100</u> CITY <u>Tampa</u> STATE <u>FL</u> ZIP <u>33627</u> PHONE <u>813 222 5000</u>

DATE/TIME: 4-18-22

HEARING MASTER: Pamela Jo Hatley

PLEASE **PRINT CLEARLY**, THIS INFORMATION WILL BE USED FOR MAILING

<p>APPLICATION # <u>50-22-0609</u></p>	<p>PLEASE PRINT NAME <u>Kevin Reali</u></p> <p>MAILING ADDRESS <u>401 E Jackson Street</u></p> <p>CITY <u>Tampa</u> STATE <u>FL</u> ZIP <u>33602</u> PHONE <u>813-222-5059</u></p>
<p>APPLICATION #</p>	<p>PLEASE PRINT NAME _____</p> <p>MAILING ADDRESS _____</p> <p>CITY _____ STATE _____ ZIP _____ PHONE _____</p>
<p>APPLICATION #</p>	<p>PLEASE PRINT NAME _____</p> <p>MAILING ADDRESS _____</p> <p>CITY _____ STATE _____ ZIP _____ PHONE _____</p>
<p>APPLICATION #</p>	<p>PLEASE PRINT NAME _____</p> <p>MAILING ADDRESS _____</p> <p>CITY _____ STATE _____ ZIP _____ PHONE _____</p>
<p>APPLICATION #</p>	<p>PLEASE PRINT NAME _____</p> <p>MAILING ADDRESS _____</p> <p>CITY _____ STATE _____ ZIP _____ PHONE _____</p>
<p>APPLICATION #</p>	<p>PLEASE PRINT NAME _____</p> <p>MAILING ADDRESS _____</p> <p>CITY _____ STATE _____ ZIP _____ PHONE _____</p>

APRIL 18, 2022 - ZONING HEARING MASTER

The Zoning Hearing Master (ZHM), Hillsborough County, Florida, met in Regular Meeting, scheduled for Monday, April 18, 2022, at 6:00 p.m., held virtually.

▶ Pamela Jo Hatley, ZHM, called the meeting to order and led in the pledge of allegiance to the flag.

A. WITHDRAWALS AND CONTINUANCES

▶ Brian Grady, Development Services, introduced staff and reviewed the changes.

C.1. RZ 22-0422

▶ Brian Grady, Development Services, calls RZ 22-0422 and stated the item was withdrawn from the ZHM process.

D.3. RZ 22-0439

▶ Brian Grady, Development Services, calls RZ 22-0439 and announced a staff request for continuance to the May 16, 2022, ZHM hearing.

▶ Brian Grady, Development Services, continues the withdrawals/continuances/changes.

▶ Pamela Jo Hatley, ZHM, overview of ZHM process.

▶ Assistant County Attorney Mary Dorman overview of oral argument/ZHM process.

▶ Pamela Jo Hatley, ZHM, Oath.

B. REMANDS

C. REZONING STANDARD (RZ-STD) :

D. REZONING-PLANNED DEVELOPMENT (RZ-PD) & MAJOR MODIFICATION (MM) :

D.1. MM 22-0102

▶ Brian Grady, Development Services, calls MM 22-0102.

▶ Matt Newton, applicant rep, presents testimony and exhibits.

▶ Sam Ball, Development Services, staff report.

▶ Andrea Papandrew, Planning Commission, staff report.

▶ Pamela Jo Hatley, ZHM, calls proponents/opponents/Development Services/applicant rep/closes MM 22-0102.

D.2. RZ 22-0152

- ▶ Brian Grady, Development Services, calls RZ 22-0152.
- ▶ Mark Bentley, applicant rep, presents testimony and exhibits.
- ▶ Russell Ottenberg, applicant rep, presents testimony.
- ▶ Mark Bentley, applicant rep, continues testimony.
- ▶ Brian Grady, Development Services, staff report.
- ▶ Andrea Papandrew, Planning Commission, staff report.
- ▶ Pamela Jo Hatley, ZHM, calls proponents/opponents/Development Services/applicant rep/closes RZ 22-0152.

D.4. RZ 22-0440

- ▶ Brian Grady, Development Services, calls RZ 22-0440.
- ▶ Jessica Icerman, applicant rep, presents testimony and exhibits.
- ▶ David Smith, applicant rep, presents testimony.
- ▶ Michael Yates, applicant rep, presents testimony.
- ▶ David Smith, applicant rep, presents testimony.
- ▶ Michelle Heinrich, Development Services, staff report.
- ▶ Andrea Papandrew, Planning Commission, staff report.
- ▶ Pamela Jo Hatley, ZHM, calls proponents/opponents/Development Services/applicant rep/closes RZ 22-0440.

E. ZHM SPECIAL USE

E.1. SU 22-0609

- ▶ Brian Grady, Development Services, calls SU 22-0609.
- ▶ Kevin Reali, applicant rep, presents testimony.
- ▶ Pamela Jo Hatley, ZHM, questions to applicant.

MONDAY, APRIL 18, 2022

- ▶ Kevin Reali, applicant rep, answers ZHM questions and continues testimony.
- ▶ Michelle Heinrich, Development Services, staff report.
- ▶ Andrea Papandrew, Planning Commission, staff report.
- ▶ Pamela Jo Hatley, ZHM, calls for proponents/opponents/Development Services/applicant rep.
- ▶ Kevin Reali, applicant rep, continues testimony.
- ▶ Pamela Jo Hatley, ZHM, closes SU 22-0609.

ADJOURNMENT

- ▶ Pamela Jo Hatley, ZHM, adjourns the meeting.

Application No. 22-0152
Name: Mark Bentley
Entered at Public Hearing: ZHM
Exhibit # 1 Date: 4-18-22

401 EAST JACKSON STREET, SUITE 3100
TAMPA, FLORIDA 33602



JOHNSON POPE
BOKOR RUPPEL & BURNS, LLP

COUNSELORS AT LAW

Zoning Hearing Master
April 18, 2022

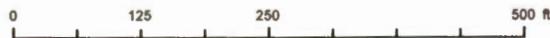
Item D.2.
RZ-PD 22-0152

EXHIBIT LIST

1. Aerial
2. Ordinance No. 15-9 (approving HC/CPA 15-04)
3. LUHO Recommendation for RZ-PD 15-0398
4. Chapter 761, Florida Statutes (2021), cited as the “Religious Freedom Restoration Act of 1998”
5. The Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000 cc.



April 18, 2022



Bob Henriquez, CFA

Hillsborough County Property Appraiser
 This map is for assessment purposes only.
 It is not a survey.

2020 Aerials

JML
FINAL
5/19/15

ORDINANCE NO. 15-9

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, ADOPTING A SMALL-SCALE AMENDMENT TO THE FUTURE OF HILLSBOROUGH COMPREHENSIVE PLAN FOR UNINCORPORATED HILLSBOROUGH COUNTY, AS ADOPTED BY ORDINANCE NO. 89-28, AS AMENDED; CHANGING THE USE OF LAND WITHIN THE COUNTY; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Upon motion by Commissioner Higginbotham, seconded by Commissioner Miller, the following ordinance was adopted by a vote of 7 to 0, with Commissioner(s) _____ voting "No."

WHEREAS, the Hillsborough County Board of County Commissioners adopted a comprehensive plan for Unincorporated Hillsborough County entitled *Future of Hillsborough Comprehensive Plan for Unincorporated Hillsborough County* on July 12, 1989 by Ordinance 89-28 (the "Comprehensive Plan"); and

WHEREAS, Section 163.3187, Florida Statutes, provides for small-scale amendments to comprehensive plans; and

WHEREAS, following a public hearing held on March 9, 2015, to consider a proposed small-scale amendment to the Comprehensive Plan, the Hillsborough County City-County Planning Commission recommended denial of the proposed amendment; and

WHEREAS, pursuant to Section 163.3187, Florida Statutes, small-scale comprehensive plan amendments may be adopted following one public hearing on the proposed small-scale amendment; and

WHEREAS, the proposed small-scale amendment to the Comprehensive Plan meets the criteria contained in Section 163.3187, Florida Statutes, for small-scale plan amendments; and

WHEREAS, pursuant to Section 163.3187, Florida Statutes, the Hillsborough County Board of County Commissioners considered at a public hearing held on May 14, 2015, testimony on the proposed small-scale amendment to the Comprehensive Plan summarized as follows:

Future Land Use Map Amendment	Request From:	Request To:	Approximate Acreage
HC CPA 15-04	Residential-4	Residential-12	1.7

and;

WHEREAS, the Hillsborough County Board of County Commissioners finds the proposed small-scale amendment to be consistent with the Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, IN A PUBLIC HEARING ASSEMBLED THIS 14th DAY OF MAY, 2015:

SECTION 1. PURPOSE AND INTENT. This Ordinance is enacted to carry out the purpose and intent of and to exercise the authority set out in the Community Planning Act and Chapter 97-351 Laws of Florida, as amended.

SECTION 2. ADOPTION OF AMENDMENT TO COMPREHENSIVE PLAN. The small-scale plan amendment to the Comprehensive Plan Future Land Use Map, as described above, is hereby adopted by the Board of County Commissioners. The specific amendment map of the Comprehensive Plan identified above and adopted by the Board of County Commissioners is attached hereto as Attachment "A" and is incorporated by this reference as an integral part of this Ordinance.

SECTION 3. SEVERABILITY. If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such section, phrase, sentence or portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4. EFFECTIVE DATE. The effective date of this small-scale plan amendment shall be June 14, 2015, but if this small-scale plan amendment is challenged within 30 days after adoption, then this small-scale plan amendment shall not become effective until the state land planning agency or the Administration Commission issues a final order determining that this small-scale amendment is in compliance.

STATE OF FLORIDA)

COUNTY OF HILLSBOROUGH)

I, Pat Frank, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners, do hereby certify that the above and foregoing ordinance is a true and correct copy of an ordinance adopted by the Board of County Commissioners of Hillsborough County, Florida, in its public hearing of May 14, 2015, as the same appears on record in Minute Book 468 of Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this 19th day of May, 2015.

PAT FRANK,
CLERK OF THE CIRCUIT COURT

By: W. Juan O. H. Diaz

Deputy Clerk

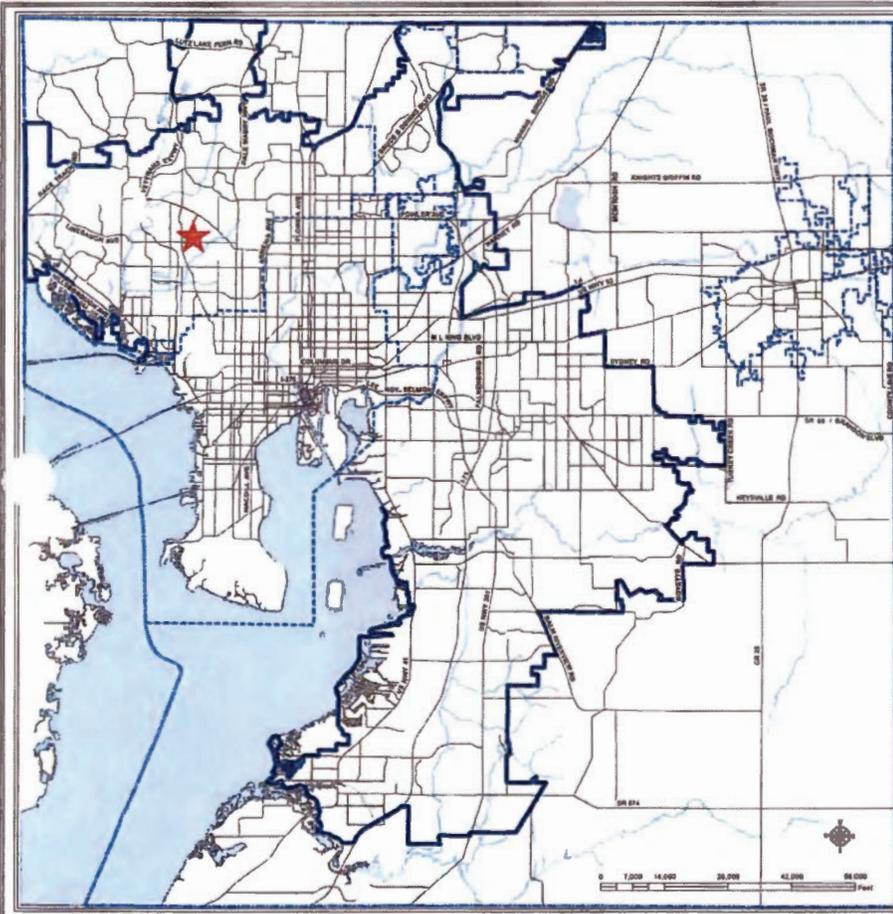


APPROVED BY COUNTY ATTORNEY

By: [Signature]
Approved as to Form and Legal Sufficiency

Attachment “A”

Approved by the Board of Supervisors on 12/15/10
Map No. 15-04



GENERAL LOCATION MAP
UNINCORPORATED HILLSBOROUGH COUNTY
CPA 15-04



AERIAL PHOTOGRAPHY
UNINCORPORATED HILLSBOROUGH COUNTY
CPA 15-04

-  COUNTY BOUNDARY
-  JURISDICTION BOUNDARY
-  URBAN SERVICE AREA
-  PLAN AMBIGUOUS AREA

DATA SOURCES: Aerial Photography 2014, Hillsborough County Geographic Information System, Hillsborough County Property Appraiser
SCALE: NONE. See Adopted SPD Long Range Transportation Plan for specific requirements.
DISCLAIMER: This drawing was prepared in part or full for use in a public hearing without specific approval of the Hillsborough County City-County Planning Commission.



APPROVED BY: [Signature]
DATE: 10/20/15
Path: G:\projects\Project\City\Drawings\CPA15-04\CPA15-04_Plan104_1001.mxd



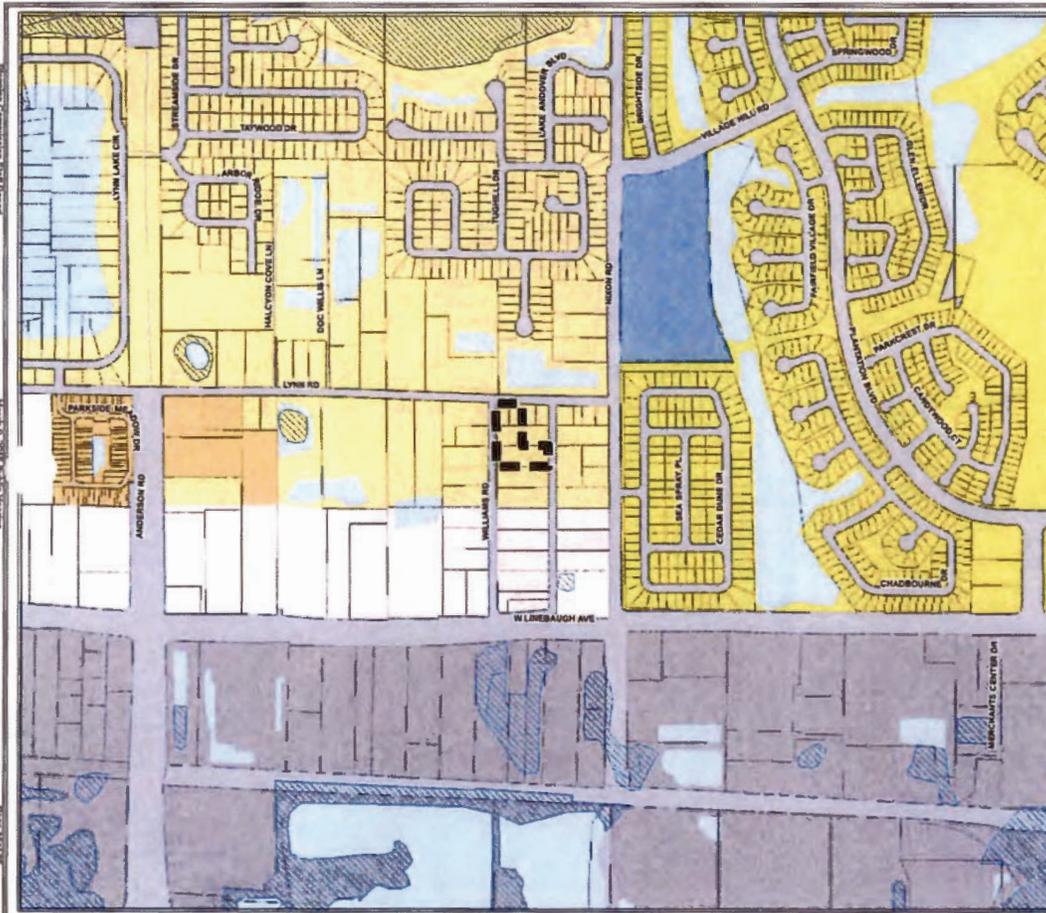


FIG 1
CPA 18-04
ADOPTED 2025 FUTURE LAND USE
Effective: DECEMBER 3, 2014
UNINCORPORATED HILLSBOROUGH COUNTY

Symbol/Color	Description	Code
[Green]	Forest Land	01000
[Light Green]	Forest Land - Forest Management	01001
[Dark Green]	Forest Land - Forest Management - Forest Management	01002
[Light Yellow]	Forest Land - Forest Management - Forest Management	01003
[Yellow]	Forest Land - Forest Management - Forest Management	01004
[Light Orange]	Forest Land - Forest Management - Forest Management	01005
[Orange]	Forest Land - Forest Management - Forest Management	01006
[Dark Orange]	Forest Land - Forest Management - Forest Management	01007
[Red-Orange]	Forest Land - Forest Management - Forest Management	01008
[Red]	Forest Land - Forest Management - Forest Management	01009
[Dark Red]	Forest Land - Forest Management - Forest Management	01010
[Brown]	Forest Land - Forest Management - Forest Management	01011
[Light Brown]	Forest Land - Forest Management - Forest Management	01012
[Yellow-Green]	Forest Land - Forest Management - Forest Management	01013
[Light Green]	Forest Land - Forest Management - Forest Management	01014
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UNINCORPORATED HILLSBOROUGH COUNTY
 Planning Commission Staff Report
 March 18, 2015 Public Hearing
 Page 152 of 26



THE PLANNING COMMISSION

**COUNTY OF HILLSBOROUGH
RECOMMENDATION OF THE LAND USE HEARING OFFICER**

APPLICATION NUMBER: RZ-PD 15-0398 GCN/N

DATE OF HEARING: July 13, 2015

APPLICANT: Gogo & Renuka Ramappa Family, LP

PETITION REQUEST: The applicant is requesting to rezone a parcel consisting of 1.65 acres from AS-1 to PD (Planned Development). The site was subject to a small scale Future Land Use Map change from Res-4 to Res-12 (case CPA 15-04). The Board of County Commissioners approved the FLUM amendment on May 14, 2015.

LOCATION: SE Corner of Lynn & Williams Rd.

SIZE OF PROPERTY: 1.65 Acre±

EXISTING ZONING: AS-1

FUTURE LAND USE: RES-4 (FLUM amendment to RES-12 Approved by BOCC May 14, 2015)

SERVICE AREA: Urban

COMMUNITY PLAN: Greater Carrollwood/Northdale

DEVELOPMENT REVIEW STAFF REPORT

1.0 Summary

1.1 Project Narrative

The request is to rezone a parcel consisting of 1.65 acres from AS-1 to PD (Planned Development). The site was subject to a small scale Future Land Use Map change from Res-4 to Res-12 (case CPA 15-04). The FLUM amendment was unanimously approved by the Board of County Commissioners on May 14, 2015.

The applicant wishes to construct a 19-unit single family and multifamily development. The site is located on the corner of Williams Road and Lynn Road in the Carrolwood/Greater Northdale area, roughly ¼ mile north of Linebaugh Avenue and 1/3 mile east of Anderson Road. Part of the parcel also abuts Trail Ridge Lane.

The subject properties are currently zoned AS-1, which allows for larger-lot single-family residential and agricultural uses. The properties currently contain residential uses. Adjacent properties are also zoned AS-1 and contain residential uses; however, there are multiple developed suburban-scale single-family residential subdivisions and an elementary school within a half mile. Many of these subdivisions have Planned Development zonings. The subject properties are generally located in an enclave of larger-lot single-family properties transitioning out into suburban-pattern single-family subdivisions.

1.2 Compliance Overview with Codes and Technical Manuals

The applicant has not requested any variations to the Land Development Code or Technical Manuals.

1.3 Evaluation of Existing and Planned Public Facilities

The site lies within the Hillsborough County Water and Wastewater Service Areas. There is an 8" water main adjacent to the site in the Lynn Road right-of-way. A 4" wastewater force main exists 60 feet from the site within the Lynn Road right-of-way. The developer is required to connect to water and wastewater facilities.

Lynn Road is a 2-lane local roadway, characterized by +/-9 feet travel lanes, with pavement in average condition. The existing right-of-way on Lynn Road is approximately 50 feet. There are no shoulders or sidewalks along the roadway, adjacent to the proposed project. There is no posted speed limit so, as a local roadway, the assumed speed limit is 25 miles per hour (MPH). Lynn Road currently operates at an acceptable Level of Service (LOS). There are no improvements beyond the existing 2-lane roadway identified in the Hillsborough County MPO 2040 Long Range Needs Plan and the Hillsborough County Corridor Preservation Plan.

Williams Road is a 2-lane local roadway, characterized by +/-9 feet travel lanes, with pavement in fair condition. The existing right-of-way on Williams Road is approximately 50 feet. There are no shoulders along the roadway. There is a 5-foot sidewalk present on the north side of the roadway

but not on the south side of the roadway, adjacent to the proposed project¹. The posted speed limit is 35 miles per hour (MPH) and there are speed humps along the roadway. Williams Road currently operates at an acceptable Level of Service (LOS). There are no improvements beyond the existing 2-lane roadway identified in the Hillsborough County MPO 2040 Long Range Needs Plan and the Hillsborough County Corridor Preservation Plan.

The proposed uses increase the number of trips by 207 Daily trips, 11 AM trips, and 25 PM trips from the development currently in place. With the proposed uses, the net external trips during the AM and PM peak hours are less than the 50-trip increase threshold established by the County. Therefore, a detailed traffic study is not necessary for the proposed rezoning.

1.4 Comprehensive Plan Consistency

The Planning Commission staff has reviewed this petition and finds it consistent with the Future of Hillsborough Comprehensive Plan.

1.5 Compatibility

The applicant has incorporated a creative design not only to meet the requirements for a Planned Development, but also to lessen the impacts on the neighboring single-family residential uses. Parking will be placed within garages versus an open surface parking lot that is typically found in multifamily projects. Three single-family units and 4 duplex buildings will be placed along the periphery of the property and the 4 unit attached multifamily will be placed in the middle of the project in order to reduce the appearance of higher density. Given these creative design standards, the project is compatible with the surrounding area while also appropriate for the Res-12 Future Land Use category.

1.6 Environmental Impacts

No wetlands or surface waters have been identified on this site. There are a number of mature trees on the site. Please see the Natural Resource conditions. No other environmental issues have been identified.

1.7 Agency Comments

The following agencies have reviewed the request and offered no objections. Recommendations are reflected in the list of conditions of approval.

- Transportation: Approvable with conditions
- Natural Resources: Approvable with conditions
- Water/Wastewater: Approvable with conditions
- Parks: No comment
- Environmental Protection Commission: No objection
- HART: No objection

1.8 Exhibits

Exhibit 1: Project Aerial

¹ Williams Road is a North/South roadway with no sidewalks. Lynn Road is an East/West roadway with a sidewalk on its north side directly across from the subject site.

Exhibit 2: Zoning Map

Exhibit 3: Proposed general site plan

2.0 Recommendation

Recommended with conditions.

SUMMARY OF HEARING

THIS CAUSE came on for hearing before the Hillsborough County Land Use Hearing Officer on July 13, 2015. Mr. Brian Grady of the Hillsborough County Development Services Department introduced the Petition.

Todd Pressman, whose business address is 334 Lake Harbor Road, Suite 100, Palm Harbor, Florida 34685, provided testimony on behalf of the applicant. Mr. Pressman stated that the request is for the Hindu Village. The Planning Commission is encouraging infill in urban areas, building homes closer to where people already work, shop and play, saving residents time and money as is the Planning Commission 2040 Vision, reducing red tape making it easier to build developments, all the while walking to and from home and shopping after work. In May of 2015 the BOCC approved the amendment to the Future Land Use classification for the subject property, which included a discussion of the subject PD plan. The subject site is located in the very South Carrollwood Village area. Mr. Pressman displayed a map depicting the subject site and its surrounding area and pointed out Linebaugh Avenue, Anderson Road and the subject site in relationship to Lynn and Williams Roads. The site currently contains a number of structures that are not in the greatest condition according to Mr. Pressman. The site is 1.65 acres in size and the request is to go from AS-1 to PD to allow for 19 smaller residential units. The project is called the Hindu Village, a concept where more senior members of the community can reside in a typical or similar religion background or nationality. In this case, the applicant has named the project as Hindu. There have been many developments throughout Florida that have been very successful and they are built upon very small residences together for community in a particular area of a county or city. That is the primary purpose of the request. The applicant has worked with Development Services and the Planning Commission to achieve a common goal. As a design, it not only meets the requirements of the PD but lessens the impacts on the single-family neighborhood. Mr. Pressman stated that there were no objections.

The subject property is located on the corner and across the street from it are significant structures connected to the Hindu temple. Across the street from that is a Hindi restaurant as well. Mr. Pressman displayed some photos and explained that beyond the Hindu temple is another temple, Vishnu Hadir, and another church across the street. The PD allows for community development. Objective 16 notes the need to protect existing neighborhoods and communities and those that will emerge in the future. The pictures show the site and what has been well established as a religious and cultural area. Across the street is a Hindu based commercial vegetarian kitchen and restaurant open to the public. The culture was one part the Commission was excited about according to Mr. Pressman. The county was encouraging innovative means of providing housing, quality of life in the neighborhood and community cohesiveness. The two roadways are a major component of

transportation for the project.

The Hearing Officer inquired if the proposed development would connect to Trail Ridge Lane. Mr. Pressman replied that he was not sure but it does look like the southern drive is a through road. Mr. Pressman displayed the site plan and explained that north/south is Williams Road and the east-west is Lynn Road.

The Hearing Officer asked how an emergency vehicle would turn around in the northern road that dead-ends. Mr. Pressman replied that the plan had been through the agencies and there had been no objection but the design engineer could respond to that as well.

Housh Ghovae, 300 S. Belcher Road, Clearwater, Florida 33765, testified that any road that is less than 150 feet in length, trucks can get back out.

Catherine Hartley from the Development Services Department testified that the subject site is 1.64 acres in size. The request is to rezone from AS-1 to a Planned Development on the corner of Williams Road and Lynn Road, a quarter mile north of Linebaugh Avenue. The parcel was the subject of a Future Land Use change unanimously approved on May 14th. Policy 2.1 of the Comprehensive Plan requires it meet a density and it is of the requested density. The applicant has prepared a mixed housing design with single-family, a few duplexes and has kept the multifamily in the middle of the project to lessen impacts on the single-family uses directly around it. Development Services staff found the requested zoning compatible and consistent with the Comprehensive Plan.

Yeneka Mills with the Planning Commission testified that the subject site is located within the Residential-1 Future Land Use classification, the Urban Service Area as well as within the boundaries of the Greater Carrollwood Northdale Community Plan. The proposed development would allow a development consistent within the Residential-12 Future Land Use classification and consistent with Policy 16.2 of the Future Land Use Element. The applicant has agreed to a design of the site to make it more compatible with the surrounding area. Based on that, the Planning Commission staff found the proposed zoning consistent with the Future of Hillsborough Comprehensive Plan.

The Zoning Hearing Master then asked for any audience members in support of the request. There were none.

The Zoning Hearing Master then asked for any audience members in opposition to the request.

Patricia Waddell, residing at 2851 Lynn Road, Tampa, Florida, testified that her property is located toward Anderson Road, within walking distance to the subject site. She had purchased her home 18 years ago because the area was zoned for single-family residential; none of the properties have dual residences. Ms. Waddell stated that she strongly opposes a community going in that area due to traffic issues.

Todd Pressman provided rebuttal testimony for the applicant. He stated that there had been 20 to 25 individuals in support at the Land Use Meeting for the FLUM amendment. From her address, he believes that her property is on the other side of Williams Road, which is on the other side of the

religious institution. While she is a neighbor in the area, she is not a neighbor in the immediate vicinity; certainly down the street on Lynn Road and beyond the religious institutions, venturing back to residential.

The hearing was then concluded.

EVIDENCE SUBMITTED

The following evidence was submitted at the hearing:

Yeneka Mills
Staff Report

PREFACE

All matters that precede the Summary of Hearing section of this Decision are hereby incorporated into and shall constitute a part of the ensuing Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The subject site is presently zoned AS-1 and lies within the RES-12 (FLUM approved May 14, 2015) Future Land Use category of the Comprehensive Plan, within the Urban Service Area as well as the Greater Carrollwood/ Northdale Community Plan.
2. The applicant proposes a new Planned Development for 1.65 acres to allow for a 19-unit single family, duplex and multifamily development.
3. The site is located in the Urban Service Area, and would therefore be required to connect to county water and wastewater utilities.
4. Transportation staff has indicated that Lynn Road and Williams Road each currently operate at an acceptable Level of Service (LOS).
5. The applicant has utilized innovative design techniques in transition from the religious institutional site to the north to the single family uses along Williams Road and Trail Ridge Lane consistent with FLUE Policy 16.2.
6. Overall, the subject request is compatible with the surrounding development pattern.

FINDINGS OF COMPLIANCE/NON-COMPLIANCE WITH COMPREHENSIVE PLAN

The rezoning request is in compliance with and does further the intent of the Concept Plan and the Goals, Objectives and the Policies of the Future of Hillsborough Comprehensive Plan.

CONCLUSIONS OF LAW

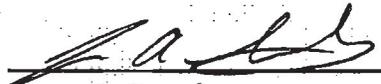
Based on the Findings of Fact cited above, there is competent substantial evidence to demonstrate that the requested Planned Development rezoning is in conformance with the applicable requirements of the Land Development Code and with applicable zoning and established principles of zoning law.

SUMMARY

The request is to rezone a parcel consisting of 1.65 acres from AS-1 to PD (Planned Development). The site was subject to a small scale Future Land Use Map change from Res-4 to Res-12 (case CPA 15-04). The FLUM amendment was approved by the Board of County Commissioners on May 14, 2015. The applicant wishes to construct a 19-unit single family, duplex and multifamily development and has utilized innovative design techniques in transition from the religious institutional site to the north to the single family uses along Williams Road and Trail Ridge Lane consistent with FLUE Policy 16.2. Overall, this proposal will result in development that is compatible with the surrounding area.

RECOMMENDATION

Based on the foregoing, this recommendation is for **APPROVAL** of the Planned Development rezoning request as indicated by the Findings of Fact and Conclusions of Law stated above subject to recommended conditions as prepared by the staff of the Development Services Department.



James A. Scarola
Land Use Hearing Officer

8-3-15

Date

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CLERK TO
THE BOARD (D)

Select Year: 2021

The 2021 Florida Statutes

Title XLIV
CIVIL RIGHTS

Chapter 761
RELIGIOUS FREEDOM

[View Entire Chapter](#)

CHAPTER 761
RELIGIOUS FREEDOM

- 761.01 Short title.
- 761.02 Definitions.
- 761.03 Free exercise of religion protected.
- 761.04 Attorney's fees and costs.
- 761.05 Applicability; construction.
- 761.061 Rights of certain churches or religious organizations or individuals.

761.01 Short title.—This act may be cited as the “Religious Freedom Restoration Act of 1998.”
History.—s. 1, ch. 98-412.

761.02 Definitions.—As used in this act:

(1) “Government” or “state” includes any branch, department, agency, instrumentality, or official or other person acting under color of law of the state, a county, special district, municipality, or any other subdivision of the state.

(2) “Demonstrates” means to meet the burden of going forward with the evidence and of persuasion.

(3) “Exercise of religion” means an act or refusal to act that is substantially motivated by a religious belief, whether or not the religious exercise is compulsory or central to a larger system of religious belief.

History.—s. 2, ch. 98-412.

761.03 Free exercise of religion protected.—

(1) The government shall not substantially burden a person's exercise of religion, even if the burden results from a rule of general applicability, except that government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person:

(a) Is in furtherance of a compelling governmental interest; and

(b) Is the least restrictive means of furthering that compelling governmental interest.

(2) A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief.

History.—s. 3, ch. 98-412.

761.04 Attorney's fees and costs.—The prevailing plaintiff in any action or proceeding to enforce a provision of this act is entitled to reasonable attorney's fees and costs to be paid by the government.

History.—s. 4, ch. 98-412.

761.05 Applicability; construction.—

(1) This act applies to all state law, and the implementation of that law, whether statutory or otherwise, and whether adopted before or after the enactment of this act.

(2) State law adopted after the date of the enactment of this act is subject to this act unless such law explicitly excludes such application by reference to this act.

- (3) Nothing in this act shall be construed to authorize the government to burden any religious belief.
 - (4) Nothing in this act shall be construed to circumvent the provisions of chapter 893.
 - (5) Nothing in this act shall be construed to affect, interpret, or in any way address that portion of s. 3, Art. I of the State Constitution prohibiting laws respecting the establishment of religion.
 - (6) Nothing in this act shall create any rights by an employee against an employer if the employer is not a governmental agency.
 - (7) Nothing in this act shall be construed to affect, interpret, or in any way address that portion of s. 3, Art. I of the State Constitution and the First Amendment to the Constitution of the United States respecting the establishment of religion. This act shall not be construed to permit any practice prohibited by those provisions.
- History.—s. 5, ch. 98-412.

761.061 Rights of certain churches or religious organizations or individuals.—

(1) The following individuals or entities may not be required to solemnize any marriage or provide services, accommodations, facilities, goods, or privileges for a purpose related to the solemnization, formation, or celebration of any marriage if such an action would cause the individual or entity to violate a sincerely held religious belief of the individual or entity:

- (a) A church;
- (b) A religious organization;
- (c) A religious corporation or association;
- (d) A religious fraternal benefit society;
- (e) A religious school or educational institution;
- (f) An integrated auxiliary of a church;
- (g) An individual employed by a church or religious organization while acting in the scope of that employment;
- (h) A clergy member; or
- (i) A minister.

(2) A refusal to solemnize any marriage or provide services, accommodations, facilities, goods, or privileges under subsection (1) may not serve as the basis for:

- (a) A civil cause of action against any entity or individual protected under subsection (1); or
- (b) A civil cause of action, criminal cause of action, or any other action by this state or a political subdivision to penalize or withhold benefits or privileges, including tax exemptions or governmental contracts, grants, or licenses, from any entity or individual protected under subsection (1).

History.—s. 1, ch. 2016-50.

The Religious Land Use and Institutionalized Persons Act

42 U.S.C. § 2000 cc.

Protection of land use as religious exercise

(a) *Substantial burden*

(1) *General rule.* No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution--

(A) is in furtherance of a compelling governmental interest; and

(B) is the least restrictive means of furthering that compelling governmental interest.

(2) *Scope of application.* This subsection applies in any case in which—

(A) the substantial burden is imposed in a program or activity that receives Federal financial assistance, even if the burden results from a rule of general applicability;

(B) the substantial burden affects, or removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, even if the burden results from a rule of general applicability; or

(C) the substantial burden is imposed in the implementation of a land use regulation or system of land use regulations, under which a government makes, or has in place formal or informal procedures or practices that permit the government to make, individualized assessments of the proposed uses for the property involved.

(b) *Discrimination and exclusion*

(1) *Equal terms.* No government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution.

(2) *Nondiscrimination.* No government shall impose or implement a land use regulation that discriminates against any assembly or institution on the basis of religion or religious denomination.

(3) *Exclusions and limits.* No government shall impose or implement a land use regulation that—

(A) Totally excludes religious assemblies from a jurisdiction; or

(B) Unreasonably limits religious assemblies, institutions, or structures within a jurisdiction.

42 U.S.C. § 2000 cc-1

Protection of religious exercise of institutionalized persons

(a) *General rule.* No government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution, as defined in section 1997 of this title, even if the burden results from a rule of federal applicability, unless the government demonstrates that imposition of the burden on that person--

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(b) *Scope of application.* This section applies in any case in which—

(1) the substantial burden is imposed in a program or activity that receives Federal financial assistance; or

(2) the substantial burden affects, or removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes.

42 U.S.C. § 2000 cc-2 Judicial relief

(a) *Cause of action.* A person may assert a violation of this chapter as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules under Article III of the Constitution.

(b) *Burden of persuasion.* If a plaintiff produces prima facie evidence to support a claim alleging a violation of the Free Exercise Clause or a violation of section 2000cc of this title, the government shall bear the burden of persuasion on any element of the claim, except that the plaintiff shall bear the burden of persuasion on whether the law (including a regulation) or government practice that is challenged by the claim substantially burdens the plaintiff's exercise of religion.

(c) *Full faith and credit.* Adjudication of a claim of a violation of section 2000cc of this title in a non-Federal forum shall not be entitled to full faith and credit in a Federal court unless the claimant had a full and fair adjudication of that claim in the non-Federal forum.

(d) *Omitted*

(e) *Prisoners.* Nothing in this chapter shall be construed to amend or repeal the Prison Litigation Reform Act of 1995 (including provisions of law amended by that Act).

(f) *Authority of United States to enforce this chapter.* The United States may bring an action for injunctive or declaratory relief to enforce compliance with this chapter. Nothing in this subsection shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General, the United States, or any agency, officer, or employee of the United States, acting under any law other than this subsection, to institute or intervene in any proceeding.

(g) *Limitation.* If the only jurisdictional basis for applying a provision of this chapter is a claim that a substantial burden by a government on religious exercise affects, or that removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, the provision shall not apply if the government demonstrates that all substantial burdens on, or the removal of all substantial burdens from, similar religious exercise throughout the Nation would not lead in the aggregate to a substantial effect on commerce with foreign nations, among the several States, or with Indian tribes.

42 U.S.C. § 2000 cc-3

Rules of construction

(a) *Religious belief unaffected.* Nothing in this chapter shall be construed to authorize any government to burden any religious belief.

(b) *Religious exercise not regulated.* Nothing in this chapter shall create any basis for restricting or burdening religious exercise or for claims against a religious organization including any religiously affiliated school or university, not acting under color of law.

(c) *Claims to funding unaffected.* Nothing in this chapter shall create or preclude a right of any religious organization to receive funding or other assistance from a government, or of any person to receive government funding for a religious activity, but this chapter may require a government to incur expenses in its own operations to avoid imposing a substantial burden on religious exercise.

(d) *Other authority to impose conditions on funding unaffected.* Nothing in this chapter shall—

(1) authorize a government to regulate or affect, directly or indirectly, the activities or policies of a person other than a government as a condition of receiving funding or other assistance; or

(2) restrict any authority that may exist under other law to so regulate or affect, except as provided in this chapter.

(e) *Governmental discretion in alleviating burdens on religious exercise.* A government may avoid the preemptive force of any provision of this chapter by changing the policy or practice that results in a substantial burden on religious exercise, by retaining the policy or practice and exempting the substantially burdened religious exercise, by providing exemptions from the policy or practice for applications that substantially burden religious exercise, or by any other means that eliminates the substantial burden.

(f) *Effect on other law.* With respect to a claim brought under this chapter, proof that a substantial burden on a person's religious exercise affects, or removal of that burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, shall not establish any interference or presumption that Congress intends that any religious exercise is, or is not, subject to any law other than this chapter.

(g) *Broad construction.* This chapter shall be construed in favor of a broad protection of religious exercise, to the maximum extent permitted by the terms of this chapter and the Constitution.

(h) *No preemptions or repeal.* Nothing in this chapter shall be construed to preempt State law, or repeal Federal law, that is equally as protective of religious exercise as, or more protective of religious exercise than, this chapter.

(i) *Severability.* If any provision of this chapter or of an amendment made by this chapter, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this chapter, the amendments made by this chapter, and the application of the provision to any other person or circumstance shall not be affected.

42U.S.C. § 2000 cc-4 Establishment Clause unaffected

Nothing in this chapter shall be construed to affect, interpret, or in any way address that portion of the First Amendment to the Constitution prohibiting laws respecting an establishment of religion (referred to in this section as the "Establishment Clause"). Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this chapter. In this section,

the term “granting”, used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.

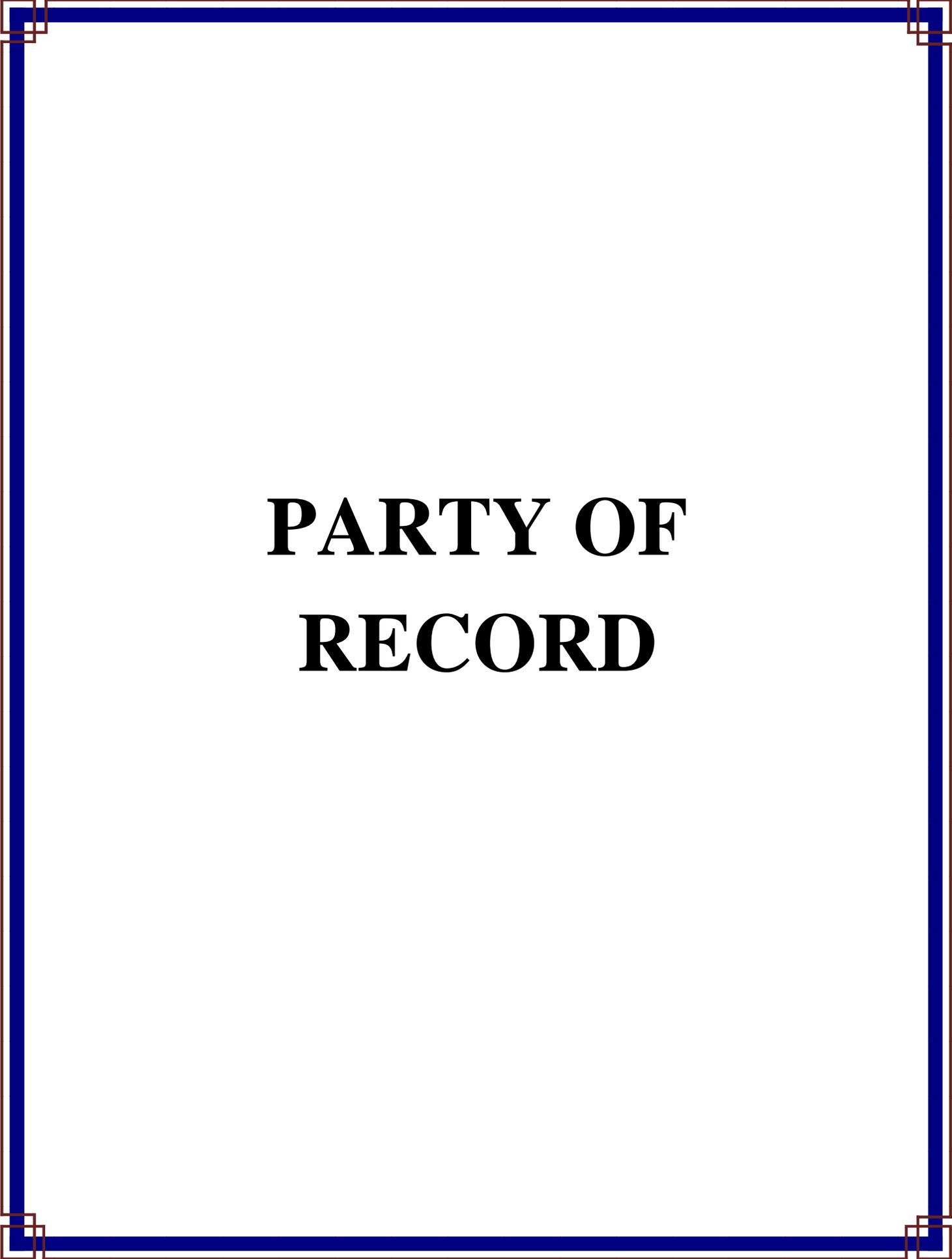
42 U.S.C. § 2000 cc-5 Definitions

In this chapter:

- (1) *Claimant*. The term “claimant” means a person raising a claim or defense under this chapter.
- (2) *Demonstrates*. The term “demonstrates” means meets the burdens of going forward with the evidence and of persuasion.
- (3) *Free Exercise Clause*. The term “Free Exercise Clause” means that portion of the First Amendment to the Constitution that proscribes law prohibiting the free exercise or religion.
- (4) *Government*. The term “government”—
 - (A) means—
 1. (i) a State, county, municipality, or other governmental entity created under the authority of a State;
 2. (ii) any branch, department, agency, instrumentality, or official of an entity listed in clause (i); and
 3. (iii) any other person acting under color of State law; and
 - (B) for the purposes or sections 2000cc-2(b) and 2000cc-3 of this title, includes the United States, a branch, department, agency, instrumentality, or official of the United States, and any other person acting under color of Federal law.
- (5) *Land use regulation*. The term “land use regulation” means a zoning or landmarking law, or the application of such a law, that limits or restricts a claimant’s use or development of land (including a structure affixed to land), if the claimant has an ownership, leasehold, easement, servitude, or other property interest in the regulated land or a contract or option to acquire such an interest.
- (6) *Program or activity*. The term “program or activity” means all of the operations of any entity as described in paragraph (1) or (2) of section 2000d-4a of this title.
- (7) *Religious exercise*.

(A) *In general.* The term “religious exercise” includes any exercise of religion, whether or not compelled by, or central to, a system of religious belief.

(B) *Rule.* The use, building, or conversion of real property for the purpose of religious exercise shall be considered to be religious exercise of the person or entity that uses or intends to use the property for that purpose.



**PARTY OF
RECORD**

NONE