



Meeting Date June 7, 2022

Consent Section

Regular Section

Public Hearing

Subject: Approve a resolution providing for the rendition of the denial of application RZ 21-0962, an application for rezoning from the ASC-1 and RSC-3 zoning districts to a Planned Development. The Board of County Commissioners voted to deny this application during the May 10, 2022 Board of County Commissioners Land Use Meeting.

Department Name: County Attorney’s Office

Contact Person: Johanna M. Lundgren

Contact Phone: 272-5670

Staff’s Recommended Board Motion:

Adopt a resolution providing for the rendition of the denial of application RZ 21-0962, an application for rezoning from the ASC-1 and RSC-3 zoning districts to a Planned Development.

Background:

Sec. 10.03.04 (G) of the Land Development Code (LDC) provides for the process for the Board of County Commissioners’ consideration of rezonings. This section states that “the Board shall consider the record of the hearing before the Land Use Hearing Officer, any additional evidence and oral argument introduced pursuant to the terms herein and shall approve or deny the application by resolution. The resolution shall include a statement of compliance or all points of noncompliance with the Comprehensive Plan, if different from the conclusions of the Land Use Hearing Officer, and shall give specific reasons for any decision contrary to his recommendation. A resolution approving an application shall specify any conditions which are required as part of the Board's approval.”

In accordance with Sec. 10.03.04 of the LDC, the Board of County Commissioners conducted a public meeting and considered application RZ 21-0962 during the May 10, 2022 Board of County Commissioners Land Use Meeting. The Board conducted its review of this application in accordance with the Land Development Code, and voted to deny the application. The Board is requested to adopt the attached resolution providing for the rendition of the Board’s denial of application RZ 21-0962.

List Attachments:

Resolution providing for denial of RZ 21-0962, with the following attachments: (1) Zoning Hearing Master Recommendation, (2) Development Services Department denial letter (3) Excerpt of Minutes of May 10, 2022 Board of County Commissioners Land Use Meeting

RESOLUTION # _____

REZONING PETITION# RZ-PD 21-0962

Upon motion by Commissioner Hagan, seconded by Commissioner White, the following resolution was adopted by a 4-2 vote, with the individual commissioners voting as follows:

Cohen	No
Hagan	Yes
Kemp	Yes
Myers	No
Smith	Yes
White	Yes
Overman	Absent

WHEREAS, on the 6th day of June, 2021, Stephen J. Dibbs submitted a rezoning petition requesting a change from RSC-3 and ASC-1 (Residential, Single-Family Conventional and Agricultural, Single Family, respectively) zoning classifications to PD (Planned Development) zoning classification for the parcel of land described in said petition (the “Property”); and,

WHEREAS, the Land Use Hearing Officer on March 14, 2022, held a duly noticed public hearing on said rezoning petition for PD (Planned Development) zoning and heard and considered testimony and documents received thereon; and,

WHEREAS, the Land Use Hearing Officer filed with the Board of County Commissioners of Hillsborough County a recommendation of approval of said rezoning petition; and,

WHEREAS, said recommendation of approval contained findings of fact and conclusions of law relating to consistency with the Comprehensive Plan and compatibility with adjoining land uses and zoning classifications, a copy of which recommendation is attached hereto as Exhibit A and incorporated herein by reference; and,

WHEREAS, the public notice requirements contained in the Land Development Code of Hillsborough County (“LDC”) have been satisfied; and,

WHEREAS, the Board of County Commissioners of Hillsborough County has received and considered the report and recommendation of the Hillsborough County City-County Planning Commission staff; and,

WHEREAS, the Board of County Commissioners of Hillsborough County has received and considered the report and recommendation of the Hillsborough County Administration; and,

WHEREAS, the Board of County Commissioners of Hillsborough County has received and considered the report and recommendation of the Land Use Hearing Officer; and,

WHEREAS, the Board of County Commissioners of Hillsborough County has on May 10,

2022, held a duly noticed public meeting on the petition for PD (Planned Development) zoning and has considered all record evidence and heard and considered all argument received thereon.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA:

I. FINDINGS

A. The recitals of fact and law set forth above are hereby incorporated into this Resolution.

B. The Board has considered the Petition in accordance with LDC §10.03.04.

C. LDC §10.03.04 G. 1. provides that the Board's resolution that approves or denies the Petition, "shall include a statement of compliance or all points of noncompliance with the Comprehensive Plan, if different from the conclusions of the [ZHM], and shall give specific reasons for any decision contrary to his recommendation."

D. §163.3194(3) (a) of the Community Planning Act provides that, "(a) development order ... shall be 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."

E. The Board hereby rejects the Zoning Hearing Master's recommendation of approval on the grounds that the requested Planned Development is not compatible with the established residential uses to the north, east and south of the Property, and as such is not consistent with Future Land Use Element Policy 1.4 of the Comprehensive Plan, which states:

"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."

Further, the requested Planned Development's encroachment of non-residential uses, which include but are not limited to a commercial driveway connection to the Property from Hoedt Road, are incompatible with the established residential uses to the north, east, and south of the Property. As such, the requested Planned Development is also inconsistent with Future Land Use Element Objective 16 and Policies 16.1 and 16.2 regarding neighborhood protection.

F. Record evidence which describes both the natural and the non-natural physical characteristics and the environmental functions of both the Property and the surrounding

areas supports a finding that the retention of the existing zoning classification serves the legitimate public purpose of protecting the existing residential neighborhood from the encroachment of non-residential or commercial uses.

II. CONCLUSION

The Board of County Commissioners of Hillsborough County hereby denies the above-referenced petition for PD (Planned Development) zoning.

III. EFFECTIVE DATE

This Resolution shall take effect upon the Board's vote on the Petition.

STATE OF FLORIDA)
)
COUNTY OF HILLSBOROUGH)

I, CINDY STUART, Clerk of the Circuit Court and Ex Officio Clerk to the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of the resolution adopted by the Board of County Commissioners of Hillsborough County, Florida at its regular meeting of _____ as the same appears of record in Minute Book _____ of the Public Records of Hillsborough County, Florida.

WITNESS, my hand and official seal this _____ day of _____, 2022.

CINDY STUART, CLERK

BY: _____
Deputy Clerk

APPROVED BY COUNTY ATTORNEY

BY _____

Approved As To Form And
Legal Sufficiency

COUNTY OF HILLSBOROUGH

**RECOMMENDATION OF THE
LAND USE HEARING OFFICER**

APPLICATION NUMBER: RZ PD 21-0962

DATE OF HEARING: March 14, 2022

APPLICANT: James J. Porter / Akerman LLP

PETITION REQUEST: A request to rezone property from ASC-1 and RSC-3 to PD to permit a Type C Professional Residential Facility for a maximum of 25 placed residents

LOCATION: South side of Hoedt Rd and 345 feet west from Kings Pkwy

SIZE OF PROPERTY: 2.67 acres, m.o.l.

EXISTING ZONING DISTRICT: ASC-1 and RSC-3

FUTURE LAND USE CATEGORY: RES-4

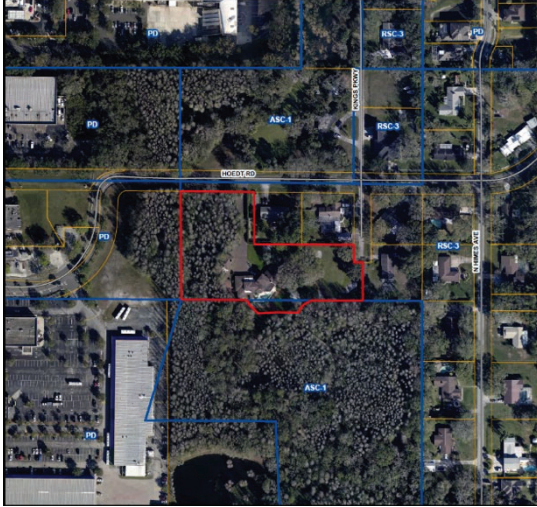
SERVICE AREA: Urban

COMMUNITY PLAN: Greater Carrollwood Northdale

DEVELOPMENT REVIEW STAFF REPORT

***Note:** Formatting issues prevented the entire Development Services Department staff report from being copied into the Hearing Master's Recommendation. Therefore, please refer to the Development Services Department web site for the complete staff report.

1.0 APPLICATION SUMMARY



Applicant: Stephen J. Dibbs

FLU Category: Res 4

Service Area: Urban

Site Acreage: 2.67 Acres

Community Plan Area: Greater Carrollwood Northdale

Overlay: None

Request: Rezone from RSC-3 & ASC-1 & to PD

Request Summary:

The applicant seeks to rezone the subject parcel with a single-family home with 11,024 total square feet of area to a Planned Development to allow for a Professional Residential Facility Type C to provide lodging and on site treatments for a maximum of 25 placed residents.

Zoning:		
Uses	Current Zoning RSC-3	Proposed PD Zoning
		Single Family Residential
Mathematical Maximum Entitlements*	7 Residential lots	1 Professional Residential Facility, 41 Placed residents

*Mathematical maximum entitlements may be reduced due to roads, stormwater and other improvements.

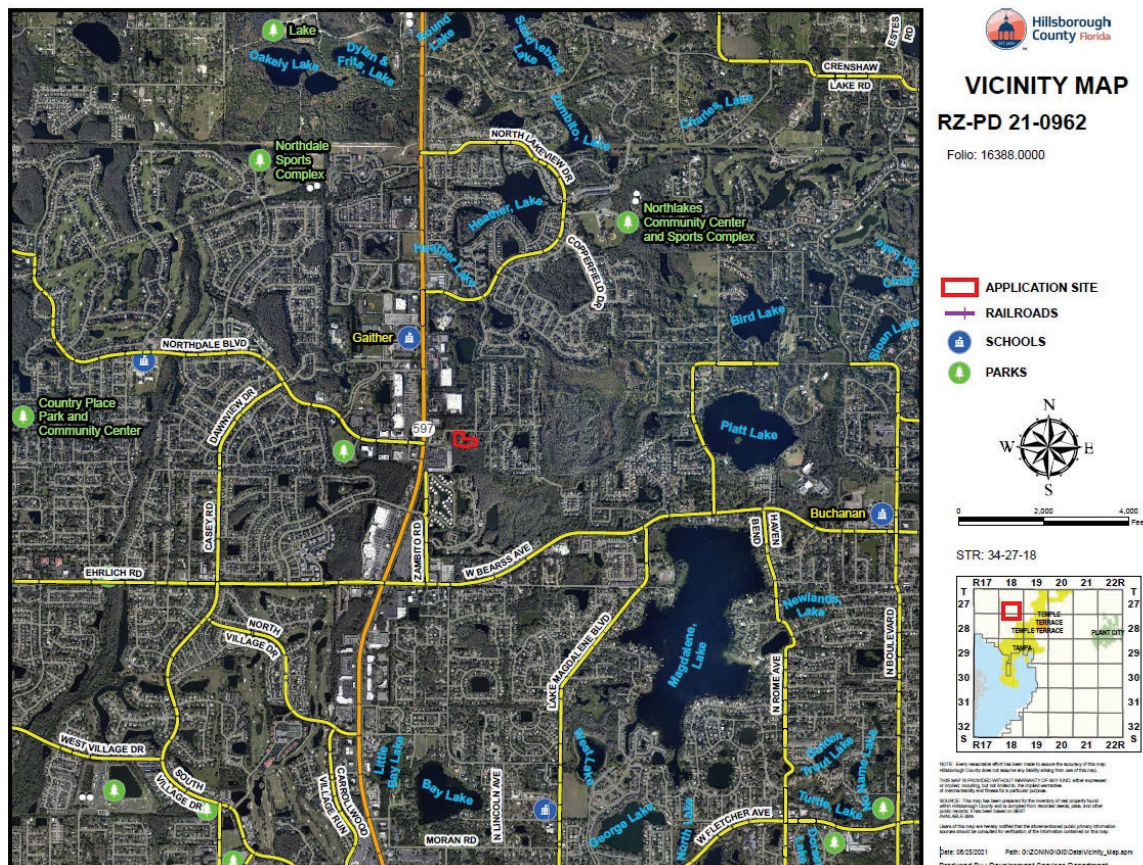
Development Services Department

Development Standards:		
	Current RSC-3 Zoning	Proposed PD Zoning
Density / Intensity	3 dwelling units per acre	1 facility per 2.67 Acres
Lot Size / Lot Width	14,520sf / 75'	2.67 Acres/ NA
Setbacks/Buffering and Screening	25' Front 7.5 sides/none 25' rear/none	25' front * 7.5' sides/ * 20' rear/*
Height	35'	35'

* Setbacks for existing single-family home will remain in compliance for RSC-3 Standards

• Additional Information: •

• PD Variations	Variation to 6.06.06 Buffering and Screening to allow a 3.5 foot buffer with 6 foot wall and 8 foot hedge on east side of access driveway where a 5 foot buffer with 6 foot fence, wall or hedge is required.
• Waiver(s) to the Land Development Code	• None
Planning Commission Recommendation	Consistent
Development Services Department Recommendation	Approvable Subject to Conditions

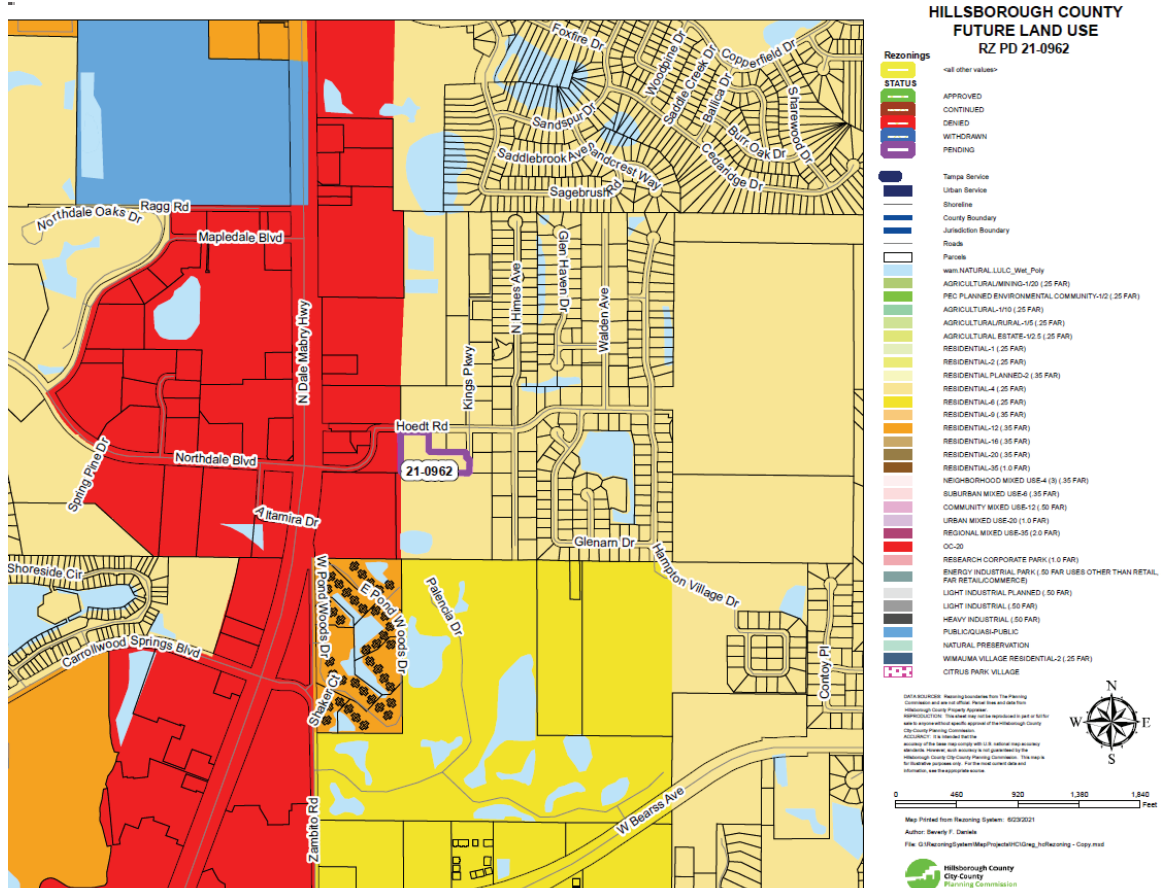


Context of Surrounding Area:

The subject parcel is located less than a 1/4 mile east of Dale Mabry Highway and less than 3/4 miles north of Bearss Avenue. The area to the east of the subject site is exclusively residentially developed with single family homes situated on lots that generally consist of 1/4 acre in area and larger. The area to the west of the subject site is primarily commercial general uses that take access off of Dale Mabry Highway.

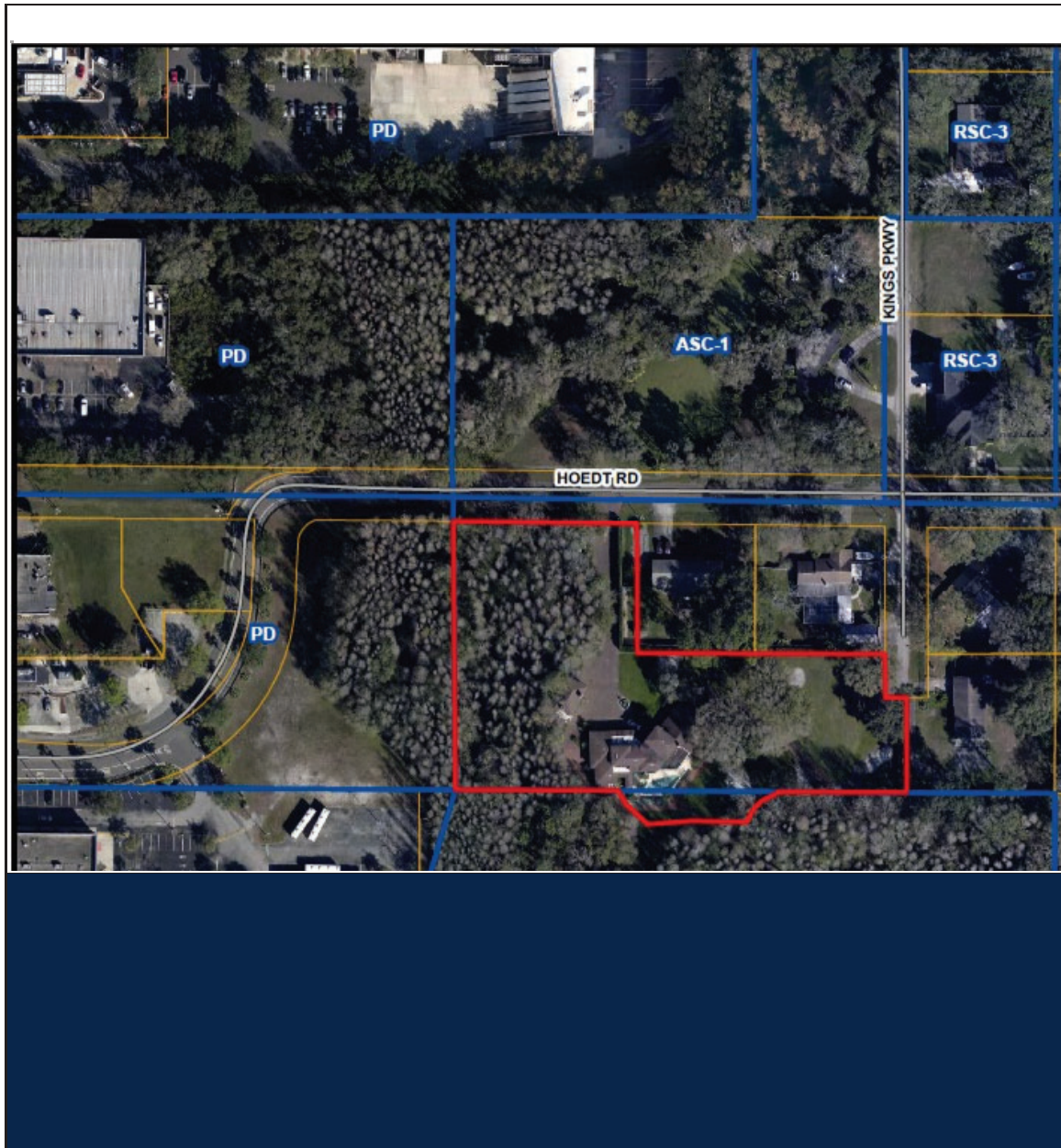
The subject site is bounded to the south and west by wetlands.

2.0 LAND USE MAP SET AND SUMMARY DATA 2.2 Future Land Use Map



Subject Site Future Land Use Category:	Residential - 4
Maximum Density/F.A.R (Floor Area Ratio):	4unit per acre / .25 FAR
Typical Uses:	Low density residential, suburban scale neighborhood commercial office, multi-purpose and mixed-use projects.

2.0 LAND USE MAP SET AND SUMMARY DATA 2.3 Immediate Area Map

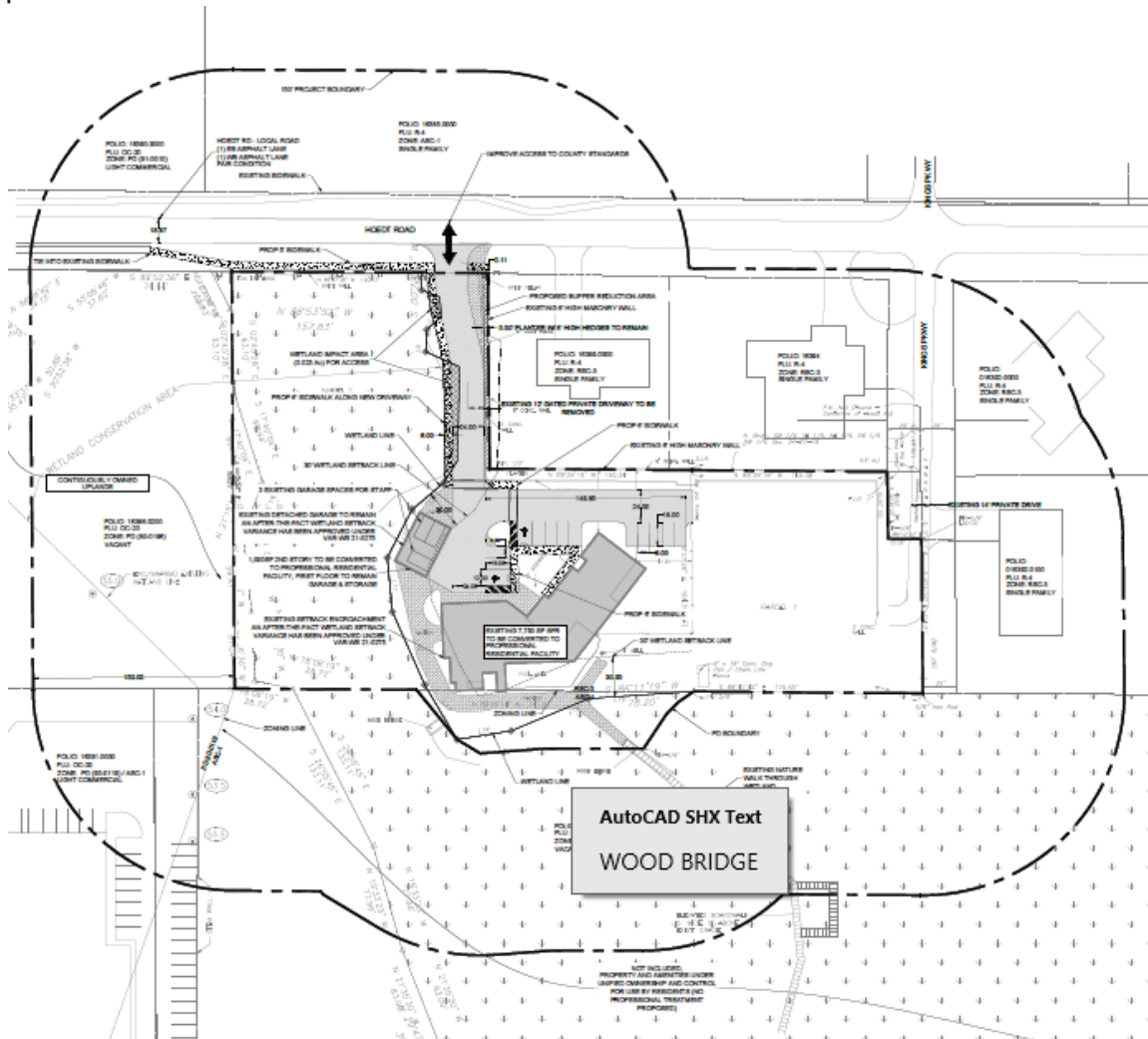


Adjacent Zonings and Uses

Location	Zoning:	Maximum Density/F.A.R. Permitted by Zoning District:	Allowable Use:	Existing Use:
North	ASC-1	1 du per acre	Agricultural, Residential	Single Family Home
	RSC-3	3 du per acre	Residential	Single Family Homes
South	ASC-1	1 du/ 1 acre	Agricultural, Residential	Vacant Lowlands
West	PD 80-0196	0.08 FAR	Commercial	Vacant
East	RSC-3	3 units / acre	Residential	SF Homes

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 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
Hoedt Rd.	County Local – Urban and Rural	2 Lanes <input checked="" type="checkbox"/> Substandard Road <input checked="" 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"/>	<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"/>	<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"/>	<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	66	5	7
Proposed	65	5	7
Difference (+/-)	(-) 1	No Change	No Change

*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	X	Vehicular & Pedestrian	None	Meets LDC
South		None	None	Meets LDC
East		None	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: By policy of the County Engineer, projects generating fewer than 10 peak hour trips into a lane generally exempt from the requirement to improve the roadway to County standards provided the roadway being accessed meets minimum life safety standards (i.e. 15 feet of pavement width within a 20-foot wide clear area). The project generates 5 peak hour trips in the highest generating peak hour (i.e. the p.m. peak hour). As such, no substandard road improvements are required to Hoedt Rd. and no Design Exception or Section 6.04.02.B. Administrative

Variance was necessary.

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	

4.0 ADDITIONAL SITE INFORMATION & AGENCY COMMENTS SUMMARY				
INFORMATION/REVIEWING AGENCY				
Environmental:	Comments Received	Objections	Conditions Requested	Additional Information/Comments
Environmental Protection Commission	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Wetlands Line Validity Expired
Natural Resources	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Conservation & Environ. Lands Mgmt.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Check if Applicable:				
<input checked="" type="checkbox"/> Wetlands/Other Surface Waters				
<input type="checkbox"/> Use of Environmentally Sensitive Land Credit				

Wellhead Protection Area
 Surface Water Resource Protection Area
 Potable Water Wellfield Protection Area Significant Wildlife Habitat
 Coastal High Hazard Area
 Urban/Suburban/Rural Scenic Corridor Adjacent to ELAPP property
 Other _____

Public Facilities:	Comments Received	Objections	Conditions Requested	Additional Information/Comments
Transportation <input type="checkbox"/> Design Exc./Adm. Variance Requested <input type="checkbox"/> Off-site Improvements Provided	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	See Staff Report
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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Hillsborough County School Board Adequate <input type="checkbox"/> K-5 <input type="checkbox"/> 6-8 <input type="checkbox"/> 9-12 <input checked="" type="checkbox"/> N/A Inadequate <input type="checkbox"/> K-5 <input type="checkbox"/> 6-8 <input type="checkbox"/> 9-12 <input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Impact/Mobility Fees

Assisted Living
25 beds 7,593 s.f. (per bed Mobility) (per 1,000 s.f. Fire)

Less
Prior Use Estimated

Credit Balance Due

Mobility $\$1,128 \times 25 = \$28,200 - \$9,495 = \$18,705$
 Fire $\$95 \times 7.593 = \$721.33 - \$335 = \386.33

Urban Mobility, Northwest Fire - ALF 25 beds, within existing 7,593 s.f living area single family (prior use credit)

Additional Notes: The parcel located south of the subject parcel is owned by the applicant and has a boardwalk that appears to be accessible form the existing home. This facility is not a part of the subject application.

Comprehensive Plan:	Comments Received	Findings	Conditions Requested	Additional Information/Comments
Planning Commission <input type="checkbox"/> Meets Locational Criteria <input checked="" type="checkbox"/> N/A <input type="checkbox"/> Locational Criteria Waiver Requested <input type="checkbox"/> Minimum Density Met <input checked="" type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/> Consistent	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

5.0 IMPLEMENTATION RECOMMENDATIONS

5.1 Compatibility

The commercially developed parcels to the west of the subject site are separated from the residential neighborhoods to the east by a wetland area that is partially located on the subject parcel. If approved, the reuse of the subject residence as a professional residential facility will become a land use transition parcel in addition to comprising physical transition between the residential neighborhood to the east and the commercial plaza to the west.

Given that a Professional Residential Facility has a residential component and that the subject parcel is on the western boundary of the residential neighborhood the use is appropriate as a transitional use between commercial and residential land uses.

Type C Professional Residential Facilities per the LDC are not required to maintain a residential appearance, however the applicant has agreed to maintain the residential appearance of the facility similar to its current appearance as required in the proposed conditions of approval.

In order to lessen the appearance of a commercial use at this location a condition has been included that limits signs for the facility to the existing address at a residential scale pursuant to the limitations in LDC Section 7.03.00.C.3.a. for

signs in residential districts. The sign limitation along with the parcel configuration which provides for a large wetland area with a long access drive along Hoedt Road and large structure setback will help to minimize being able to distinguish the proposed facility from a standard single-family home.

Staff concurs with the applicant's justification for a variation to LDC Section 6.06.06 to allow 3.5-foot buffer with 6-foot wall and 8-foot hedge.

Furthermore, in response to meetings with concerned residents within the area the applicant has offered to install security cameras at the gating, exit and entry points, installation of security lighting at low levels with no spillover lighting, provide a shuttle service for overflow off-street parking on the adjacent commercial property with no on street parking on Hoedt Road and to conduct AA drug/alcohol meetings off site. Conditions are included requiring installation of security cameras, security lighting and the prohibition of on-street parking along Hoedt Road. The Land Development Code has provisions regulating the installation of exterior lighting that regulates the shielding and design of the lighting to address off site impacts of said lighting. The commitment of the security lighting having "no spillover" is not defined term/technical standard in the Land Development Code (LDC). The LDC has technical standards regarding permitted light intensity at project boundaries which is measured in foot candles and design requirements for lighting to ensure compliance with the foot candle standard. The lighting for the facility will be required to comply with those standards. With respect to overflow parking with shuttle, the Land Development Code (LDC Section 6.05.02.D.2) allows for consideration of off-site parking when the facility cannot meet minimum parking requirements on site. The subject parcel is proposing to provide parking in excess of required minimums. Furthermore, some of the design requirements for off-site parking (as outlined in LDC Section 6.05.02.D.2) cannot be met for the subject parcel (i.e. maximum travel distance between the two sites, proposed use not being a permitted use in the commercial parcel). Therefore, the conditions of approval do not address this proposal. Regarding the offered AA meeting restrictions, staff has concerns about being able to effectively enforce a restriction prohibiting said meetings in their entirety, however, a condition has been included prohibiting persons other than residents from participating in those meetings if they occur on site.

Finally, the applicant has provided the documentation of finding no other Professional Residential Facility or Community Residential Homes Type B or C within 1,200 feet of the proposed facility.

5.2 Recommendation

Given the considerations mentioned above, staff finds the request approvable, subject to conditions.

Zoning conditions, which were presented Zoning Hearing Master hearing, were reviewed and are incorporated by reference as a part of the Zoning Hearing Master recommendation.

SUMMARY OF HEARING

THIS CAUSE came on for hearing before the Hillsborough County Land Use Hearing Officer on March 14, 2022. Mr. Brian Grady of the Hillsborough County Development Services Department introduced the petition.

Mr. Jim Porter 401 East Jackson Street Tampa testified on behalf of the applicant. Mr. Porter introduced the applicant's team and stated that the rezoning has recommendations for approval from the County's Development Services Department and a finding of consistency with the Comprehensive Plan from the Planning Commission. Mr. Porter added that the request is well under what would be allowed under the Land Development Code and the Comprehensive Plan. The applicant's team held three neighborhood meetings. The request is for a Professional Residential Facility only. No end operator has been chosen yet. The property owner, Mr. Dibbs, will not be operating the facility. All appropriate licenses from the State will be obtained. Mr. Porter stated that the existing house where the facility will be housed is not intended to be expanded. He entered photos of the neighborhood into the record.

Mr. Michael Horner 14502 North Dale Mabry Highway testified on behalf of the applicant. He introduced Mr. Couch who will present graphics during the presentation. Mr. Horner stated that a prior application was made for an assisted living facility but was withdrawn when the application hearing timeframes ran out. The subject application is filed for a Professional Residential Facility only. He showed a graphic to discuss the surrounding Future Land Use categories and land uses. County staff noted that the subject property is the transitional parcel to the neighborhood. Mr. Horner showed an aerial photograph and described the extent of the wetlands on-site as well as off-site to the south. The property has a restricted gated access to Hoedt Road and is completely secured by a perimeter wall.

Hearing Master Finch asked Mr. Horner if the existing gates will remain if the facility is approved. Mr. Horner replied yes.

Mr. Horner continued his presentation and stated that the existing concrete block wall is 6 feet high and there is an existing hedge that is at least 8 feet high. A 1.5 foot reduction from the required 5-foot buffer is requested due to the existing grass strip and driveway. A commercial driveway is required along with sidewalks to extend along Hoedt Road. A prior wetland variation was approved last year for the encroachments of the structures into the wetland area. The existing home is approximately 11,000 square feet and there is also a separate

detached garage which is approximately 2,000 square feet in size. The upstairs portion is proposed to be part of the Professional Residential Facility. The total net square footage of the facility will be about 8,500 square feet. Mr. Horner stated that the neighbors were concerned about parking therefore the proposed number of parking spaces was increased from 6 to 16 spaces. Two of the spaces will be in the garage and 14 will be surface spots. He noted that the County looks for these type of facilities to be in a residential setting and residential house. Mr. Horner testified that the applicant offered restrictions that would require AA meetings would be off-site. He mentioned documents that were filed into the record regarding other facilities that abut single-family homes and showed a zero impact to the home values. No signage is permitted therefore no difference will be seen by those persons driving by the facility.

Mr. Jeremy Couch 17937 Hunting Bow Circle Lutz testified on behalf of the applicant regarding the proposed access to Hoedt Road. Mr. Couch stated that access through the shopping center was not able to be provided due to the wetlands and required justification that would need to be made to the EPC, SWFWMD and the Army Corp of Engineers. He added that the site has water and sewer in the front of the property therefore it is a great location with capacity.

Hearing Master Finch asked about the traffic associated with the use and specifically how long the 25 residents would be living in the facility. Mr. Horner replied that the stay is based on the resident's individual needs but could be 30 or 60 days. He added that there is no referral any courts in Hillsborough County. The program is voluntary and no one is forced to stay at the facility.

Hearing Master Finch asked about the staff that would reside in the facility. Mr. Horner replied that there are dinners cooked on-site as well as maintenance staff and the professional treatment staff which is under the purview of the operator of the facility.

Hearing Master Finch asked if the proposed parking takes into account the staff and visitors to the facility. Mr. Horner replied yes and added that the number of proposed parking spaces was increased to recognize the staff for the facility.

Hearing Master Finch asked if the only changes to the exterior of the property were to install the commercial driveway and add the parking spaces. Mr. Horner replied that there will be no exterior changes to the existing home.

Mr. Porter concluded the applicant's presentation by stating that page 7 of the County's staff report provides a trip generation chart which shows the use is a very low generating type of use as far as traffic is concerned. He stated that because there is not yet an end operator of the facility some of the details are not able to be answered. He concluded his presentation by stating that the land use is appropriate for the area.

Mr. Brian Grady , Development Services Department testified regarding the County's staff report. Mr. Grady stated that the request is to rezone from ASC-1 and RSC-3 to PD for a 25-resident Professional Residential Facility. He added that the proposal is to convert the existing structure on-site for the proposed use. Mr. Grady described the location of the property as well as the surrounding land uses and zoning districts. A sign limitation is proposed in the zoning conditions to minimize the ability to distinguish the proposed facility from a standard single-family home. Also, the conditions request the structure to maintain a residential appearance. The applicant proposes a PD variation for a 3.5 foot buffer with a 6-foot wall and 8-foot hedge along the eastern side of the access drive where a 5-foot buffer with 6-foot wall or hedge is required. Zoning conditions require the installation of security cameras, lighting and the prohibition of non-residents attending counseling meetings at the property. Mr. Grady concluded his presentation by stating that staff is recommending approval based upon the finding of the Planning Commission that the use provides the appropriate transitional use between the commercial to the west and the residential to the northeast and east of the parcel.

Ms. Jillian Massey of the Planning Commission staff testified that the property is within the Residential-4 Future Land Use category and located in the Urban Service Area and the Greater Carrollwood Northdale Community Planning Area. Ms. Massey testified that the request is consistent with Objective 1 of the Comprehensive Plan as well as Policies 1.2 and 1.3 regarding minimum density. The residential support use is surrounded by single-family residential and meets the compatibility requirements of Policy 1.4. Ms. Massey testified that the site is located in between higher intensity Office Commercial-20 to the west and single-family to the east and serves as an appropriate transitional use between them as emphasized in Policy 16.2. Policy 20.5 outlines the conditions for the siting of such facilities and the subject facility is not located in proximity to another facility. She concluded her remarks by stating that the rezoning request is consistent with the Greater Carrollwood Northdale Community Plan Goal 1 which seeks to establish a sustainable workable Community Activity Center and Goal 2 regarding the preservation of suburban neighborhoods. Ms. Massey concluded her remarks by stating that the request is consistent with the Future of Hillsborough Comprehensive Plan.

Hearing Master Finch asked Ms. Massey to confirm that a Professional Residential Facility qualifies as a residential support use according to the Comprehensive Plan. Ms. Massey replied that was correct.

Hearing Master Finch asked audience members if there were any proponents of the application. None replied.

Hearing Master Finch asked audience members if there were any opponents of the application.

Ms. Joan Johnson 15803 Glenarn testified in opposition. Ms. Johnson showed a

graphic and stated that she lives in the adjacent neighborhood that Hoedt Road is the only ingress and egress from the neighborhood. She added that the request is to transform the home into a for-profit business encroaching unnecessarily into single-family homes. She testified that the reason the applicant cannot answer the questions regarding the number of parking spaces or anything that they need is because the applicant has not consulted with an addiction medicine practitioner. She stated that the neighbors gave the applicant the idea about security cameras and lighting as well as having sufficient parking. Ms. Johnson pointed on the map to other businesses in the area that provide drugs and alcohol. She questioned the traffic that the use will generate. She stated that there will be trucks that provide the food for the facility. Ms. Johnson concluded her comments by stating that the use will be dangerous. She submitted petitions in opposition into the record.

Mr. Jeffrey Cain 15838 Glenarn Drive Tampa testified in opposition. Mr. Cain stated that he and his wife have worked professionally with many drug rehab facilities and it will change the area. He described drug dealers being in the area to smuggle drugs into the facility. Additionally, he stated that the residents frequently try to escape. He added that he is concerned as he is the head of the neighborhood watch program. Mr. Cain testified that the traffic would increase during visiting times and the intersection of Hoedt Road and Dale Mabry Highway will be affected. He is concerned about property values being hurt by the facility. He stated that the property owner also developed the nearby commercial center and described his home as a buffer to the neighborhood which would no longer be true. The bar in the shopping center has loud music and produces drunk drivers in his neighborhood. Mr. Cain showed a picture of a sign at the entrance to the subject property which identifies it as a spa and country club. He described an associated website which is dated 2003 and details uses such as gambling, golf tournaments and alcohol being served at events. Mr. Cain summarized his comments by asking that there be an investigation of the current use of the property and any infringement of the existing wetlands.

Mr. Saeb Janoun 3005 Hoedt Road testified in opposition. Mr. Janoun stated that there is only one way in and out to his neighborhood and the proposed use would not conform. He stated that he is concerned about the children that ride bikes and play in the neighborhood. He added that there is a potential encroachment to the wetlands which needs to be addressed. He also asked about the type of facility and people that will live on the property.

Mr. Randall Reder 1319 West Fletcher Avenue Tampa stated he is an attorney representing some of the landowners. Mr. Reder stated that that the application is inconsistent with the Comprehensive Plan. Three reviewing agencies, Transportation, Waste Water and the EPC, have said that the request is not consistent. The applicant has responded that those issues will be taken care of at a later time. He added that the application should be continued until those issues are addressed. Mr. Reder stated that he would like to have the right to cross examine witnesses which has not been provided. The procedures are a

violation of his clients' constitutional rights and notice of due process. Mr. Reder presented five documents. He submitted a 31 page petition in opposition signed by persons who oppose the request. He stated that his letter requests to cross examine witnesses. His Exhibit C includes pertinent portions of the Land Development Code and Comprehensive Plan to assert his argument that the application is not consistent. Mr. Reder's Exhibit D includes agency review comments. His last exhibit is from a neighbor that was not present at the hearing regarding evidence that the proposed land use will diminish property values. Mr. Reder stated that he is familiar with the roadway intersection as he lives in the area. He described rush hour traffic that results in waiting for the traffic signal light to change two to three times and the proposed use would increase traffic such that it is not appropriate to build the facility.

Ms. Bree Lorant testified in opposition. Ms. Lorant stated that she is opposed to the request but asked if the application is approved that she would like two conditions of approval. First, she would like to gates to be locked 24/7 so that the facility residents cannot roam the neighborhood. Second, she requested that the facility be conditioned that it is for private pay clients only and that it cannot become a court-appointed facility.

Ms. Debbie Cain 15838 Glenarn Drive in Hampton Lakes testified in opposition. Ms. Cain stated that she opposes the request. She described research she had done on the history of the property. She testified that the evidence submitted into the record shows that the property has been the St. Stevens Golf and Country Club since 2003. She stated that the St. Stevens Golf and Country Club has been investigated for possible human trafficking and fined for operating without the property authority to offer alcohol, gambling and other activities that are not permitted. She added that the business operates 24 hours a day per their web site. She summed up her comments by alleging that the subject rezoning may be a front for some other land use.

Mr. Ratliff of the County's Transportation staff addressed comments by the first speaker in opposition regarding the transportation calculations. Mr. Ratliff stated that the transportation analysis looks at the maximum development potential under the existing zoning district and not what is there today. There is the potential for 7 homes to be developed under the current zoning district.

County staff did not have additional comments.

Mr. Porter testified during the rebuttal period that the Hearing Master's recommendation has to be based on competent substantial evidence which was presented by both planning staffs that have recommended approval of the request. He added that Mr. Horner's testimony as an AICP certified planner and Mr. Couch's testimony as a professional engineer represent competent substantial evidence. Mr. Porter stated that there is no objection from EPC or any County agency. The petitions in opposition submitted into the record are not competent substantial evidence. Property values are not relevant to the Hearing

Master's decision however the applicant submitted information regarding properties near similar facilities. There are no Code Enforcement violations on the subject property. Mr. Porter concluded his remarks by stating that he strenuously objects to the unfounded allegations of human trafficking on the property.

Mr. Horner testified during the rebuttal period that any future zoning violations would run with the land and not the owner/operator. He added that any future violations to the conditions regarding traffic, noise, violence or any security breach can be addressed by Code Enforcement. Mr. Horner testified that the owner/operator would agree to keeping the gates locked. No one would be given the keys to the gate. If someone wanted to leave the program, a family member would be contacted and then the gates would be opened. The traffic generated by the proposed use is essentially the same rates as residential. Mr. Horner cited the County's transportation report and stated that no road improvements and no design exception is required.

Hearing Master Finch asked Mr. Horner where in the zoning conditions states that the gates will be closed and locked. Mr. Horner replied that his client agreed to locking the gates and that it could be part of the Hearing Master's findings.

Hearing Master Finch asked Mr. Horner to confirm on the record that his client would be amenable to a zoning condition that would recognize the existing gates or similar gate that would prevent access and would be locked with the exception of vehicular travel in the driveway. Mr. Horner replied that was correct and added that the owner/operator would have access key codes to all the gates which would open to those that are scheduled to come in. The gates would be closed and locked at all other times 24/7. He stated that his client agrees to a zoning condition for the gates.

Mr. Horner concluded the rebuttal testimony by stating that the website mentioned in the opposition testimony was created by the property owner and his friends as part a sarcastic game. He stated that the website is not applicable to the subject rezoning request. Regarding the three Zoom meetings that were held with the nearby homeowners, a request was made to have the facility accessed through the existing wetland system at the southwest corner. EPC would not permit that as there is existing access to Hoedt Road. Regarding the required commercial driveway that will be expanded to 24 feet with the required sidewalk connection to Hoedt Road, there is a nominal encroachment on the west side of the driveway that will be addressed by EPC prior to site plan review.

Hearing Master Finch asked Mr. Horner about proposed zoning condition 1 which limits the project to only a Professional Residential Facility Recovery Home Type C and who would be the licensing authority or regulatory authority once there is a facility operator to obtain the proper license from. Mr. Horner replied that there are a number of entities in the State of Florida that require through Health and Rehabilitative Services as well as DACO and other licensing permit

requirements. The owner/operator will have to abide by all of those requirements. There is no other facility within 1,200 feet. Mr. Horner testified that his client would agree to a condition that no court mandatory referrals would be permitted as the facility is a private pay facility.

Hearing Master Finch asked Assistant County Attorney Clark if a zoning condition prohibiting clients that have been court-ordered to the facility was appropriate or would that be outside of the purview of the zoning process. Mr. Clark replied that because the applicant is offering the condition, he was comfortable with including it in the proposed zoning conditions.

The hearing was then concluded.

EVIDENCE SUBMITTED

*Mr. Porter submitted information regarding participants from the three Zoom neighborhood meetings and photos of the interior and exterior of the existing single-family home into the record.

*Ms. Johnson submitted a written copy of her comments, a photo of an alligator crossing the road and an area outside of the single-family home, a map illustrating the location of businesses that have alcohol sales or are a drugstore/clinic, a copy of a portion of the County's transportation analysis and a typed list of names and addresses identified as a Save Our Neighborhood Hoedt Petition Opposing 21-0962 Rezoning for Facility into the record.

*Mr. Jeffrey Cain submitted a written copy of his comments, a letter in opposition from Mr. Erik Bjarnason, a photo of a sign on the subject property, a copy of a website regarding the St. Stephens International Golf & Country Club and information regarding human trafficking into the record.

* Mr. Reder submitted a letter to Ms. Janet Dougherty of the EPC with a response from Mr. Rick Muratti of EPC, a copy of signed petitions in opposition, copies of portions of the Land Development Code, a copy of the proposed zoning conditions, site plan, County transportation, Water Resource Services Conservation and Environmental Lands Management, Impact and mobility Fee agency comments, EPC agency comments and an article regarding the effect of substance abuse treatment centers on property values into the record.

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 2.67 acres in size and is zoned Agricultural Single-Family Conventional-1 (ASC-1) and Residential Single-Family Conventional-3 (RSC-3). The property is designated Residential-4 (RES-4) by the Comprehensive Plan and located in the Urban Service Area and the Greater Carrollwood Northdale Community Planning Area.
2. The purpose of the rezoning from ASC-1 and RSC-3 to PD is to allow a Professional Residential Facility Type C with a maximum of 25 placed residents.
3. The Professional Residential Facility will be located within the existing 11,024 square foot single-family home on the subject property.
4. The applicant's representative testified that no operator of the Professional Residential Facility has not been identified as of the date of the Zoning Hearing Master hearing.
5. A Planned Development Variation is requested to the required 5-foot buffer and required 6-foot high wall, fence or hedge to instead provide a 3.5 foot buffer with a 6-foot wall and 8-foot high hedge on the east side of the driveway access. The applicant justifies the Variation by stating that it due to the existing location of the driveway and wall/property line for the existing single-family home. The request for the Professional Residential Facility results in a requirement for a commercial driveway.

The PD Variation meets the intent of Land Development Code Section 5.03.06.C.6(B) as the Variation recognizes the existing single-family home driveway and existing wall and will not substantially interfere with or injure the rights of adjacent property owners.

6. The Planning Commission found the request consistent with Objective 1 of the Comprehensive Plan as well as Policies 1.2 and 1.3 regarding minimum density and is surrounded by single-family residential which meets the compatibility requirements of Policy 1.4. Further, staff stated that a Professional Residential Facility is considered a residential support use by the Comprehensive Plan. Staff testified that the site is located in between the higher intensity Office Commercial-20 Future Land Use category to the west and the single-family land uses to the east which serves as an appropriate transitional use between the two uses as emphasized in Policy 16.2. Policy 20.5 outlines the conditions for the sighting of such facilities and the subject facility is not located in proximity to another facility. The Planning Commission found that the rezoning request is consistent with the Greater Carrollwood Northdale Community Plan Goal 1 which seeks to establish a sustainable workable Community Activity Center and Goal 2 regarding the

preservation of suburban neighborhoods. The Planning Commission found the rezoning request consistent with the Future of Hillsborough Comprehensive Plan.

7. The surrounding uses are a mixture of commercial uses to the west and single-family residential to the north, east and southwest. A large wetland area is located immediately adjacent to the property to the south.
8. Testimony in opposition to the request was provided at the Zoning Hearing Master hearing and also submitted into the record both prior to and at the hearing. The testimony focused primarily on the nature of the Professional Residential Facility being used for the treatment of individuals for substance abuse (alcohol and drug addiction) and the possible negative impact on the neighborhood(s). Testimony consisted of concerns regarding an increase of traffic on Hoedt Road which shares access with the neighborhood to the east and the possibility of residents of the Facility walking in the adjacent neighborhood(s). Additionally, concerns were expressed regarding the additional traffic and the neighborhood children that rides bikes on Hoedt Road and potential impacts to the existing wetlands. Documents were submitted into the record that included a website describing a golf and country club land use on the subject property. Testimony in opposition cited the website alleging uses that are not permitted by zoning and also against the law.
9. The County's transportation review staff member testified at the Zoning Hearing Master hearing and in the agency review comments that the traffic comparison between the maximum number of single-family homes that could be developed on-site (seven homes) was the same or less than the proposed Professional Residential Facility with 25 placed residents.
10. The applicant's representative agreed to a zoning condition that would require the facility to keep the existing gated access points closed and locked 24 hours a day / 7 days a week.
11. A variance has been previously approved for the encroachment into the Wetland Conservation Area setback for the existing detached garage and pool.
12. The testimony regarding the website for the golf and country club is not pertinent to the land use analysis for the proposed Professional Residential Facility.
13. Zoning conditions require the existing single-family home to remain residential in appearance and prohibits a sign being installed for the Facility. The zoning condition permits only a sign indicating the physical address of the property.

14. Facility parking will be provided in accordance with the Land Development Code standards.
15. The applicant's representative agreed to a zoning condition at the Zoning Hearing Master hearing which would prohibit any court-ordered persons at the Facility. The applicant's representative stated that the 25 placed persons would be private, self-pay participants in the program.
16. The existing 11,024 square foot home on 2.67 acres is secluded and screened from view by a 6-foot wall with gated access. The home is required by zoning conditions to remain residential in appearance and the gates will be conditioned to be locked at all times thereby minimizing any negative impacts to the surrounding residents.
17. The Planning Commission's testimony that a Professional Residential Facility is considered residential support use by the Comprehensive Plan supports the request for the conversion of the existing single-family home into the proposed 25-placed person Facility.
18. The applicant's representative testified that the owner/operator will obtain all required licenses and permits applicable to the Facility.
19. The rezoning to Planned Development for a Professional Residential Facility Type C with a maximum of 25 placed residents is consistent with the Comprehensive Plan and Land Development Code and serves to provide a compatible land use given the surrounding development pattern.

FINDINGS OF COMPLIANCE/NON-COMPLIANCE WITH THE HILLSBOROUGH COUNTY COMPREHENSIVE PLAN

The rezoning request is in compliance with and does further the intent of 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 substantial competent 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 2.67 acres from ASC-1 and RSC-3 to PD to permit a Professional Residential Facility Type C with a maximum of 25 placed residents. The Professional Residential Facility will be located within the existing 11,024 square foot single-family home on the subject property.

A Planned Development Variation is requested to the required 5-foot buffer and required 6-foot high wall, fence or hedge to instead provide a 3.5 foot buffer with a 6-foot wall and 8-foot high hedge on the east side of the driveway access. The applicant justifies the Variation by stating that it due to the existing location of the driveway and wall/property line for the existing single-family home. The request for the Professional Residential Facility results in a requirement for a commercial driveway. The PD Variation meets the intent of Land Development Code Section 5.03.06.C.6(B) as the Variation recognizes the existing single-family home driveway and existing wall and will not substantially interfere with or injure the rights of adjacent property owners.

The Planning Commission stated that a Professional Residential Facility is considered a residential support use by the Comprehensive Plan and found that the site is located in between the higher intensity Office Commercial-20 Future Land Use category to the west and the single-family land uses to the east which serves as an appropriate transitional use between the two uses as emphasized in Policy 16.2. The Planning Commission found that the rezoning request is consistent with the Greater Carrollwood Northdale Community Plan Goal 1 which seeks to establish a sustainable workable Community Activity Center and Goal 2 regarding the preservation of suburban neighborhoods and also found the request consistent with the Future of Hillsborough Comprehensive Plan.

Testimony in opposition to the request was provided at the Zoning Hearing Master hearing and also submitted into the record both prior to and at the hearing. The testimony focused primarily on the nature of the Professional Residential Facility being used for the treatment of individuals for substance abuse (alcohol and drug addiction) and the possible negative impact on the neighborhood(s).

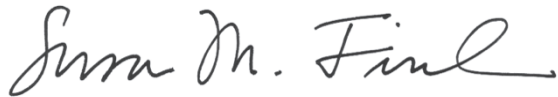
County transportation staff testified in response that the traffic comparison between the maximum number of single-family homes that could be developed on-site (seven homes) was the same or less than the proposed Professional Residential Facility with 25 placed residents. The applicant's representative agreed to a zoning condition that would require the facility to keep the existing gated access points closed and locked 24 hours a day / 7 days a week and also agreed to a zoning condition which would prohibit any court-ordered persons at the Facility. The applicant's representative stated that the 25 placed persons would be private, self-pay participants in the program. A variance has been

previously approved for the encroachment into the Wetland Conservation Area setback for the existing detached garage and pool.

The rezoning to Planned Development for a Professional Residential Facility Type C with a maximum of 25 placed residents is consistent with the Comprehensive Plan and Land Development Code and serves to provide a compatible land use given the surrounding development pattern.

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 the zoning conditions prepared by the Development Services Department with the addition of two new zoning conditions that should be drafted by the Development Services Department that require the Facility to be gated with the gates locked 24 hours per day / seven days per week and that the Facility prohibit court-ordered participants at the Facility.



April 4, 2022

Susan M. Finch, AICP
Land Use Hearing Officer

Date



**Hillsborough
County Florida**

DEVELOPMENT SERVICES

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

May 24, 2022

**RE: RZ-PD 21-0962
Stephen J. Dibbs
3408 Hoedt Rd./16388.0000**

Michael Horner, AICP
14502 N. Dale Mabry Hwy., Ste. 200
Tampa, FL 33618

Dear Applicant:

At the regularly scheduled public meeting on May 10, 2022, the Board of County Commissioners denied your request for rezoning the above referenced. Please keep this letter for your records.

If you have any questions regarding this, please let me know.

Sincerely,

J. Brian Grady, Director
Zoning Administrator
Community Development Division

**BOARD OF COUNTY
COMMISSIONERS**

Harry Cohen
Ken Hagan
Pat Kemp

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

JBG/mn
Attachment
cc: File

EXCERPT
LAND USE MEETING
RE: ITEM F-1, RZ-PD 21-0962, STEPHEN J. DIBBS,
3408 HOEDT ROAD, REZONED TO A PLANNED DEVELOPMENT
TUESDAY, MAY 10, 2022

F-1 Application	Number: RZ-PD 21-0962
Applicant:	STEPHEN J. DIBBS
Location:	3408 Hoedt Rd.
Folio Number:	16388.0000
Acreage:	2.67 acres, more or less
Comp Plan:	RES-4
Service Area:	Urban
Community Plan:	Greater Carrollwood Northdale
Existing Zoning:	ASC-1 & RSC-3
Request:	Rezone to PD
RECOMMENDATION:	
ZHM:	Approval
Development Services:	Approvable, Subject to Conditions
PC:	Consistent with Plan

Chair Overman left the meeting; Vice Chair Smith assumed the chair. Mr. Grady touched on the item. Attorney Jim Porter and Mr. Michael Horner, applicant team, explained the request. Vice Chair Smith called for public comment. Senior Assistant County Attorney Johanna Lundgren clarified policy/procedures for the record. Attorney Randall Reder and Mr. Jeffrey Chain presented opposition testimony. Attorney Porter and Mr. Horner gave rebuttal. Ms. Melissa Lienhard, PC, and Attorney Lundgren reviewed PC/ZHM recommendations. Pointing out incompatible commercial uses in a residential area regarding ingress/egress, Commissioner Hagan moved denial, seconded by Commissioner White, and carried four to two; Commissioners Cohen and Myers voted no. (Chair Overman had left the meeting.)



STATE OF FLORIDA
COUNTY OF HILLSBOROUGH
THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND
CORRECT COPY OF Excerpt of minutes for
Agenda Item F-1 Denied in the
Land Use Meeting of 5/10/2022
WITNESS MY HAND AND OFFICIAL SEAL THIS
27 DAY OF May
CINDY STUART, CLERK
BY: