



Meeting Date July 20, 2021

Consent Section Regular Section Public Hearing

Subject: Approve a resolution providing for the rendition of the denial of application RZ 19-1458, an application for rezoning from Agricultural Rural (AR) to a Planned Development (PD) zoning district, to allow for development of 654 single family dwelling units with residential support uses, a public park/multi-modal trail and school, on property designated Wimauma Village Residential-2 (WVR-2) by the Future Land Use Element of the Future of Hillsborough Comprehensive Plan. The Board of County Commissioners voted to deny this application during the June 8, 2021 BOCC 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 19-1458, an application for rezoning from Agricultural Rural (AR) to a Planned Development (PD) zoning district, to allow for development of approximately 654 single family dwelling units with residential support uses, a public park/multi-modal trail and school, on property designated Wimauma Village Residential-2 (WVR-2) by the Future Land Use Element of the Future of Hillsborough Comprehensive Plan.

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 19-1458 during the June 8, 2021 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 19-1458.

List Attachments:
Resolution providing for denial of RZ 19-1458, with the following attachments: (1) Zoning Hearing Master Recommendation, (2) Development Services Department denial letter (3) Minutes of June 8, 2021 Land Use Meeting

RESOLUTION # _____

REZONING PETITION# RZ-PD 19-1458

Upon motion by Commissioner Smith, seconded by Commissioner Overman, the following resolution was adopted by a 5-2 vote, with the individual commissioners voting as follows:

Cohen	yes
Hagan	no
Kemp	yes
Myers	yes
Overman	yes
Smith	yes
White	no

Regulatory Framework

WHEREAS, the Hillsborough County City-County Planning Commission (the “Planning Commission”) prepared and submitted the *Future of Hillsborough Comprehensive Plan* (the “Comprehensive Plan”) to the Board of County Commissioners of Hillsborough County (the “Board”) for consideration pursuant to Chapter 75-390, Laws of Florida (1975), as amended, and Part II of Chapter 163, Florida Statutes (1985), as amended, which is entitled the Community Planning Act (the "Act"); and,

WHEREAS, the Board adopted the Comprehensive Plan, effective July 26, 1989; and,

WHEREAS, §163.3177(6) of the Act requires the Future Land Use Element (“FLUE”) of the Comprehensive Plan to designate proposed future land uses and to include standards for the control and distribution of densities and intensities of development; and,

WHEREAS, §163.3194(1)(a) of the Act requires all development to be consistent with the Comprehensive Plan; and,

WHEREAS, §163.3164(51) of the Act defines “urban sprawl” as “a development pattern characterized by low density, automobile-dependent development with either a single use or multiple uses that are not functionally related, requiring the extension of public facilities and services in an inefficient manner, and failing to provide a clear separation between urban and rural uses”; and,

WHEREAS, §163.3177(6) (a) 2.h. of the Act required the “discouragement of urban sprawl” to be employed as a primary consideration in the development of the FLUE; and,

WHEREAS, the FLUE’s Urban Service Area Boundary divides the County’s unincorporated area into an “Urban Services Area” and an “Rural Services Area” and directs urban

level development into the (inner) Urban Service Area in order to promote the efficient use of land and public and private investment in urban services and to contain urban sprawl; and,

WHEREAS, the limitation of urban services to the Urban Service Area is the FLUE's foremost mechanism for the control of urban sprawl; and,

WHEREAS, "urban services" are defined in Part 12.01.00 of the County's Land Development Code (the "LDC") as, "(s)ervices provided through public or private facilities including but not limited to common sewage disposal systems (not septic tanks) and water supplies, and urban level fire and police protection"; and,

WHEREAS, §163.3202(1) of the Act requires the Board to implement the Comprehensive Plan by the adoption and enforcement of land development regulations codified as the LDC; and,

WHEREAS, §163.3202(1) of the Act requires all provisions of the LDC to be consistent with the Comprehensive Plan; and

WHEREAS, the LDC contains both the substantive and the procedural zoning regulations for the County's unincorporated area.

The Rezoning Petition

WHEREAS, on the 18th day of September, 2019, Council Growers, Inc. ("Applicant") submitted a rezoning petition ("Petition") for the rezoning of approximately 327.4 acres consisting of an aggregate of 4 parcels of land located in the Rural Service Area as more particularly described therein (the "Property"); and,

WHEREAS the Property is zoned Agricultural Rural (AR) which is a zoning district established by the LDC, "to protect viable long term agricultural lands so classified in the Comprehensive Plan from urban and suburban encroachment by encouraging agriculture and related uses on parcels of at least five (5) acres" [LDC §2.02.01.]; and,

WHEREAS, LDC § 6.01.01 provides that the minimum lot size in the AR zoning district is 5 gross acres; and,

WHEREAS, the Petition seeks to rezone the Property to a "Planned Development" (PD) zoning district for the development of a rural planned village on the Property; and,

WHEREAS, LDC Part 12.01.00 defines a Planned Development in essence as a flexible zoning district which places land under unified control to be planned and developed for one or more uses as a whole or a series of phases; and,

WHEREAS, LDC Part 12.01.00 defines a "village" as a mixed use development in the form of a traditional community with sharp borders that contain residential, local service commercial, and businesses surrounded by agricultural land or conservation or preservation areas; and,

WHEREAS, since the density of the proposed rural planned village will exceed one dwelling unit per 5 gross acres, FLUE Policy 33.5 requires the Applicant to pursue a planned development rezoning for the Property that complies with the planned village criteria in FLUE Objective 33, *et seq.* and LDC Part 5.04.00; and,

WHEREAS, the FLUE category of the Property is Wimauma Village Residential-2 (“WVR-2”), about which Objective 48 of the FLUE states: “In order to avoid a pattern of development that could contribute to urban sprawl, it is the intent of this category to designate Wimauma Village Residential-2 areas inside the boundaries of the Wimauma Village Plan, that are suited for agricultural development in the immediate horizon of the Plan, but may be suitable for the expansion of the Village as described in this Plan.”

WHEREAS, LDC Part 12.01.00 defines a “clustered” residential lot as (smaller) lots, “characterized by flexible (varying) lot patterns in order to respect unusual or environmentally restrictive site conditions”; and,

WHEREAS, the Petition’s planned village contemplates lot sizes of 4,400 to 5,500 square feet, a minimum lot width of 40 feet, and both one and two-story homes; and,

WHEREAS, the maximum residential density for the WVR-2 future land use category is 2.0 dwelling units per gross acre if, as here, the Applicant proposes to employ the planned village concept, which would yield a maximum of 654 single family residential units; and,

WHEREAS, FLUE Policy 33.5, Clustering Ratio for Planned Village of any Size, “(r)equires that the gross number of allowable dwelling units are clustered to achieve a minimum of 3.5 to 4 units per net acre”; and,

WHEREAS, the applicant proposes 654 single family dwelling units within a developable area of 327.4 acres; and

Evidentiary Proceedings

WHEREAS, the LDC provides for a bifurcated rezoning process; and,

WHEREAS, the initial part of the County’s rezoning process is an evidentiary portion that features a quasi-judicial hearing before the Zoning Hearing Master (“ZHM”); and,

WHEREAS, prior to a ZHM hearing, the ZHM receives the Petition, accompanying documents, other file matters, timely correspondence from proponents and opponents, reports of reviewing agencies and staff reports including favorable reports and recommendations from the County’s “Development Services” Department and the “Planning Commission Staff”; and,

WHEREAS, the Hillsborough County City County Planning Commission staff (the “Planning Commission staff”) reviewed the application and issued a finding of inconsistency with the Future of Hillsborough County Comprehensive Plan for Unincorporated Hillsborough County, Florida (the “Comprehensive Plan”); and,

WHEREAS, the Hillsborough County Administration reviewed the application and issued a recommendation of denial; and

WHEREAS, on August 4, 2020, the ZHM held a duly noticed public hearing on the Petitioner for PD (Planned Development) zoning and received evidence and heard testimony at the public hearing from the Applicant, Development Services, Planning Commission Staff, and proponents and opponents of the Petition; and,

WHEREAS, after remand by the Board of County Commissioners of Hillsborough County on December 8, 2020, the ZHM on April 19, 2021 held a duly noticed public hearing on the remanded Petition for PD (Planned Development) zoning and received evidence and heard testimony at the public hearing from the Applicant, Development Services, Planning Commission Staff, and proponents and opponents of the Petition; and,

WHEREAS, the Zoning Hearing Master recommendation of denial contained findings of fact and conclusions of law relating to inconsistency with the Comprehensive Plan, a copy of which 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 have been satisfied; and,

WHEREAS, LDC §10.03.03.H.2. provides that the “ZHM Hearing Record” shall be (a) the application and accompanying documents, (b) staff reports and recommendations, (c) all exhibits and documentary evidence entered prior to or during the ZHM hearing, (d) the summary, findings, conclusions, and recommendation of the ZHM, (e) the audio recording of testimony at the ZHM hearing, (f) verbatim transcript of the proceedings, and (g) applicable official Zoning Atlas sheets; and,

WHEREAS, the Zoning Hearing Record and any “oral argument” (as discussed hereinafter) constitutes the complete and exclusive evidentiary record of this rezoning proceeding; and,

WHEREAS, the ZHM prepared and filed her report and recommendation of denial on May 10, 2021, which filing concluded the evidentiary portion of this rezoning.

Public Meeting

WHEREAS, the second part of the County’s bifurcated rezoning process is a decision-making portion which culminates in a non-evidentiary public meeting before the Board of County Commissioners; and,

WHEREAS, the ZHM’s recommendation for denial together with the balance of the ZHM Hearing Record was provided to the Board for consideration in advance of the public meeting; and,

WHEREAS, LDC §§10.03.04. D.1. and 10.03.04. G.1. provide that the Board shall consider the ZHM Hearing Record and that the Board’s decision to approve or to deny the Petition shall be based solely upon the ZHM Hearing Record unless oral argument and additional evidence (inapplicable here) is lawfully accepted at the public meeting by the Board from “parties of record”; and,

WHEREAS, although the Board is not required to hear public comment at the public meeting, LDC §§10.03.04. D. and 10.03.04. E. authorize the Board to elect to hear oral argument from parties of record; and,

WHEREAS, LDC §10.03.06. A. defines a “party of record” as an individual who received mailed notice of the ZHM hearing, gave oral testimony before the ZHM, or timely submitted documentary evidence to the case file or the ZHM; and,

WHEREAS, the public meeting is a non-evidentiary session because LDC §10.03.04.E. restricts the content of oral argument before the Board to “the same as the content of testimony submitted verbally or in writing to the [ZHM]”; and,

WHEREAS, on June 8, 2021, the Board held a duly noticed public meeting on the Petition where the Board heard testimony and oral argument from representatives of the Applicant, ZHM, Development Services, Planning Commission Staff, and from parties of record; and,

WHEREAS, the Board has considered the ZHM Hearing Record together with testimony and oral argument made at the public meeting; and,

WHEREAS, the Board has complied with the public notice and all other LDC procedural requirements; and,

WHEREAS, §4.08 of the County Charter provides that the Board, "may take official action only by the adoption of ordinances, resolutions, or motions" each of which requires at least four (4) affirmative votes; and,

WHEREAS, LDC §10.03.04.G.1. requires the Board to approve or to deny the Petition by resolution; and,

WHEREAS, the Board’s sole and exclusive evidentiary findings relative to the Petition were made and sanctioned at the public meeting by official action of the Board (at least 4 affirmative votes); and,

WHEREAS, the Board’s sole and exclusive evidentiary findings relative to the Board’s consideration of the Petition are set forth hereinafter.

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

I. FINDINGS.

A. The recitals of fact and statements of 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 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 accepts the ZHM’s recommendation of denial on the grounds that the requested Planned Development is not consistent with the Comprehensive Plan, and finds that Policy 48.1 of the FLUE provides that in order to achieve densities in excess of 1 du/5 ga (dwelling units/ 5 gross acres) in the WVR-2 category, developments shall achieve the minimum clustering ratios, job opportunity provisions, and shopping provisions and states:

- i. The Board finds that, in order to satisfy Policy 48.1 of the FLUE, development within the WVR-2 category must provide for employment and commercial uses to serve the residential communities created within this land use category, by demonstrating that sufficient non-residential entitlements exist within the Wimauma Village Community Plan area.
- ii. The Board further finds that the Applicant completed an analysis to identify the non-residential entitlements located within the Wimauma Village Community Plan boundary to serve the dwelling units proposed by the subject rezoning and to demonstrate compliance with Policy 48.1. In order to comply with the employment requirements of the WVR-2 land use category as required by Policy 48.1, a total of 557 jobs would be needed to accommodate 654 dwelling units.
- iii. The Board finds that previous rezonings approved within the WVR-2 FLUE category (PD 10-0147/PRS 19-0093, PD 18-1048, PD 19-0102) have utilized the available non-residential entitlements and jobs within the Wimauma Village Community Plan boundary.
- iv. Accordingly, the Board finds that the Petition fails to demonstrate consistency with Policy 48.1.1 of the FLUE of the Comprehensive Plan.

F. The Board further finds:

- i. FLUE Policy 1.4. "Compatibility is defined as the characteristics of 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."
- ii. FLUE "Appendix A: Land Use Plan Categories." The "specific intent" of the WVR-2 category states: "In order to avoid a pattern of development that could contribute to urban sprawl, it is the intent of this category to designate areas inside the boundaries of the Wimauma Village Plan that are suitable for agricultural development in the immediate horizon of the Plan, but may be suitable for the expansion of the Village as described in this plan."
- iii. FLUE Objective 1. Urban Service Area (USA). "Hillsborough County shall proactively direct new growth into the USA with the goal that at least 80% of all population growth will occur within the USA during the planning horizon of this Plan."
- iv. FLUE Objective 4. Rural Area. "The Rural Area will provide areas for long term, agricultural uses and large lot, low density rural residential uses which can exist without the threat of urban or suburban encroachment, with the goal that no more than 20% of all population growth within the County will occur in the Rural Area."
- v. FLUE Objective 16. Neighborhood/Community Development. 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."
- vi. FLUE Policy 16.10. "Any density increase shall be compatible with existing, proposed, or planned surrounding development. 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."
- vii. FLUE. Planned Villages Objective 33. "To prevent the sprawl of low density residential development into rural areas, the County shall continue to apply a two-tiered land use category in areas where the potential for sprawl exists."

G. The Board's findings of inconsistency with the Comprehensive Plan is also based upon these additional determinations:

- i. The Planned Development would advance urban sprawl in the Rural Service Area. The limitation of urban services to the Urban Service Area is the FLUE's foremost mechanism for the control of urban sprawl. The WVR-2 land use category was established to serve as a narrow exception to the FLUE's restriction against the placement of urban services in the Rural Service Area only in those cases where planned villages would promote self-sustainable development by not contributing towards urban sprawl.
- ii. The advancement of urban sprawl in the Rural Service Area together with the scale and other aspects of the proposed Planned Development are incompatible with the characteristics of the surrounding areas. Therefore, the proposed Planned Development is inconsistent with **(a)** FLUE Policy 1.4.; **(b)** the "specific intent" of the WVR-2 category in FLUE Appendix A; **(c)** FLUE Objective 1. Urban Service Area; **(d)** FLUE Objective 4. Rural Area; **(e)** FLUE Objective 16. Neighborhood/Community Development. Neighborhood Protection; **(f)** FLUE Policy 16.10; and **(g)** FLUE Planned Villages Objective 33.
- iii. The clustering and mixed use requirements which allow for the WVR-2 maximum density of 2 dwelling units per gross acre along with other WV-2 requirements discussed herein are not meant as stand-alone formulas to allow a 654 unit clustered residential development in the Rural Service Area, absent an accompanying showing of how the compatibility of the development - whether occasioned by the clustering, mixed use, or otherwise - would serve to prevent urban sprawl. Without such a showing, a departure from the FLUE's fundamental precept of confining urban services to the Urban Service Area is not justifiable and would not be consistent with the cited provisions of the FLUE.
- iv. The WVR-2's density enhancing requirements are to be employed in conjunction with the FLUE's compatibility, neighborhood protection and Urban Service Area boundary considerations in a manner that demonstrates that a high density mixed used development in the Rural Service Area will not produce the urban sprawl associated with low density residential development that the WVR-2 FLUE category was designed to avoid. The case record does not indicate that the Planned Development was conceived and planned in a manner that will prevent, hinder or discourage urban sprawl in the Rural Service Area.

H. Record evidence throughout the ZHM Hearing Record which describe 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 Agricultural Rural zoning classification serves a legitimate public purpose of, *inter alia*, the protection of viable long term agricultural lands from urban and suburban encroachment by encouraging agriculture and related uses on parcels of at least five (5) acres.

I. The determinations that support the Board's findings of inconsistency and that the retention of the existing Agricultural Rural zoning classification serves a legitimate public purpose.

II. CONCLUSION.

The Board of County Commissioners of Hillsborough County hereby denies the Petition.

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 land use meeting of June 8, 2021, 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 _____, 2021

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 19-1458 (REMAND)

DATE OF HEARING: April 19, 2021

APPLICANT: Council Growers, Inc.

PETITION REQUEST: A request to rezone property from AR to PD to permit a maximum of 654 single-family detached dwelling units, residential support uses, public park/multi-modal trail & school

LOCATION: 25 feet northwest of the intersection of S. County Road 579 & Saffold Road

SIZE OF PROPERTY: 324.4 acres, m.o.l.

EXISTING ZONING DISTRICT: AR

FUTURE LAND USE CATEGORY: WVR-2

SERVICE AREA: Rural

COMMUNITY PLAN: Wimauma Village

DEVELOPMENT REVIEW STAFF REPORT

Application Review Summary and Recommendation

The Board of County Commissioners (BOCC) remanded this application back to the Zoning Hearing Master (ZHM) at their December 8, 2020 Land Use Meeting. The purpose of the remand is to have the applicant identify how jobs will occur and how jobs will be offered to residents as a result of this project.

The applicant has submitted a revised request that proposes the following changes to the request:

1. Provide a multi-modal trail along the west side of the northern parcel. The trail is proposed to be 12 feet in width and located along the entire western edge of the northern parcel (see Figure B). This trail will open to the public but owned and maintained by a property owner's association, Special District, or Community Development District. Comments received from the Community & Infrastructure Planning Department state that the proposed trail is adjacent to the conceptual location identified in the 1995 Greenways Plan (the Cross County Greenway) (Figure B). This system is under sporadic development and this segment would be the first segment in this area. Community & Infrastructure Planning Department staff also notes that The Cross County Greenway may ultimately link towards Plant City, Polk County and eastern Pasco County.
2. Provide a 5-acre park within the northern parcel. Within the northern parcel, the applicants propose a 5-acre park to be for public use. The park will be owned and maintained by a property owners association, or similar entity, with an easement to the public; alternatively, the applicant will dedicate the park to the County Parks Department. Review comments received from the County's Parks and Recreation Department state that they are not interested in owning and maintain this proposed park.
3. Commit to providing water and sewer service connections to the permissible school site within the southern parcel. A public school site is proposed within the southern parcel. The applicants are proposing a commitment to provide necessary utility connections to serve this site. Comments from the School Board regarding this remand request state that they are no longer supportive of this site. At this time, the School Board is supporting school sites within a PD project that have been found as meeting the school siting criteria as found in the Hillsborough County Interlocal Agreement for School Facilities Planning Siting and Concurrency. This site has not gone through this process. This area of the PD is approved for an alternative development for residential.
4. Provide 50 affordable housing units within the northern parcel. Under this remand, the applicants propose to provide 50 affordable housing units within the

northern parcel. No increase in density in exchange for the provision of affordable housing is proposed. The exact location of these units will be identified at the time of platting. Assurances that that units will be reserved for sale to low and very-low income households will be provided at the time of platting. Per the applicant, 70% of those 50 units will be reserved for low income housing as defined in Florida Statutes, while the remaining 30% of those 50 units will be reserved for very-low income housing as defined in Florida Statutes.

Florida Statutes define low income as:

Florida Statutes define very-low income as: “

The Land Development Code definition of affordable housing includes the definition of low income household, which is consistent with Florida Statutes; however, the definition also states that price is not exceed 30% of the low income household’s gross income. The remand request does not detail how or if such units will remain affordable beyond the initial sale.

“Low-income person” or “low-income household” means one or

more natural persons or a family that has a total annual gross household income that does not exceed 80 percent of the median annual income adjusted for family size for households within the metropolitan

statistical area, the county, or the nonmetropolitan median for the state, whichever amount is greatest.

Very-low-income person” or “very-low-income household”

means one or more natural persons or a family that has a total annual gross household income that does not exceed 50 percent of the median annual income adjusted for family size for households within the metropolitan statistical area, the county, or the nonmetropolitan median for the state, whichever is greatest.

5. Remove the request for a Design Exception to CR 579 and improve this roadway to County standards, unless it is not feasible. Under this remand, the applicants propose to remove their previously requested Design Exception, which was found to be approvable by the County Engineer under the original request. Alternatively, the applicant seeks a flexible zoning condition to allow the issuance of a future Design Exception, provided the request would otherwise have no impact on certain essential elements of the roadway. Those include: lane widths, presence of curb (for urban roads), presence of stabilized shoulders (for rural roads), elements of roadside safety, presence and width of bicycle facilities, and presence and width of pedestrian facilities. The applicant has proffered a condition which mandates the developer to construct pedestrian facilities beyond those required by the LDC.

No changes are proposed to the number of proposed units, density transfer, general layout or access points as part of this remand submittal. Within the north parcel, the western portion does contain a minor layout change to accommodate the proposed park.

Under this remand, the applicant is proposing that the project be evaluated under a community benefits criteria, rather than on the presence of employment and services in the Wimauma Village Downtown, West End Commercial District and Light Industrial and Office districts. At the BOCC's direction, efforts are currently underway to evaluate a possible change to the Comprehensive Plan that would allow WVR-2 FLU projects to achieve 2 units per acre when certain community benefits are provided, rather than under the current employment and services requirements. No changes have been approved by the BOCC as of this date. It is the applicant's position that this revised proposal provides such community benefits and further promotes the community's goals.

1.0 Summary

1.1 Project Narrative

The applicant is requesting to rezone approximately 327 acres from AR (Agricultural Rural) to PD (Planned Development). The application proposes two, non-contiguous areas with a transfer of density between the sites (see Figure 1). The sites are located on the west side of CR 579, north of Saffold Road in the Wimauma community.

The "North Parcel" serves as the receiving area for this overall project. The area is 209.2 acres in size, which includes 10.1 acres of wetlands, or approximately 5% of the overall site. Because this percentage is not 25% or more, the full site acreage is to be used for density calculations. This acreage yields a total of 418 units (2 units per acre). The 98 transferred units from the "South Parcel" brings the total units proposed to 516 units. The "North Parcel" also proposes a residential support use tract.

The "South Parcel" serves as the sending area for this overall project. The area is 118.2 acres in size, which includes 19.5 acres of wetlands. This accounts for 16% of the site; therefore, no environmentally sensitive land credit is applicable for calculating density. A total of 236 units is permitted (2 units per acre). Of those 236 permitted units, 98 will be transferred to the "North Parcel." The remaining 138 units will remain within the "South Parcel." This parcel also provides an option for a public school or residential and residential support uses.

Overall, the two areas cannot exceed 2 units per acre for the combined acreage. For the overall acreage of 327.4, a maximum of 654 units is possible. The combined number of units within the North and South Parcel is 654 units.

Future Land Use Category:

The project is located within the WVR-2 (Wimauma Village Residential-2) Future Land Use Category (see Figure 2). The WVR-2 Future Land Use category potentially permits a village development pattern at 2 units per acre. This village development pattern requires the use of residential clustering to allow the preservation of open space, which is to be connected to other open spaces both internally and externally. The 2 unit per acre density also requires connection to public water and wastewater at the developer's cost. The presence of jobs and commercial to serve the proposed development is required at the time of rezoning. Otherwise, residential development can occur at a density of 1 unit per 5 acres with no requirement for public utilities, additional open space, clustering, a mixture of uses or existing jobs and commercial.

Service Area:

The project is located in the Rural Service Area (see Figure 3). Per the Comprehensive Plan when proposing a density of 2 units per acre, the project shall be on a central public water and sewer system. All costs associated with providing these services are the responsibility of the developer and not Hillsborough County.

Community Plan Area:

The project is centrally located within the Wimauma Village Plan area (see Figure 3), approximately 0.5 miles south of the Wimauma Village Downtown. The Wimauma Village Plan was adopted in 2007 with the vision to reflect the community's agricultural and multi-cultural heritage as it develops. The Plan area covers the area west of US Highway 301, north of the Manatee County line, east of the Little Manatee River and Balm Wimauma Road and south of CR 672. The Plan focuses on embracing a traditional small town character, encouraging clustered housing, preserving and valuing native habitats and developing recreational opportunities. Non-residential development is to be within the downtown, light industrial/office and commercial areas. Compliance with the Plan's employment and services requirement is necessary to determine the timing of residential development.

Open Space: The Comprehensive Plan requires a minimum of 40% of the site is to be reserved as open space and used as a primary feature of the project. Per Comprehensive Plan Objective 48, open space may include wetlands, parks, forests, ponds, ELAPP and outdoor recreation areas. The below table (Table 1) provides the open space acreages proposed for both the receiving and sending parcels.

Parcel	Total Parcel Acreage	Wetland Acreage	Additional Open Space Acreage	Total Open Space Acreage
North (Receiving)	209.2	10.1 (4%)	73.6	87.5 (42%) *
South (Sending)	118.2	19.5 (16%)	59.1	78.6 (66%)

In both parcels, these open spaces within each project are connected internally with a pedestrian trail around ponds, open space and the wetlands. The pedestrian trails are also connected to CR 579 to provide external connection. The pedestrian trails are proposed to be located around the perimeter of some internal ponds. The applicant has agreed to limit rear lot fencing (height and opacity) around the internal pond to promote visibility of these trails and enhance the walking trail atmosphere. Property to the east of CR 579 is ELAPP property (Little Manatee River Corridor).

Clustering: The WVR-2 category allows for 2 units per acre to be developed when the site is at least 10 in size and a minimum 3.5 clustering ratio is provided. The clustering ratio is based upon the net acreage of the project, which per the Comprehensive Plan, includes all required yards, dwelling unit area, parking, right of way and roadways as part of the net acreage. Stormwater ponds may also be included. This net acreage does not include the project's minimum 40% of open space, which can include environmentally sensitive land areas. Projects may need to increase the amount of proposed open space (beyond any environmentally sensitive lands) to achieve the 3.5 clustering ratio. The Comprehensive Plan provides no maximum clustering ratio in the WVR-2 category. Yet, the gross density of 2 units per acre cannot be exceeded, which for this project is 654 units. The below table (Table 2) provides the clustering ratio information for each parcel.

Mixed Use: The WVR-2 category requires projects of this size to provide a mixture of uses. Where commercial uses cannot meet the locational criteria of the Plan, residential support uses and/or varying types of residential are acceptable to meet this requirement. To meet this requirement, the applicants have proposed residential support use areas (such as daycares and churches) within each project. The "South Parcel" has the permissibility for a school on 25 acres, as requested by Hillsborough County Public Schools. Should the school

not be developed, the area may be used for residential. Should the southern area be developed only with residential and a residential support use, it will be remain compliant with providing a mixture of uses.

Transportation Options: The Wimauma Village Plan seeks to create or expand a connected transportation network. Projects are to connect with existing streets (except where prohibited by environmentally sensitive land) to provide multiple north-south and east-west routes for pedestrians and vehicles. Future connections should be anticipated (except where prohibited by environmentally sensitive land) by providing stub outs to land that will develop in the future and continue the site’s network (“through streets”). These streets are to be established approximately every 1,320 feet.

Multiple access points are proposed for both Parcels to implement the “through street” pattern called for, which also aligns with adjacent rights-of-way where available (see Figure 4). The northern boundary access points for the “North Parcel” align with the stub-outs for PD 18-1048. Internal streets are to be connected, with at least 50% to be constructed in a manner to ensure both ends terminate with another

Parcel	Total Parcel Acreages	Proposed Number of Units	Total Open Space Acreage	Developable Area	Clustering Ratio
North (Receiving)	209.2	516	87.5**	120.7*	4.27**
South (Sending)	118.2	98	78.6	38.6*	2.5
Overall Planned Development	327.4	614	162.3	164.1	3.7

roadway. As depicted on the proposed site plan, the majority of the development pods provide a continuous street without the use of cul-de-sacs or dead ends.

“North Parcel”

Housing: The Wimauma Village Plan discourages the use of gated subdivisions, which are viewed to isolate communities. The proposed projects will not be gated and all internal roads will be public.

When conserving open space, lot sizes must be reduced to still allow for the maximum density of 2 acres per unit. This project therefore proposes 4,400 and 5,500 square foot lots. The Land Development Code (LDC Section 6.11.119) requires supplemental requirements for 40 foot wide lots to address parking and streetscape concerns associated with narrow lot development. These requirements call for on-street parking, provision of a garage (no width

requirement), a garage setback providing an offset between the home and garage and a maximum garage width. Alternatives are proposed under this application. No on-street parking is proposed; however, the 40 foot wide lots will provide both 1 and 2 car garages, various garage setback options with entry features and maximum garage widths. Additionally, the project will provide both 1-story and 2-story homes to vary the housing types and sizes within the project.

These 4,400 and 5,500 square foot lots also address the plan goal to provide housing to accommodate diverse populations and income levels.

1.2 Compliance Overview with Land Development Code and Technical Manuals

The application does not require any variations to Land Development Code Parts 6.05.00 (Parking and Loading), 6.06.00 (Landscaping/Buffering) or 6.07.00 (Fences and Walls).

1.3 Evaluation of Existing and Planned Public Facilities

The project area is located in the Rural Service Area. In the WVR-2 Future Land Use category, public water and wastewater services are to be provided at the cost of the developer.

Comments received from the Hillsborough County School Board (HCSB) notes that the project's assigned elementary (Wimauma), middle (Shields) and high (Lennard) schools are inadequate. High School "TTT" will be opening this year and will provide additional high school capacity. These application review comments are not a concurrency determination. School concurrency must be met at the time of platting. The project does propose a public school location within the southern PD. Since the time of the project's original review by the School Board on March 2, 2020, the School Board no longer supports the request due to the project not meeting school siting criteria.

The project is located on the west side of CR 579. CR 579 is a 2 lane, undivided, arterial roadway with a 60+/- foot wide right-of-way. No sidewalk or bicycle facilities are present on CR 579. CR 579 is shown on the Hillsborough County Corridor Preservation plan as a future 2 lane enhanced roadway. Therefore, 25 feet of right-of-way along the CR 579 frontage is required.

The northern PD proposes one access point on CR 579 (the east side of the PD). An east/west internal collector roadway will provide connection to a cross access point on the west side of the PD. Cross access points along the north and south are proposed. The southern PD proposes two access points on CR 579 (the east side of the PD). Internal collector roadways will provide east/west and north/south travel to connect to this access point. The northeast area of the southern PD is proposed as permissible for a school site. Internal vehicular access to the school from the within the PD is provided. Proposed conditions

from the Hillsborough County School Board require improvements to CR 579, as deviated, to be in place prior to the opening of the school. Additionally, all roadways providing access to the school site are to be platted to the school's property line without any intervening properties.

Transportation offers no objections, subject to proposed conditions.

1.4 Natural Resources/Environmental

The Environmental Protection Commission has reviewed this application and finds multiple wetlands and surface waters are present throughout the overall site. They have no objections to the application, subject to proposed conditions that will require EPC review and permits at the site development stage.

Comments received from the Conservation and Environmental Lands Management Department note that the site is west of the Little Manatee River Corridor ELAPP site. No objections are proposed, subject to a proposed condition that requires a compatibility plan to be reviewed at site development by Natural Resources staff.

The project is not located within a Wellhead Resource Protection Zone, Community Potable Well Buffer, Coastal High Hazard Area, Surface Water Protection Area or Significant Wildlife Habitat Area.

CR 579 is not a County designated scenic corridor.

1.5 Comprehensive Plan Consistency

The project is located within the WVR-2 Future Land Use (FLU) category and within the Wimauma Village Community Plan Area. The WVR-2 category requires residential development to occur with the sufficient number jobs and commercial establishments in place at the time of the rezoning application. The analysis conducted by Planning Commission staff under this remand continues to find that the project does not meet this requirement. Therefore, Planning Commission staff has found the proposed rezoning, to be INCONSISTENT with the Future of Hillsborough Comprehensive Plan.

1.6 Compatibility

The proposed project is located in an area featuring agricultural uses, low density residential development and vacant lands. The WVR-2 category extends to the north, west and in between the parcels. The eastern and area to the south of the "South Parcel" are within the N (Nature) future land use category.

North Parcel:

- Property to the north is zoned PD 18-1048, which is approved for a 1,056 unit subdivision of 4,400 and 5,500 square foot lots. A possible school site is also located within this PD. No development on this site has occurred. Access between the two projects is proposed.
- Properties to the south are zoned AR (Agricultural Rural), with some parcels used for agricultural purposes.
- The area to the west is zoned AR, which includes a 100 +/- foot wide TECO parcel and plant nursery.
- Property to east is vacant ELAPP property owned by SFWMD. The property is separated from the subject site by CR 579.

South Parcel:

- Properties to the north are zoned AR (Agricultural Rural), with some parcels used for agricultural purposes.
- The area to the south is zoned AR and developed with single-family residences oriented towards Saffold Road. Ponds and wetlands are located along the majority of the common boundary line.
- Property to the west is zoned AR and used for crops.
- Property to east is vacant ELAPP property owned by SFWMD. The property is separated from the subject site by CR 579.

Staff has not identified any compatibility issues associated with the request.

1.7 Agency Comments

The following agencies have reviewed the application and offer no objections:

- Environmental Protection Commission
- Transportation (remand)
- Conservation and Environmental Lands Management
- Hillsborough County School Board (remand)
- Water Resource Services
- Public Utilities
- Community & Infrastructure Planning Department (remand)
- Parks and Recreation Department (remand)

1.8 Exhibits

Exhibit 1: Future Land Use Map

Exhibit 2: Aerial/Zoning Map – General Area

Exhibit 3: Aerial/Zoning Map – Immediate Area

Exhibit 4: Proposed Site Plan (Northern Area dated 4/05/21 / Southern Area dated 4/07/21)

2.0 Recommendation

Not supported.

The proposed project is providing a mixed use project proposing residential and residential support uses. Proposed residential meets the minimum clustering ratio and the project's site design incorporates significant open space and a street network providing multiple travel routes. While the project will include many elements called for in the WVR-2 category and the Wimauma Village Plan, the number of jobs and amount of commercial in the Wimauma Village is not present at this time to accommodate the proposed residential growth. Noncompliance with this Comprehensive Plan requirement has resulted in a finding of inconsistency by the Planning Commission staff. Accordingly, the zoning district to implement those policies cannot be supported by Development Services staff.

Under this remand review, the applicant has proposed community benefits to demonstrate an enhanced project in exchange for an increase in density to 2 units per acre. Changes to the Comprehensive Plan and Wimauma Village Community Plan are not approved at this time to consider a different review standards.

SUMMARY OF HEARING

THIS CAUSE came on for hearing before the Hillsborough County Land Use Hearing Officer on April 19, 2021. Mr. Brian Grady of the Hillsborough County Development Services Department introduced the petition.

Hearing Master Finch stated that the application is from 2019 and was heard by a different Hearing Officer and assigned to her. Hearing Master Finch stated that she had read all of the backup and watched the December 8, 2020 Board of County Commissioners (BOCC) meeting where the case was remanded with a specific motion from Commissioner Myers that provided the applicant the opportunity to show how jobs will occur and how services will be offered in the Wimauma area. Hearing Master Finch asked Mr. Clark of the County Attorney's Office to confirm that it was proper to confine the hearing to the jobs issue as that was the reason it was remanded back to the Zoning Hearing Master. Mr. Clark replied that yes, the Hearing Officer should try to confine the subject matter due to the motion made by the BOCC. Mr. Clark added that the fact that the case was heard by a different Hearing Officer does not constrain her recommendation to the BOCC.

Hearing Master Finch asked Mr. Clark if additional evidence or information could be submitted into the record at the Zoning Hearing Master hearing. Mr. Clark replied yes. He added that the purpose of the remand is to add materials and information into the record for the BOCC to review.

Hearing Master Finch asked if that included anyone who would like to speak in support or in opposition. Mr. Clark replied that was correct.

Ms. Kami Corbett testified on behalf of the applicant Council Growers, Inc. which is an entity owned and managed by the Council family which is a long-time landowner in the Wimauma Village Area. Mr. Pat Council was one of the framers of the Wimauma Community Plan and the Future Land Use category. Ms. Corbett stated that she would ask her presenters to focus of the remand issue. She added that the applicant revised their plan, which is a bit of a wrinkle in terms of the narrow issue of the remand. The plan addresses community benefits. Ms. Corbett stated that the plan was modified to include several community benefits. There is a discussion on-going with the study of the WVR-2 area about replacing the jobs requirement that is currently in the Community Plan and replacing it with a community benefits component. She stated that although that has not been adopted, she and Mr. Luce of the Eisenhower Property Group have attended all of the meetings and have voluntarily incorporated those benefits into the plan. Ms. Corbett concluded her remarks by stating that Mr. Henry will refresh everyone's recollection regarding transportation including the revision to the design exception and Mr. Luce will provide information regarding job creation.

Hearing Master Finch asked Ms. Corbett that it does not appear that the revisions to the plan address the jobs question which is the reason the case was remanded. Further, Hearing Master Finch asked Ms. Corbett if she agreed that the community benefits issue was not adopted and therefore not subject to the review in the current rezoning process until its actually adopted. Ms. Corbett replied that the applicant can proffer it as a part of their application. She added that she believed that part of what Commission Myers was requesting was what benefit is going to come to the community from the development. Ms. Corbett stated that was her interpretation of the remand request and that Mr. Luce would testify regarding jobs.

Ms. Isabelle Albert testified on behalf of the applicant regarding land use planning issues. Ms. Albert stated that there is a recent draft of the job and employment requirement. The job requirement is proposed to be removed and replaced with a community benefit requirement. She added that in the spirit of the policy although it is not approved, the revisions to the plan meet the intent of the community benefit policy. One revision was to add a multi-use trail along the TECO easement. A public park is also proposed adjacent to the multi-use trail. Ms. Albert testified that the applicant has committed to providing utilities for the school site as well as 50 affordable housing dwelling units in the northern parcel. The applicant has withdrawn the previously submitted design exception. She stated that Sun City Center has a huge employment center which was previously not reviewed as it is not a part of the Wimauma downtown. Sun City Center has over a million square feet of commercial which results in a very active community commercial center. Ms. Albert discussed the commercial on the opposite side of US 301. She stated that the WVR-2 development has not occurred until the last

ten years.

Mr. Steve Henry, 5023 West Laurel, Tampa, testified on behalf of the applicant regarding transportation issues. Mr. Henry stated that there were previously several design exceptions submitted that were deemed approvable by the County Engineer. The applicant has withdrawn those design exceptions. The applicant proposes to improve County Road 579 by providing all the major design elements of the TS-7 from the County's Technical Manual. Mr. Henry showed a graphic to discuss the proposed 12-foot lanes as opposed to the existing 10-foot lanes. He stated that the applicant will also provide an 8-foot shoulder with 5-feet of pavement for a bike lane. 5-foot sidewalks will be added to both sides of the road. He completed his presentation by stating that applicant will provide the improvements from the subject project to 674.

Mr. Steve Luce, 111 South Armenia Suite 201 with the Eisenhower Property Group testified regarding jobs. He stated that the WVR-2 Consultant has issued preliminary findings and recommendations to the Planning Commission staff and the Board of County Commissioners regarding the requirement that jobs be provided at the time of zoning. Mr. Luce stated that it is not appropriate to look at how you enhance the downtown of Wimauma. Instead of a jobs requirement, the zoning case should look at providing a number of community benefits that will benefit the Wimauma community. One community benefit proposed is a trail that is a part of a larger trail system that will get to downtown Wimauma. Another community benefit is a proposed minimum 5-acre park. Mr. Luce added that 50 affordable housing lots are proposed within the subject project. In addition, improvements to County Road 579 from Saffold Road to 674 will be provided concurrent with and prior to the development of a school which is shown on the zoning site plan. Public water and sewer will be provided to the school. Mr. Luce testified that all of those things are a community benefit to the Wimauma community. Regarding jobs, Mr. Luce stated that the project will cost approximately \$25 million dollars to develop. It will take one to two years to develop the site and three to four more years to completely build out the community including all of the amenities. He stated that it would be at that point that the home builders would come in and build homes anytime between three to seven years depending upon the market conditions. Mr. Luce testified that the development, from start to end, will take approximately ten years and generate a about a thousand jobs. He stated that the rooftops must come before the jobs. The 516 homes will generate between 10 and 50 square feet per house which translates into 15,000 to 30,000 square feet of neighborhood retail and that retail should be located in downtown Wimauma. Mr. Luce concluded his remarks by stating that the on-site amenities and the jobs that will be created in the community including the home builder component, the project will help develop the downtown area of Wimauma.

Hearing Master Finch asked Mr. Luce what his understanding was of the status of the amendment to add a community benefit component. Mr. Luce replied that the Planning Commission has it is out for public input. He added that the

Planning Commission and their consultant went to the BOCC in February to do a transmittal of the WVR-2 language that was to be sent to Tallahassee for review and then come back for approval. The item was continued for more evaluation and public input.

Mr. Luce testified that the developer decided to enhance their rezoning application to try to address where the consultants were going and what it can do for the community.

Mr. Clark of the County Attorney's Office testified that the status provided by Mr. Luce was correct. The BOCC extended the moratorium in order to take additional input based upon the constraints to public participation caused the COVID. He added that while he appreciates the presentation of the proposed community benefits component, the amendment has not been approved and the final version of the language has not been drafted.

Ms. Michelle Heinrich Development Services Department testified regarding the County's staff report. Ms. Heinrich stated that the rezoning was remanded and that the applicants are looking to address the community benefits criteria which is a pending amendment to the Comprehensive Plan. The rezoning request differs from the previous proposal in the following items: a multi-modal trail along the west side of the northern parcel which would be available for public use, a five-acre park available for public use in the northern parcel, a commitment to provide water and sewer connections to the proposed school parcel, 50 affordable housing units in the northern parcel and the withdrawal of the previously requested design exceptions. No change to the number of dwelling units, the general layout or the access points is proposed. The Planning Commission continues to find the request inconsistent. The School Board has changed their recommendation such that they no longer support the request. Ms. Heinrich testified that given all of the factors, the Development Services Department does not support the request under the remand proposal.

Ms. Jiwaun Haley of the Planning Commission staff testified that the property is within the Wimauma Village Residential-2 Future Land Use category and located in the Rural Service Area and the Wimauma Community Planning Area. She testified that the request furthers several goals of the Comprehensive Plan including the Liveable Community Element. The applicant is requesting a Planned Development for two sites by transferring development rights with a maximum of 654 dwelling units and a residential support use. Both the sending and receiving sites are located within the WVR-2 land use category and consistent with Policy 32.10. Ms. Haley testified that the request is consistent with Policy 48.1 regarding clustering, Policy 48.2 regarding the proposed residential support use and Goal 5 of the Wimauma Community Plan to provide a balanced transportation system. The applicant is providing open space as described in Goal 2 of the Wimauma Community Plan. Although the applicant provided a synopsis of employment opportunities in a seven to eleven mile radius of the subject property, there are currently no jobs available within Wimauma to

accommodate the proposed Planned Development. Ms. Haley testified that in order to comply with the adopted employment requirements, a total of 557 jobs would need to be shown for the 654 dwelling units. Therefore, the rezoning request is inconsistent with the Future of Hillsborough Comprehensive Plan. Ms. Haley stated that the application was remanded for the purpose of allowing the applicant to address the employment requirements outlined in the Wimauma Village Community Plan. The applicant provided information regarding the community benefit in the form of a multi-use trail, public park and an affordable housing units. A community benefit component is being contemplated and a study is underway with draft language. The proposed language is scheduled to be heard by the BOCC in August of this year. Ms. Haley testified that the Planning Commission staff acknowledges that the current draft does contemplate shifting away from the employment requirement to a community benefits requirement but the new language has not been adopted at this time. For that reason, the Planning Commission cannot consider material that the applicant has submitted as part of their evaluation and can only rely on the adopted standards. Ms. Haley completed her presentation by stating that the Planning Commission finds the requested Planned Development inconsistent with the Future of Hillsborough Comprehensive Plan.

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. None replied.

County staff did not have additional comments.

Hearing Master Finch asked Mr. Clark of the County Attorney's Office about the Planning Commission's Executive Director's interpretation of Policy 48.1 regarding the jobs provision and their authority to make an interpretation. She stated that this was the discussion at the December 8th Board of County Commissioners meeting as to who was the final arbiter of the Comprehensive Plan. Hearing Master Finch stated that Ms. Lundgren of the County Attorney's Office stated that the Board of County Commissioners has the authority to interpret the Comprehensive Plan and that the Board agreed with the Planning Commission's Executive Director in terms of that interpretation. Hearing Master Finch asked Mr. Clark if that was his understanding. Mr. Clark replied that the matter is the subject of litigation right now and that Ms. Lundgren's statement at the Board meeting is the County's position.

Ms. Corbett testified during the rebuttal period that there was a discussion with the prior Zoning Hearing Master on whether Hearing Master has the legal authority to interpret the Plan. She added that she submitted a memorandum of law in support of the Hearing Master's authority into the record.

Regarding the school agency comment, Ms. Corbett stated that the School Board

has been having difficulty getting approval of sited school sites from Hillsborough County. They asked the developer to reserve a school site which was done. The School District then asked the developer to go back and include all the elements of the school siting into the rezoning request. Ms. Corbett stated that they can't do that but are willing to leave the site available for a school. She added that there is nothing wrong with the school site but rather a change in how the School District is doing things.

Regarding the jobs issue and the interpretation of Policy 48.1, Ms. Corbett stated that she does not agree with the Planning Commission's interpretation. She stated that she would submit revised zoning conditions into the record due to the proposed community benefits component and the withdrawal of the design exceptions.

Hearing Master Finch asked Ms. Corbett if it was accurate that in response to Commissioner Myer's motion to remand the application back to ask how jobs will occur and services offered, she submitted a revised plan that added community benefits based on a draft of the requirements that would replace the jobs component with a community benefit component. Ms. Corbett replied that she provided additional testimony and evidence about additional jobs in the surrounding area. And that her interpretation of the Plan is that the rooftops are built first and then the demand is generated for office, commercial and industrial jobs.

The hearing was then concluded.

EVIDENCE SUBMITTED

*Mr. Henry submitted a copy of the typical section for C.R 579 into the record.

*Ms. Albert submitted a copy of her PowerPoint presentation into the record.

*Ms. Corbett submitted a copy of her PowerPoint presentation and a copy of proposed zoning conditions into the record.

*A copy of Mr. Michael Peterson's business cards with an email from him requesting that his previous testimony be considered a part of the record as well as signed affidavits from Mr. Peterson, Ms. Amber Council, Ms. Carol Council, Mr. David Council and Mr. Travis Council asking that the ZHM review and consider their prior testimony was submitted 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 324.4 acres in size and is zoned Agricultural Rural (AR). The property is designated Wimauma Village Residential-2 (WVR-2) by the Comprehensive Plan and located in the Rural Service Area and the Wimauma Community Planning Area.
2. The request to rezone from AR to Planned Development (PD) is to permit a maximum of 654 single-family detached homes on two parcels. The northern parcel is proposed to have a maximum of 516 single-family homes with one acre of residential support uses, a five-acre public park and a multi-modal trail. The southern parcel is proposed to have a maximum of 138 single-family homes and a 25-acre potential school site.
3. No Planned Development variations are requested.
4. The Board of County Commissioners remanded the rezoning application on December 8, 2020 back to the Zoning Hearing Master. The purpose of the remand as stated in the motion by Commissioner Myers was to have the applicant identify how jobs will occur and services will be offered in the Wimauma area.
5. The Planning Commission does not support the rezoning request. Staff found that the request furthers several goals of the Comprehensive Plan including the Livable Community Element. Specifically, the sending and receiving sites are located within the WVR-2 land use category and consistent with Policy 32.10. The request is consistent with Policy 48.1 regarding clustering, Policy 48.2 regarding the proposed residential support use and Goal 5 of the Wimauma Community Plan to provide a balanced transportation system. The applicant is providing open space as described in Goal 2 of the Wimauma Community Plan. Although the site is consistent with these Goals and Policies, the Planning Commission testified that the request does not conform with Policy 48.1 regarding the job opportunity provision and that those jobs be located in the Wimauma Village Downtown area at the time of the rezoning. A total of 557 jobs are required for the proposed 654 dwelling units. The Planning Commission referenced the applicant's synopsis of employment opportunities in a seven to eleven mile radius of the subject property but stated that there are currently no jobs available within Wimauma to accommodate the proposed Planned Development. The Planning Commission acknowledged the applicant's most recent revisions to the Planned Development to include community benefits such as a multi-modal trail, public park and affordable housing units. A study that is currently on-going proposes draft language to amend the Wimauma Community Plan to replace the jobs requirement with a community benefit requirement. Because

the study and draft language has not been approved by the Board of County Commissioners, the Planning Commission reviewed the request based on the adopted standards and therefore found the rezoning inconsistent with the Wimauma Community Plan and Comprehensive Plan.

6. The Development Services Department does not support the request. Staff found that the project does meet the minimum clustering ratio as well as many elements of the WVR-2 and Wimauma Village Plan. However, the request does not meet the required number of jobs in the Wimauma Village provision and is inconsistent with the Comprehensive Plan, thereby resulting in the recommendation to not support the requested Planned Development zoning district.
7. After the December 8, 2020 remand of the application by the Board of County Commissioners, the applicant's representative submitted revisions to the Planned Development that included a community benefits component to the project. These revisions included a multi-modal trail along the western side of the northern parcel, a five-acre park within the northern parcel, a commitment to provide public water and sewer to the proposed school site within the southern parcel and 50 affordable housing units within the northern parcel. Additionally, the previously submitted transportation design exceptions were withdrawn.
8. The applicant's representatives testified at the Zoning Hearing Master hearing regarding the proposed revisions to the Planned Development to include certain community benefits and described the future jobs that would be created by the design and construction of the proposed residential homes.
9. No testimony in support or in opposition was provided at the Zoning Hearing Master hearing.

An email from Mr. Michael Peterson with affidavits from Mr. Peterson and members of the Council family requesting that their prior testimony be considered were submitted into the record at the hearing.

10. The applicant's revisions submitted in response to the Board of County Commissioner's remand of the application address certain community benefits and not the specific motion made by Commissioner Myers to identify how jobs will occur and how services will be offered in the Wimauma area.

The Planning Commission testified that a study is currently underway to examine a community benefits component that would replace the jobs provision however, that study and draft language has not been approved by the Board of County Commissioners. Therefore, the rezoning application must be evaluated based on the adopted provisions.

11. The Assistant County Attorney affirmed at the Zoning Hearing Master hearing that the Board of County Commissioners (BOCC) has the authority to interpret the Comprehensive Plan and that the BOCC agreed with the Planning Commission's Executive Director that the interpretation that the jobs associated with the proposed 634 dwelling units be in place in the Wimauma Downtown Village at the time of the rezoning.
12. The Planned Development zoning does not comply with the WVR-2 and the Wimauma Community Plan regarding the required jobs component and therefore is inconsistent with the Comprehensive Plan.

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

The rezoning request is not in compliance with and does not 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 not 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 324.4 acres from AR to PD to permit a maximum of 654 single-family detached homes on two parcels.

The Board of County Commissioners remanded the rezoning application on December 8, 2020. The purpose of the remand as stated in the motion by Commissioner Myers was to have the applicant identify how jobs will occur and services will be offered in the Wimauma area.

The Planning Commission does not support the request based on the project not meeting Policy 48.1 regarding the job opportunity provision and that those jobs be located in the Wimauma Village Downtown area at the time of the rezoning.

The Development Services Department also does not support the request as it is inconsistent with the Comprehensive Plan, thereby resulting in the recommendation to not support the requested Planned Development zoning district.

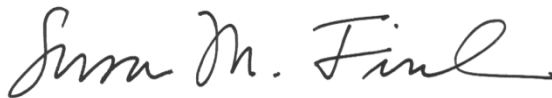
The applicant's representative submitted revisions in response to the Board of County Commissioner's remand of the application that address certain community benefits but not the specific motion made by Commissioner Myers to identify how jobs will occur and how services will be offered in the Wimauma area. The Planning Commission testified that a study is currently underway to examine a community benefits component that would replace the jobs provision however, that study and the accompanying draft language has not been approved by the Board of County Commissioners. Therefore, the rezoning application must be evaluated based on the adopted provisions.

The Assistant County Attorney affirmed at the Zoning Hearing Master hearing that the Board of County Commissioners has the authority to interpret the Comprehensive Plan and that the Board agreed with the Planning Commission's Executive Director that the interpretation that the jobs associated with the proposed 634 dwelling units be in place in the Wimauma Downtown Village at the time of the rezoning.

The Planned Development zoning does not comply with the WVR-2 and the Wimauma Community Plan regarding the required jobs component and therefore is inconsistent with the Comprehensive Plan.

RECOMMENDATION

Based on the foregoing, this recommendation is for **DENIAL** of the Planned Development rezoning request as indicated by the Findings of Fact and Conclusions of Law stated above.



May 10, 2021

Susan M. Finch, AICP
Land Use Hearing Officer

Date



**Hillsborough
County Florida**

DEVELOPMENT SERVICES

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

June 11, 2021

**BOARD OF COUNTY
COMMISSIONERS**

Harry Cohen
Ken Hagan
Pat Kemp

Gwendolyn "Gwen" Myers
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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

**RE: RZ-PD 19-1458
Council Growers, Inc./A Florida Corporation
S. CR 579 & Saffold Rd.**

Kami Corbett
101 E. Kennedy Blvd., Ste. 3700
Tampa, FL 33602

Dear Applicant:

At the regularly scheduled Land Use public meeting on June 9, 2021, 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, please contact Brian Grady at 813-276-8343 or by email at GradyB@HCFLGov.net.

Sincerely,

Joseph Moreda, AICP
Zoning Administrator

JM/mn

TUESDAY, JUNE 8, 2021

REGULAR AGENDA

G.1. Application Number: RZ-PD 19-1458 (Remanded)
Applicant: COUNCIL GROWERS, INC. A FLORIDA CORPORATION
Location: 25ft NW of Intersection: S County Road 579. / Saffold Rd.
Folio Number: 79691.0000, 79699.0000, 79700.0000 & 79702.0000
Acreage: 324.4 acres, more or less
Comp Plan: WVR-2
Service Area: Rural
Community Plan: Wimauma & Southshore
Existing Zoning: AR
Request: Rezoning to PD
RECOMMENDATION:
ZHM: Denial
Development Services: Not Supported
PC: Inconsistent

► Ms. Michelle Heinrich, Development Services, detailed the item. ► Attorney Kamala Corbett, applicant representative, spoke in favor of the item. Chair Kemp called for public comment; there was no response. Talks occurred. ► Ms. Melissa Lienhard, PC, and ► Senior Assistant County Attorney Johanna Lundgren reviewed PC/ZHM recommendations. Observing the community amenities offered by the applicant, ► **Commissioner White moved approval of the item, seconded by Commissioner Hagan.** Subsequent to elaborating on the recommendations for denial, ► **Commissioner Smith made a substitute motion for denial, seconded by Commissioner Overman.** Chair Kemp backed the substitute motion. Commissioner Cohen was hesitant to move forward on the item. ► Commissioner Myers opined the application had not shown local job opportunities. Upon roll call vote, ► **the substitute motion carried five to two; Commissioners Hagan and White voted no.**

G.2. Application Number: RZ-STD 20-0374
Applicant: JOHN E. GRYGIEL
Location: 110ft SE of Intersection: E Martin Luther King Blvd./ Thomas St.
Folio Number: 65840.0000 & 65843.0000
Acreage: 0.58 acres, more or less