



Meeting Date October 12, 2021

Consent Section

Regular Section

Public Hearing

Subject: Approve a resolution providing for the rendition of the denial of application RZ 21-0700, an application for rezoning from Planned Development (PD) zoning district to AS-1 (Agricultural Single Family). The Board of County Commissioners voted to deny this application during the August 10, 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 21-0700, an application for rezoning from Planned Development (PD) zoning district to AS-1 (Agricultural Single Family).

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 21-0700 during the August 10, 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 21-0700.

List Attachments:

Resolution providing for denial of RZ 21-0700, with the following attachments: (1) Zoning Hearing Master Recommendation, (2) Development Services Department denial letter (3) Minutes of August 10, 2021 Board of County Commissioners Land Use Meeting

RESOLUTION # _____

REZONING PETITION # RZ 21-0700

Upon motion by Commissioner White, seconded by Commissioner Cohen, the following resolution was adopted by a 6-0 vote, with the individual commissioners voting as follows:

Cohen	yes
Hagan	absent
Kemp	yes
Myers	yes
Overman	yes
Smith	yes
White	yes

WHEREAS, on the 20th day of April 2021, Jorge Salmeron and Alicia Salmeron submitted a rezoning petition requesting a change from PD 12-0257 (Planned Development 12-0257) zoning classification to AS-1 (Agricultural – Single-Family) zoning classification for the parcel of land described in said petition; and,

WHEREAS, the Zoning Hearing Master on June 14, 2021, held a duly noticed public hearing on said rezoning petition for AS-1 (Agricultural – Single-Family) zoning and heard and considered testimony and documents received thereon; and,

WHEREAS, the Zoning Hearing Master filed with the Board of County Commissioners of Hillsborough County a recommendation of approval of said rezoning petition; and,

WHEREAS, said Zoning Hearing Master 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 Hillsborough County City Planning Commission staff (the "Planning Commission staff") reviewed the application and issued a finding of consistency with the Future of Hillsborough Comprehensive Plan for Unincorporated Hillsborough County, Florida (the "Comprehensive Plan"); and

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

WHEREAS, the public notice requirements contained in the Land Development Code of Hillsborough County have been satisfied; and,

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

Hillsborough County Administration; and,

WHEREAS, the Board of County Commissioners of Hillsborough County has received and considered the report and recommendation of the Zoning Hearing Master, but rejected the recommendation of approval by the Zoning Hearing Master on the basis that there is a legitimate public interest in maintaining the existing zoning of PD 12-0257 (Planned Development 12-0257); and,

WHEREAS, the Board of County Commissioners of Hillsborough County has on August 10, 2021, held a duly noticed public meeting on the petition for AS-1 (Agricultural – Single-Family) zoning and has heard and considered the evidence received thereon.

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

I. FINDINGS

A. The Board of County Commissioners of Hillsborough County is authorized and empowered to consider the petition for AS-1 (Agricultural – Single-Family) zoning filed by Jorge Salmeron and Alicia Salmeron.

B. The Board of County Commissioners of Hillsborough County considered the report and recommendation of the Zoning Hearing Master, the recommendation of Hillsborough County Administration (attached as Exhibit “B”), and the recommendation of the Planning Commission staff (attached as Exhibit “C”).

C. In accordance with Section 10.03.04(G) of the Land Development Code, the Board of County Commissioners accepts the “Summary of Hearing,” “Evidence Submitted,” “Preface,” “Findings of Fact” “Findings of Compliance/Non-Compliance with the Hillsborough County Comprehensive Plan,” and “Summary” portions of the Zoning Hearing Master’s report, but rejects the “Conclusions of Law” and “Recommendation” portions of the Zoning Hearing Master’s report on the basis that there is a legitimate public interest in maintaining the existing zoning of PD 12-0257 (Planned Development 12-0257).

D. Competent substantial evidence supporting the finding that of a legitimate public interest in maintaining the existing zoning of PD 12-0257 (Planned Development 12-0257) includes:

1. The applicants’ desires to use the property for AS-1 agricultural uses are permitted under the existing zoning.

2. There is ample record evidence from multiple property owners in the surrounding neighborhood regarding disruptive activities occurring on the subject property over a period of years including:

- a. disturbing and frightening surrounding neighbors with loud, large parties held late night with armed guards;
 - b. disturbing and frightening surrounding neighbors with gunfire discharges at the late night parties, once instance of which resulted in a death from a gun-shot wound to a person at one of the late-night parties;
 - c. invitees to the late night parties parking on neighbors' property without permission and blocking the neighborhood road with parked cars; and
 - d. 36 calls to law enforcement regarding the subject property.
3. The removal of the PD zoning would afford less specificity of use on the property, and less safeguards to the surrounding neighbors.

II. CONCLUSIONS

The Board of County Commissioners of Hillsborough County hereby denies the petition for AS-1 (Agricultural – Single-Family) zoning filed by Jorge Salmeron and Alicia Salmeron.

III. EFFECTIVE DATE

This resolution shall take effect upon vote of the Board of County Commissioners of Hillsborough County in regard to the application.

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 _____, 20____.

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 STD 21-0700

DATE OF HEARING: June 14, 2021

APPLICANT: Jorge & Alicia Salmeron

PETITION REQUEST: The request is to rezone a parcel of land from PD to AS-1

LOCATION: 1,200 feet east of Jerry Smith Rd. and west of Griffin Rd. intersection

SIZE OF PROPERTY: 9.21 acres m.o.l.

EXISTING ZONING DISTRICT: PD 12-0257

FUTURE LAND USE CATEGORY: RES-1

SERVICE AREA: Rural

DEVELOPMENT REVIEW STAFF REPORT

1.0 APPLICATION SUMMARY

Applicant: Jorge & Alicia Salmeron

FLU Category: Residential-1 (RES-1)

Service Area: Rural

Site Acreage: 9.21 acres

Community Plan Area: None

Overlay: None

Request: Rezone from PD 12-0257 to AS-1

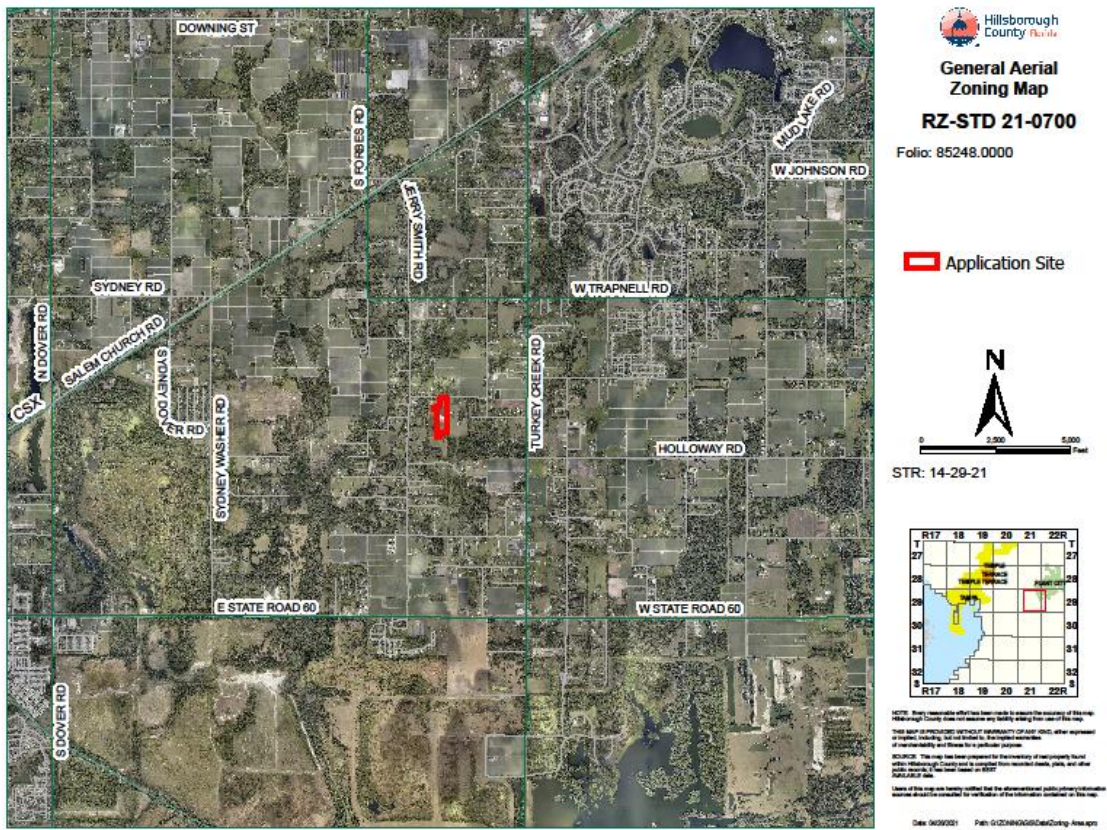
Zoning:		
Uses	Current PD 12-0257 Zoning	Proposed AS-1 Zoning
	SFR Farm/Nursery with Retail	SFR Farm/Nursery

Development Standards:		
	Current PD 12-0257 Zoning	Proposed AS-1 Zoning
Density / Intensity	1 u/a	1 u/a
Lot Size / Lot Width	43,560 sf / 150'	43,560 sf / 150'
Setbacks/Buffering and Screening	50' Front	50' Front
	15' Rear	15' Rear
	50' Sides	50' Sides
Height	50'	50'

Additional Information:

PD Variations	N/A
Waivers	N/A
Planning Commission Recommendation	Consistent
Development Services Department Recommendation	Approvable

2.0 LAND USE MAP SET AND SUMMARY DATA 2.1 Vicinity Map

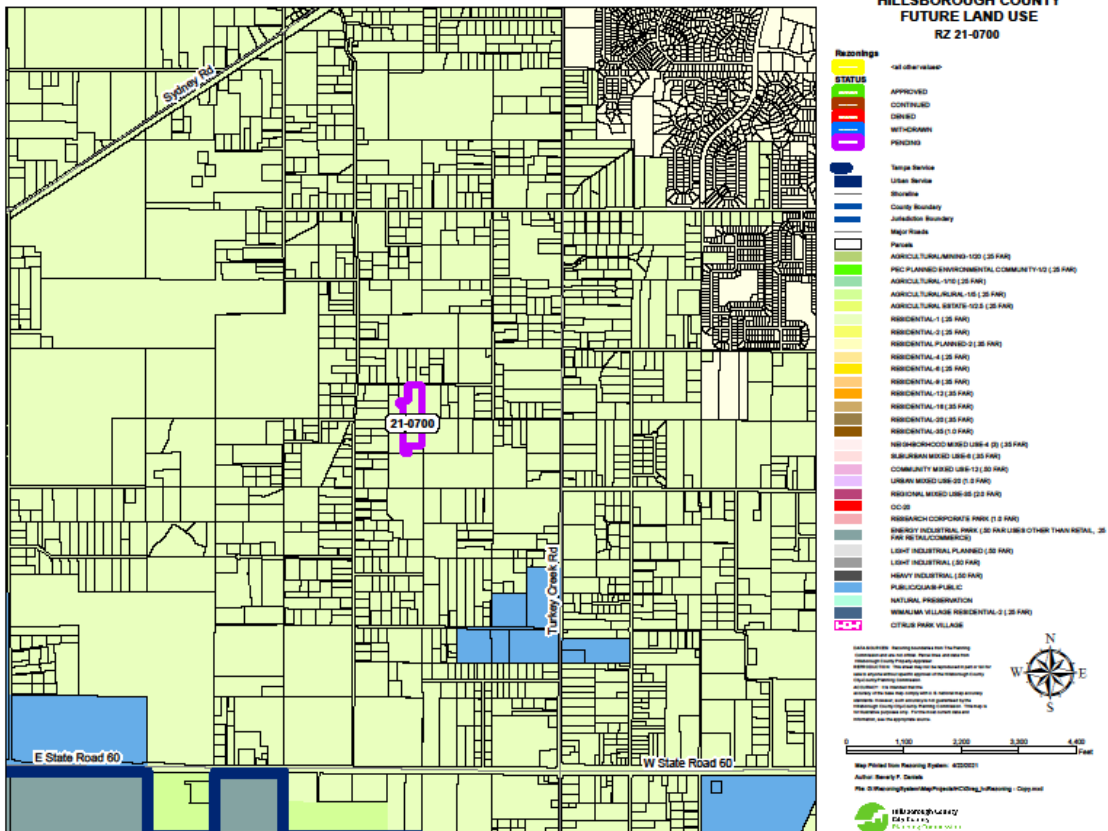


Context of Surrounding Area:

The adjacent properties are comprised entirely of AS-1 (Agricultural - Single-Family) zoning districts. To the north of the subject parcel across W O Griffin Road are single-family residential homes zoned AS-1. To the east it is adjacent to a single-family residential home zoned AS-1. To the south it is adjacent to a single-family residential home owned by the applicant zoned AS-1. Also, to the

south it is adjacent to another single-family residential home zoned AS-1. To the west it is adjacent to a single-family residential home zoned AS-1. Also, to the west it is adjacent to another single-family residential home zoned AS-1.

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

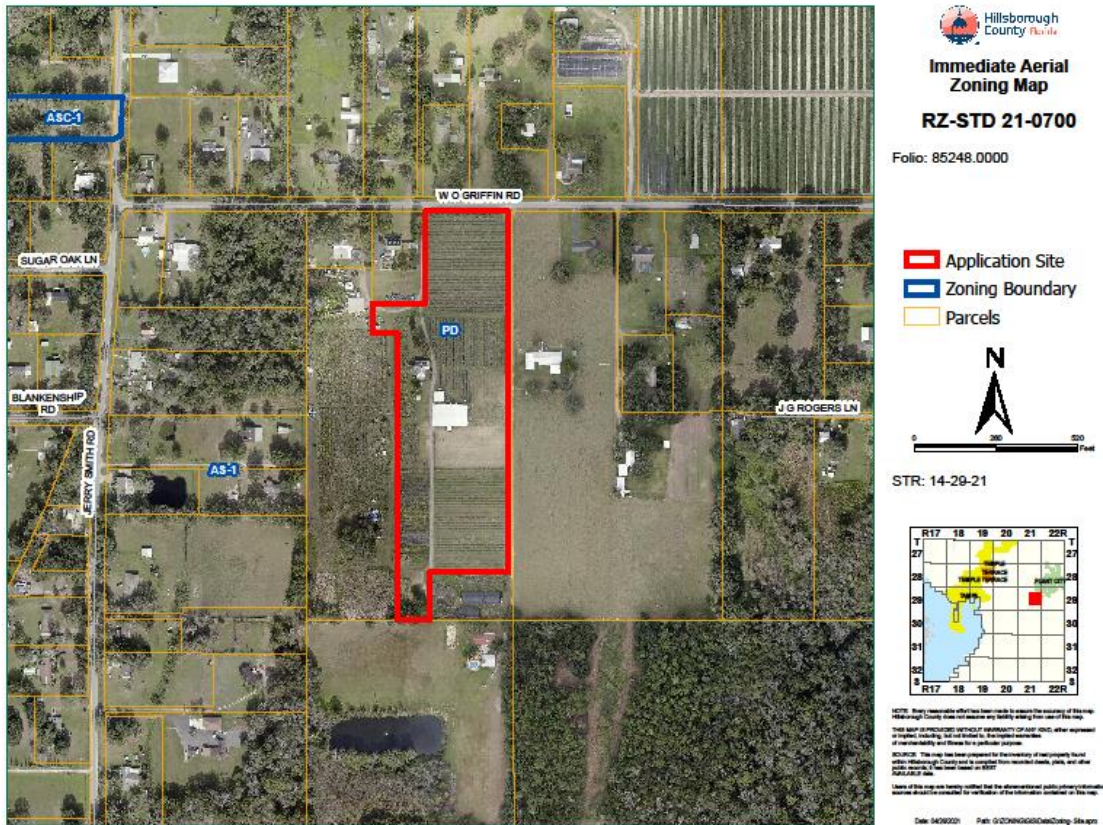


Future Land Use Category Description: Residential-1 (RES-1)

Maximum FAR: .25

Maximum Density: 1 du per ga

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



Adjacent Zonings and Uses					
Location:	Zoning:	Future Land Use:	Density/F.A.R.	Permitted Use:	Existing Use:
North	AS-1	R-1	1 du per ga/ .25	Single-Family Residential	Single-Family Residential
South	AS-1	R-1	1 du per ga/ .25	Single-Family Residential	Single-Family Residential
West	AS-1	R-1	1 du per ga/ .25	Single-Family Residential	Single-Family Residential

East	AS-1	R-1	1 du per ga/ .25	Single-Family Residential	Single-Family Residential
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3.0 TRANSPORTATION SUMMARY (FULL TRANSPORTATION REPORT IN SECTION 8 OF STAFF REPORT)

Adjoining Roadways (check if applicable)			
Road Name	Classification	Current Conditions	Select Future Improvements
W O Griffin Rd.	County Local - 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 Required <input type="checkbox"/> Proposed Vehicular Access <input type="checkbox"/> Other:
Project Trip Generation			
	Average Annual Daily Trips	A.M. Peak Hour Trips	P.M. Peak Hour Trips
Existing	108	10	17
Proposed	85	7	9
Difference (+/-)	(-) 23	(-) 3	(-) 8

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

Design Exceptions/Administrative Variance		
Road Name	Type	Finding
N/A	Choose an item.	Choose an item.
Notes:		

Required Connectivity	
Project Boundary	Status
North	Not Required and Not Proposed
South	Not Required and Not Proposed
East	Not Required and Not Proposed

West	Not Required and Not Proposed
Other:	

Cross Access			
Type of Cross Access	Required	If Yes, Location(s)	If Yes, Proposed by Applicant
Vehicular and Pedestrian Cross Access	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> North <input type="checkbox"/> South <input type="checkbox"/> East <input type="checkbox"/> West	<input type="checkbox"/> Yes <input type="checkbox"/> No, see above for Adm. Variance
Pedestrian Only Cross Access	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> North <input type="checkbox"/> South <input type="checkbox"/> East <input type="checkbox"/> West	<input type="checkbox"/> Yes <input type="checkbox"/> No, see above for Adm. Variance

4.0 ADDITIONAL SITE INFORMATION & AGENCY COMMENTS SUMMARY

Environmental:

Environmental Protection Commission

- Yes
 No No

- Yes

Natural Resources	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Conservation & Environmental Lands Mgmt.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Check if Applicable: <input type="checkbox"/> Wetlands/Other Surface Waters <input type="checkbox"/> Use of Environmentally Sensitive Land Credit <input type="checkbox"/> Wellhead Protection Area <input type="checkbox"/> Surface Water Resource Protection Area <input type="checkbox"/> Potable Water Wellfield Protection Area <input type="checkbox"/> Significant Wildlife Habitat <input type="checkbox"/> Coastal High Hazard Area <input type="checkbox"/> Urban/Suburban/Rural Scenic Corridor <input type="checkbox"/> Adjacent to ELAPP property <input type="checkbox"/> Other _____		

Public Facilities:		
Transportation <input type="checkbox"/> Design Exception Requested <input type="checkbox"/> Off-site Improvements Required	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Utilities Service Area/ Water & Wastewater <input type="checkbox"/> Urban <input type="checkbox"/> City of Tampa <input checked="" type="checkbox"/> Rural <input type="checkbox"/> City of Temple Terrace	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Hillsborough County School Board Adequate <input type="checkbox"/> K-5 <input type="checkbox"/> 6-8 <input type="checkbox"/> 9-12 <input type="checkbox"/> N/A Inadequate <input type="checkbox"/> K-5 <input type="checkbox"/> 6-8 <input type="checkbox"/> 9-12 <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Impact/Mobility Fees		
Planning Commission <input type="checkbox"/> Meets Locational Criteria <input type="checkbox"/> N/A <input type="checkbox"/> Locational Criteria Waiver Requested <input type="checkbox"/> Minimum Density Met <input type="checkbox"/> N/A	<input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/> Consistent	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Density Bonus Requested

5.0 IMPLEMENTATION RECOMMENDATION

Consistent Inconsistent **5.1 Compatibility**

In the surrounding area the uses and zonings are all the same as the request; rural single-family lots zoned AS-1; therefore, the rezoning of the subject parcel from PD (12-0257) to AS-1 would be consistent with the existing zoning pattern of the area.

Based on the above considerations staff finds the requested AS-1 zoning district compatible with the existing zoning and development pattern in the area.

Based on the above considerations, staff finds the request approvable.

SUMMARY OF HEARING

THIS CAUSE came on for hearing before the Hillsborough County Land Use Hearing Officer on June 14, 2021. Mr. Brian Grady of the Hillsborough County Development Services Department introduced the petition.

Mr. Jorge Salmeron 5645 W O Griffin Road testified as the applicant. Mr. Salmeron stated that his request is to rezone the property from PD to Agricultural Single-Family and to be given the opportunity to perform and continue with the agritourism operations on the farm.

Hearing Master Finch asked Mr. Salmeron to expand on why they are rezoning and include mention of the prior PD which permitted a wine retail provision. Mr. Salmeron replied that the winery and the PD was not established by him but rather the previous owners of the property. He added that he is not interested in making wine.

Hearing Master Finch asked Mr. Salmeron to describe what agritourism means. Mr. Salmeron replied that events for the public can be held at the farm including tours. He stated that he is in the process of resetting the whole farm. The property was purchased in 2014 and was turned from an orange grove into a blueberry farm.

Mr. Chris Grandlienard, Development Services staff, testified regarding the County's staff report. Mr. Grandlienard stated that the request is to rezone the property from PD 12-0257 to AS-1. He added that the property is designated RES-1 by the Comprehensive Plan. Mr. Grandlienard described the surrounding zoning as being AS-1 and developed with rural single-family homes. He concluded his presentation by stating that staff finds the request approvable.

Ms. Yeneka Mills, Planning Commission staff testified regarding the Planning Commission staff report. Ms. Mills stated that the subject property is within the Residential-1 Future Land Use classification and the Rural Service Area. Ms. Mills testified that the request meets Objective 4 and Policy 4.1 which states that no more than 20 percent of the projected population growth is to occur within the Rural Service Area and preserved for agricultural activity with low density, large lot residential. The request is also consistent with Objective 16 and accompanying policies 16.1, 16.2 and 16.3. The request is also consistent with Objective 30 and accompanying policies 30.3, 30.6 and 30.7 regarding agricultural retention. Ms. Mills concluded her presentation by stating that the Planning Commission finds the proposed rezoning consistent with the Future of Hillsborough Comprehensive Plan.

Hearing Master Finch asked for members of the audience in support of the application.

Mr. Rogelio Alejo 5645 W O Griffin Road Plant City testified in support. Mr. Alejo stated that the property is used for recreational and educational purposes. The property has been historically designated agricultural.

Mr. Manuel Salmeron 5002 Nesmith Road Plant City testified in support.

Hearing Master Finch asked for members of the audience in opposition to the application.

Mr. Preston Price 5655 W O Griffin Road Plant City testified in opposition. Mr. Price stated that the gentleman that spoke in support did not give his correct address. He added that he lives in Cape Coral Florida and not next door to the property. Mr. Price testified that he is against the rezoning because if the property is rezoned, he will have the agritourism for parties for many years. The parties are nuisance parties. They draw violence. There was a murder on site several months ago. Mr. Price showed pictures of the property that included a photo of a true blueberry farm and a picture of the subject property blueberry farm. He also showed pictures of trash on-site. Mr. Price stated that the gentleman who spoke in support described the parties as being for family members and relatives. He added that security guards walk around the property with a gun. The noise from the parties rattles his windows and they go one past midnight. He stated that the letters written in support are from people that don't live in the vicinity. If the rezoning is approved, there will be no restrictions for agritourism as State law supersedes it. Mr. Price showed a video of a party at the subject property.

Ms. Barbara McClernan 5710 W O Griffin Road Plant City testified in opposition. Ms. McClernan stated that the murder of a 25 year old man happened on the property on February 7, 2021. The security guards have guns and wear bullet proof vests. The party goers have run her off the road and damaged her fence. The parties have loud music and people yelling obscenities. Ms. McClernan testified that the letters in opposition were written by residents of W O Griffin Road or adjacent Edwards Road and Jerry Smith Road. The letters of support are from people that live 2.3, 8.9 and 127 miles away. The farm is a not a bonafide farm but rather dead weeds and plants. The parties have been going on since 2016. She showed pictures of the property. Ms. McClernan stated she called Code Enforcement who told her they could not do anything because of the agritourism regulations that Governor Scott passed. Hillsborough County opened an investigation in 2018 which resulted in violations concerning construction, electrical, plumbing, lighting and mechanical. She concluded her comments by stating that the community is very tight knit and one person has come in and taken over the neighborhood.

Ms. Patty Craddock 4112 Edwards Road Plant City testified in opposition. Ms. Craddock stated that she reviewed planning documents and found that Objective 16 and associated Policies 16.1, 16.2, 16.3 and 16.10 talk about neighborhood

protection as well as establishing a plan to prohibit incompatible events or land uses. The use is not complementary to the neighborhood. There are incompatibilities regarding pedestrian and vehicular traffic, parking and landscaping. The existing party barn has resulted in one death with hundreds of cars and people. Ms. Craddock questioned how that can be compatible with the neighborhood. She stated that when she walks the neighborhood, there are armed security guards with bullet proof vests. She finished her presentation by stating that the request is not just about changing the property to AS-1 and that she is trying to protect her neighborhood.

Hearing Master Finch asked Mr. Grady of the Development Services Department about the term agritourism and restrictions under the Land Development Code. Mr. Grady replied that agritourism is regulated by Florida State Statutes. He added that at the local level, the property is required to be greenbelted to qualify for the agritourism exemption. Any parcel that is zoned agricultural with a bonafide agricultural use would qualify under agritourism.

Mr. Alejo testified during the rebuttal period and stated that he was speaking on behalf of the applicant. He added that he never said he lived in the area. The property has been agricultural for many years. Documentation has been submitted to the Property Appraisers officer to justify that the farm is a bonafide agricultural use with a blueberry farm and nursery operations. Mr. Alejo stated that he does not believe that the video shown reflects his property. He would like to rezone the property to AS-1 to continue operation similar to the last 14 years. The blueberries are set every 3 to 6 years to produce a bigger yield.

Hearing Master Finch asked Mr. Alejo if he intended to request a greenbelt designation on the property. Mr. Alejo replied that the property received a greenbelt designation.

Hearing Master Finch asked Mr. Alejo what he showed the County to document it was a bonafide agricultural use. Mr. Alejo replied that the application was approved by the Property Appraiser for many years.

Hearing Master Finch asked Mr. Alejo how long he has owned the property and if it was greenbelted the majority of the time. Mr. Alejo replied 14 years and that it was greenbelted the majority of the time.

Hearing Master Finch asked Mr. Alejo to reply to the assertion that the barn is being used for something other than agricultural and to provide examples of what it is going on at the barn. Mr. Alejo replied that many events are offered to the public that include doing horse and pony rides.

The hearing was then concluded.

EVIDENCE SUBMITTED

Mr. Price submitted copies from a Facebook page regarding events on the subject property as well as correspondence between County staff addressing the Agritourism regulations and qualification, letters of opposition, a letter of support from Mr. Alejo, an article regarding the effect of property values from a bad neighbor, a copy of a previously approved setback variance for the subject property, a print out from the Sheriff's Department for the subject property, photos of the subject property, a news article regarding the murder on the property from May of 2021 and a video of traffic on the subject property, 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 property is 9.21 acres in size and is currently Planned Development (PD 12-0257) and is designated Residential-1 (RES-1) by the Comprehensive Plan. The property is located within the Rural Service Area.
2. The approved Planned Development (PD 12-0257) permits 1 single-family home and accessory retail sales related to the on-site agricultural uses, blueberry wine processing and AS-1 land uses.
3. The applicant is requesting a rezoning to the Agricultural Single-Family-1 (AS-1) zoning district. The applicant testified at the Zoning Hearing Master hearing that he would like to continue the AS-1 land uses and has no intent to produce wine from the existing blueberry farm. He added that he would like to continue the on-going Agritourism on-site.
4. The Planning Commission staff supports the request. The Planning Commission found that the request is consistent with Objective 4 and Policy 1.4 regarding the preservation of agricultural uses and large lot residential in the Rural area. Staff further found that the request is consistent with Objective 16 and accompanying policies 16.1, 16.2 and 16.3 as well as Objective 30 and accompanying policies 30.3, 30.6 and 30.7 regarding agricultural retention. The Planning Commission found the application consistent with the Comprehensive Plan.

5. The Development Services Department staff also supports the request as the properties surrounding the subject property are zoned AS-1.
6. Testimony in support was provided at the Zoning Hearing Master hearing and also submitted into the record. The testimony in support at the hearing was provided by the owner of the subject property who stated that the property is used for agricultural, recreational and educational purposes. The property has been historically designated agricultural.
7. Testimony in opposition was provided at the Zoning Hearing Master hearing and also submitted into the record. The testimony in opposition provided at the hearing was from neighbors that live in the area of the subject property. The testimony focused on late night parties that are conducted on the property in an existing barn. The neighbor's detailed the murder of a person at a birthday party in February of 2021. The neighbors described the presence of armed security guards at the parties as well as the noise, traffic and associated disruption to the rural character of the area.
8. The Zoning Hearing Master asked the property owner about the neighbor's testimony and use of the barn for agritourism. The property owner replied that many events are offered to the public that include offering horse and pony rides.
9. Florida Statutes Chapter 570.85 (1) describes the intent of Agritourism as follows:

“It is the intent of the Legislature to promote agritourism as a way to support bona fide agricultural production by providing a secondary stream of revenue and by educating the general public about the agricultural industry.....a local government may not adopt or enforce a local ordinance, regulation, rule or policy that prohibits, restricts, regulates or otherwise limits an agritourism activity on land classifies as agricultural land...”
10. The property owner testified at the Zoning Hearing Master that the subject property has a greenbelt designation approved by the Hillsborough County Property Appraiser. It is presumed that this designation requires evidence of a bonafide agricultural activity.
11. Florida Statutes 570.85 (1) prevents the adoption of an ordinance that would restrict or limit agritourism on agricultural land. Therefore, it is outside the purview of the Zoning Hearing Master's review to determine if the property includes a bonafide agricultural use and is in

compliance with the intent of Agritourism as described in Florida Statutes.

12. The description of the parties on the subject property in the existing barn provided by the neighbors, which include a murder in February of 2021 at a birthday party, warrants further investigation by the proper authorities.
13. The request for the AS-1 zoning district on the subject property is compatible with the surrounding zoning districts and the RES-1 Future Land Use category.

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 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 applicant is requesting a rezoning to the AS-1 zoning district. The property is 9.21 acres in size and is currently zoned PD 12-0257 and designated RES-1 by the Comprehensive Plan. The property is located in the Rural Service Area.

The approved Planned Development (PD 12-0257) permits 1 single-family home and accessory retail sales related to the on-site agricultural uses, blueberry wine processing and AS-1 land uses. The applicant is requesting a rezoning to the Agricultural Single-Family-1 (AS-1) zoning district. The applicant testified at the Zoning Hearing Master hearing that he would like to continue the AS-1 land uses and has no intent to produce wine from the existing blueberry farm. He added that he would like to continue the on-going Agritourism on-site.

The Planning Commission found the request compatible with the surrounding area and consistent with numerous Policies that promote retaining agricultural land uses.

Testimony in support was provided at the hearing by the subject property owner.

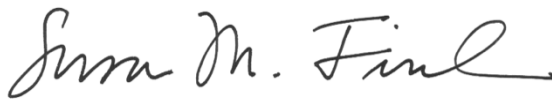
Testimony in opposition was provided at the hearing by neighbors in the area. The neighbor's testimony focused on late night parties that are conducted on the property in an existing barn. The neighbor's detailed the murder of a person at a birthday party in February of 2021. The neighbors described the presence of armed security guards at the parties as well as the noise, traffic and associated disruption to the rural character of the area. The Zoning Hearing Master asked the property owner about the neighbor's testimony and use of the barn for agritourism. The property owner replied that many events are offered to the public that include offering horse and pony rides.

Florida Statutes 570.85 (1) prevents the adoption of an ordinance that would restrict or limit agritourism on agricultural land. Therefore, it is outside the purview of the Zoning Hearing Master's review to determine if the property includes a bonafide agricultural use and is in compliance with the intent of Agritourism as described in Florida Statutes. The neighbor's concerns are valid and warrant further investigation by the proper authorities.

The request for the AS-1 zoning district on the subject property is compatible with the surrounding zoning districts and the RES-1 Future Land Use category.

RECOMMENDATION

Based on the foregoing, this recommendation is for **APPROVAL** of the AS-1 rezoning request as indicated by the Findings of Fact and Conclusions of Law stated above.



July 5, 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

August 19, 2021

RE: RZ-STD 21-0700
Jorge Salmeron & Alicia Salmeron
5615 W. O Griffin Rd.

Rogelio Alejo
1500 NW 21st St.
Cape Coral, FL 33993

Dear Applicant:

At the regularly scheduled Land Use public meeting on August 10, 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 regarding your petition or the public meeting, please feel free to contact Brian Grady at GradyB@HCFLGov.net.

Sincerely,



Joe Moreda, AICP
Zoning Administrator

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

JM/mn

comments and roll call vote, ► **the motion carried five to two; Commissioners Hagan and White voted no.**

F.4. Application Number: MM 21-0561
 Applicant: BERRY RED FARMS, LLC
 Location: 4502 Roebuck Rd.
 Folio Number: 86921.0000
 Acreage: 2.16 acres, more or less
 Comp Plan: RES-1
 Service Area: Rural
 Community Plan: None
 Existing Zoning: PD & ZC
 Request: Major Modification to PD
RECOMMENDATION:
 ZHM: Approval
 Development Services: Approvable, Subject to Conditions
 PC: Consistent with Plan

► Mr. Moreda explained the item. ► Mr. Chris McNeal, applicant representative, expounded on the request. Chair Kemp called for public comment; there was no response. ► Ms. Lienhard and Attorney Lundgren reviewed PC/ZHM recommendations. ► **Commissioner Overman moved approval, seconded by Commissioner Myers.** Upon roll call vote, ► **the motion carried seven to zero.**

F.5. Application Number: RZ-STD 21-0700
 Applicant: JORGE SALMERON & ALICIA SALMERON
 Location: 5615 W O Griffin Rd.
 Folio Number: 85248.0000
 Acreage: 9.21 acres, more or less
 Comp Plan: RES-1
 Service Area: Rural
 Community Plan: None
 Existing Zoning: PD
 Request: Rezone from PD (12-0257) to AS-1
RECOMMENDATION:
 ZHM: Approval
 Development Services: Approval
 PC: Consistent with Plan

TUESDAY, AUGUST 10, 2021

▶ Mr. Moreda introduced the item. ▶ Mr. Jorge Salmeron, applicant, summarized the request. Chair Kemp called for public comment. The following people spoke on the item: ▶ Mses. Patricia Craddock and Linda Long; Mr. Preston Price; and ▶ Mses. Barbara McClernan and Robin Rahn. Mr. Salmeron gave rebuttal. ▶ Ms. Lienhard and Attorney Lundgren reviewed PC/ZHM recommendations. Following remarks on the advantages of a PD over Euclidean zoning districts, allowable uses in the existing zoning, and the number of law enforcement visits to the site, ▶ **Commissioner White moved for denial of the zoning request, seconded by Commissioner Cohen.** Commissioner Overman sought to understand the conditions currently in place in the PD. Dialogue ensued. Upon roll call vote, ▶ **the motion carried six to zero.** (Commissioner Hagan out of the room).

PUBLIC HEARINGS - RELATED ITEMS

G.1.A. Application Number: RZ-PD 21-0507
Applicant: CIRCLE K STORES, INC
Location: SE Corner of Ehrlich Rd & Turner Rd
Folio Number: 18960.0360 & 18960.0380
Acreage: 12.32 acres, more or less
Comp Plan: RES-4
Service Area: Urban
Community Plan: Greater Carrollwood Northdale
Existing Zoning: PD (74-0004), PD (85-0433) & PD (83-0333)
Request: Rezone to PD
RECOMMENDATION:
ZHM: Approval
Development Services: Approval, subject to conditions
PC: Consistent with plan

▶ Mr. Moreda introduced the item. ▶ Attorney Jaime Maier, applicant representative, expounded on the request. Chair Kemp called for public comment; there was no response. ▶ Ms. Lienhard and Attorney Lundgren reviewed PC/ZHM recommendations. **Action taken with Item G.1.B.**

G.1.B. Application Number: PRS 21-0770
Applicant: CIRCLE K. STORES, INC
Location: 5330 Ehrlich Rd.
Folio Number: 18960.0360