



Agenda Item Cover Sheet

Agenda Item N^o: _____

Meeting Date June 8, 2021

Consent Section

Regular Section

Public Hearing

Subject: Approve a resolution providing for the rendition of the denial of application RZ 20-1265, an application for a rezoning from Agricultural Rural (AR) to Planned Development (PD) to allow 204 single family dwelling units within a village node in a Planned Village, and 1 interim single-family residential unit with agricultural uses, for property designated Residential Planned-2 (RP-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 April 13, 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 20-1265, an application for a rezoning from Agricultural Rural (AR) to Planned Development (PD) to allow 204 single family dwelling units within a village node in a Planned Village, and 1 interim single-family residential unit with agricultural uses, for property designated Residential Planned-2 (RP-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 20-1265 during the April 13, 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 20-1265.

List Attachments:

Resolution providing for denial of RZ 20-1265, with the following exhibits: (1) Zoning Hearing Master Recommendation, (2) Development Services Department denial letter (3) Minutes of April 13, 2021 Land Use Meeting

RESOLUTION # _____

REZONING PETITION# RZ-PD 20-1265

Upon motion by Commissioner Smith, seconded by Commissioner Overman, the following resolution was adopted by a 4-3 vote, with the individual commissioners voting as follows:

Cohen	yes
Hagan	no
Kemp	yes
Myers	no
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 17th day of September, 2020, Mattamy Tampa/Sarasota, LLC ("Applicant") submitted a "Petition" for the rezoning of approximately 102 acres consisting of an aggregate of 5 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 Future Land Use category of the Property is Residential Planned-2 (RP-2) whose “specific intent” is, “(t)o designate areas that are suited for agricultural development in the immediate horizon of the Plan, but may be suitable for planned villages...in order to avoid a pattern of single dimensional developments that could create urban sprawl”; and,

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 planned village contemplates a minimum lot size of 4,000 square feet, with a minimum lot width of 40 feet; and,

WHEREAS, the 102.6 acre rural planned village will consist of 58.51 acres of clustered residential lots containing 205 units, a minimum of 2,767.5 square feet of retail/commercial uses Neighborhood Commercial/Shopping Space, a .88 Acre Village Node, 43.21 acres for Open Space; and,

WHEREAS, the maximum residential density for the RP-2 land use category is 2.0 dwelling units per gross acre if, as here, the Applicant proposes to employ the planned village concept; and,

WHEREAS, the gross residential density of the proposed planned village is 2 dwelling units per acre [205 Du/102.6 acres = 2 Du/Ac]; 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 clustered residential density of the rural planned village is 3.96 dwelling units per acre [205 Du/58.51 Acres = 3.50 Du/Ac], as required by FLUE Policy 33.5; and

WHEREAS, LDC §5.04.02 (G) requires “an open space buffer of at least 250 feet wide shall surround at least 70 percent of the village proper perimeter.”

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, on February 15, 2021, the ZHM held a duly noticed public hearing on the Petition; and,

WHEREAS, prior to said hearing, the ZHM received 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 ZHM 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, 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 favorable recommendation on March 3, 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; and,

WHEREAS, the ZHM's favorable recommendation 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 April 13, 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 rejects the Zoning Hearing Master's recommendation of approval on the grounds that the requested Planned Development would not be consistent with the following goals, policies and objectives contained in the Comprehensive Plan.

i. FLUE Policy 1.4. "Compatibility is defined as the characteristics of different uses or activities or design which allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include the following: height, scale, mass and bulk of structures, pedestrian or vehicular traffic, circulation, access and parking impacts, landscaping, lighting, noise, odor and architecture. Compatibility does not mean 'the same as.' Rather, it refers to the sensitivity of development proposals in maintaining the character of existing development."

ii. FLUE "Appendix A: Land Use Plan Categories." The "specific intent" of the RP-2 category is, "(t)o designate areas that are suited for agricultural development in the immediate horizon of the Plan, but may be suitable for planned villages...in order to avoid a pattern of single dimensional developments that could create urban sprawl."

iii. FLUE Objective 1. Urban Service Area (USA). "Hillsborough County shall pro-actively 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.”

F. The Board's findings of inconsistency with the Comprehensive Plan are based upon the following 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 RP-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 RP-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 RP-2's maximum density of 2 dwelling units per gross acre along with the RP-2's buffering requirements were not meant as stand-alone formulas to allow a 205 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 RP-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 RP-2 land use 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.

G. In addition to the Board's findings of inconsistency with the FLUE of the Comprehensive Plan as stated above, the Board finds that the Planned Development does not meet the minimum perimeter buffering standard for planned villages as set forth in Land Development Code §5.04.02 (G). The minimum perimeter buffering standard for RP-2 planned villages

implements the FLUE's aforementioned policies which require compatibility of planned villages with their surroundings. The Board finds that the Planned Development does not meet the minimum requirements of the Land Development Code for RP-2 planned villages, and determines that this noncompliance therefore results in a finding of inconsistency with the FLUE.

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 constitute specific reasons for a decision by the Board which is contrary to the ZHM's recommendation, as required by LDC §10.03.04 G. 1.

II. CONCLUSION.

The Board 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 April 13, 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
LAND USE HEARING OFFICER'S RECOMMENDATION**

Application number:	PD 20-1265
Hearing date:	February 15, 2021
Applicant:	Mattamy Tampa/Sarasota, LLC
Request:	Rezone from AR to PD to allow 204 single family dwelling units with a village node in a Planned Village, and 1 interim single-family residential unit with agricultural uses.
Location:	Southwest of Boyette Road and west of Balm Boyette Road
Parcel size:	102.6 +/- acres
Existing zoning:	Agricultural Rural
Future land use designation:	Residential Planned-2 (1/5 du/ga; 0.25 FAR; 2 du/ga if all requirements are met)
Service area:	Rural
Community planning area:	Riverview, Southshore Areawide Systems

A. APPLICATION REVIEW
DEVELOPMENT SERVICES STAFF REPORT

Application Review Summary and Recommendation

1.0 Summary

1.1 Project Narrative

The applicant is requesting to rezone 102.6+/- acres from AR (Agricultural Rural) to PD (Planned Development) to allow for a 204 unit single-family residential development and Village Node in Development Envelope A, and the interim use of 1 single-family unit and AR uses in Development Envelope B. The Village Node is proposed to include retail uses, commercial uses, office uses and/or an open air market.

The site consists of five parcels located on the west side of Balm Boyette Road, south of Boyette Road, in the Riverview community. One single-family home and agricultural uses currently exist on the site. This area is not subject to the current moratorium which is prohibiting rezoning applications during the RP-2 Land Use Study time frame.

The project is located within the RP-2 (Residential-Planned) Future Land Use (FLU) category, which can consider a gross density of 2 units per acre (205 units) when developed as a Planned Village (see Figure 1). Additionally, the site is located within the Aggregate Planned Village area which permits planned villages that are under 160 acres (see Figure 2). A Planned Village development clusters residential units in a compact manner to achieve greater open spaces and preserve environmental features. This requires the use of smaller lot sizes, which are subject to a minimum clustering ratio.

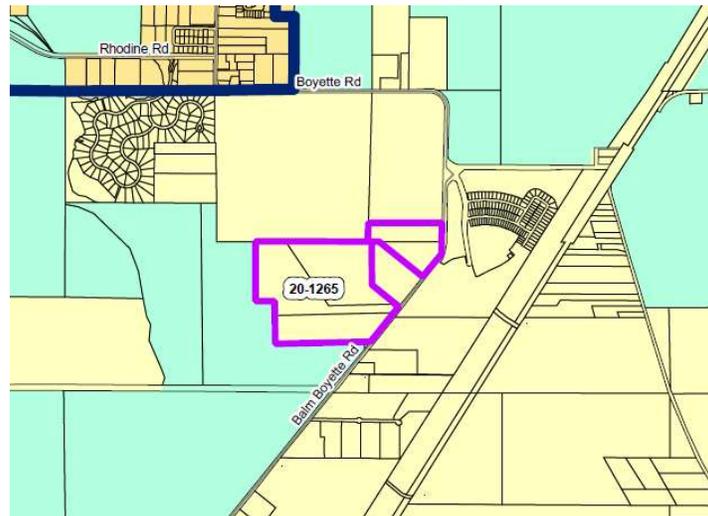


Figure 1: Future Land Use Map

(number of units on developable land). Within the Rural Service Area, open space is to consist of conservation areas, preservation areas, mitigation areas and passive recreational uses (Comprehensive Plan Policy 14.2). Stormwater ponds are not counted as open space. The subject site consists of 102.6 acres, allowing a maximum gross density of 205 units. To achieve the 3.5 minimum clustering ratio, developable residential acreage is limited to 58.51 acres. The remaining acreage will be reserved for 0.88 acres for the Village Node and at least 43.21 acres for Open Space. This 43.21 acres of open space represents 42% of the site and includes the 22 acres of wetlands on the site.

As depicted in Figure 4, open space will be provided primarily within the northeast portion of the site (situated around folio 88495.01044). Development Envelope A will contain 204 of the 205 residential units, while Development Envelope B will contain 1 of the 205 residential units, as well as existing AR uses. Minimum lot sizes are proposed at 4,400 square feet.

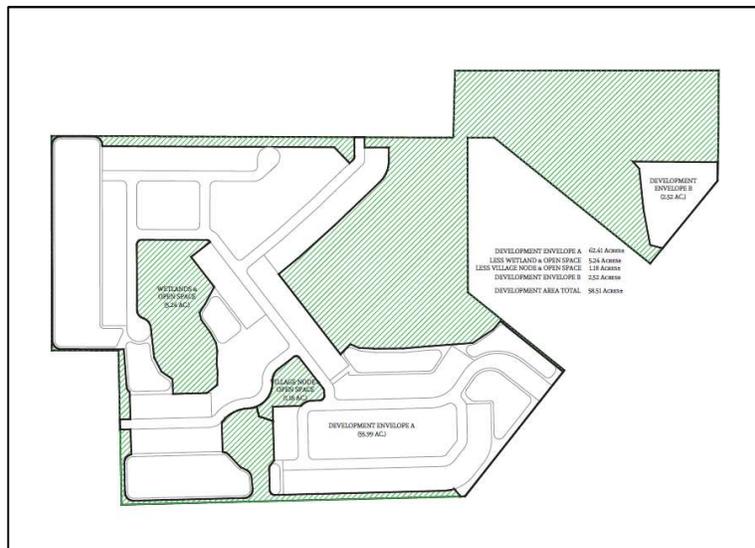


Figure 4: Open Space Areas

- **Location of Uses:** The project will provide an 0.88 acre Village Node, which is located within ¼ mile of at least 90% of the 205 residential units (see Figure 5). This exceeds the minimum distance of ½ mile per the Land Development Code. No on-site retail/commercial waiver is requested and notwithstanding the site’s location in the Aggregate Planned Villages Area, no allocation from surrounding commercial to this site is requested.

The location of residential uses is arranged to provide views of open space areas, as shown in Figure 6.

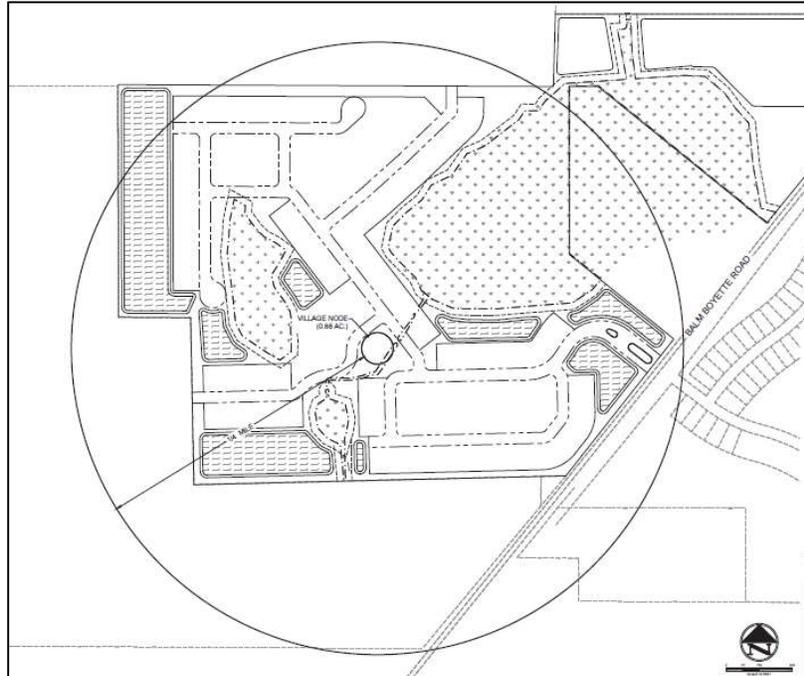


Figure 5: Village Node location

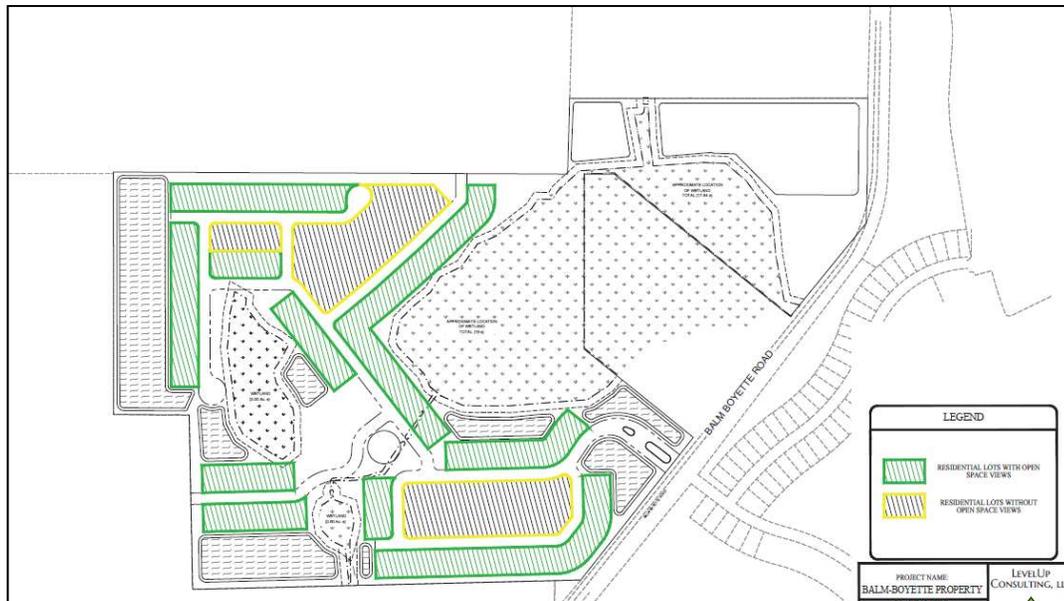


Figure 6: Open Space views within the project

- ***Provision of on-site retail/commercial uses:*** For 205 residential units, a minimum of 2,767.5 square feet of retail/commercial uses will be provided on the 0.88 acre Village Node (0.07 FAR).

In addition to the required retail uses, the applicant proposes to also allow an art gallery, food catering, business/professional offices, specific personal services (barber shop, beauty shop)

and/or an indoor/outdoor market area. Food catering uses shall be open the general public with food available for purchase, in addition to providing client services. Should an outdoor market be provided, the activity area shall be counted towards the minimum square footage, as an enclosed use would be categorized, and occupied with neighborhood-commercial uses.

- Perimeter Buffer:** Due to the permissibility of Planned Villages within a likely low density area, compatibility is addressed with the requirement for a 250 foot wide buffer along 70% of the PD border. The remaining 30% has no buffer requirement. The applicant proposes to provide 65% of the perimeter property lines with a 250 foot wide buffer (see Figure 7) under the interim development in Development Envelope B scenario. All remaining perimeter areas (35%) will be provided with 100, 50 or 30 foot wide buffers. This exceeds the LDC requirement of the remaining 30% of the perimeter requiring no buffer. All buffers below 250 feet in width will provide tree plantings. When the interim develop in Development Envelope B is gone, the project will meet the 70% requirement.

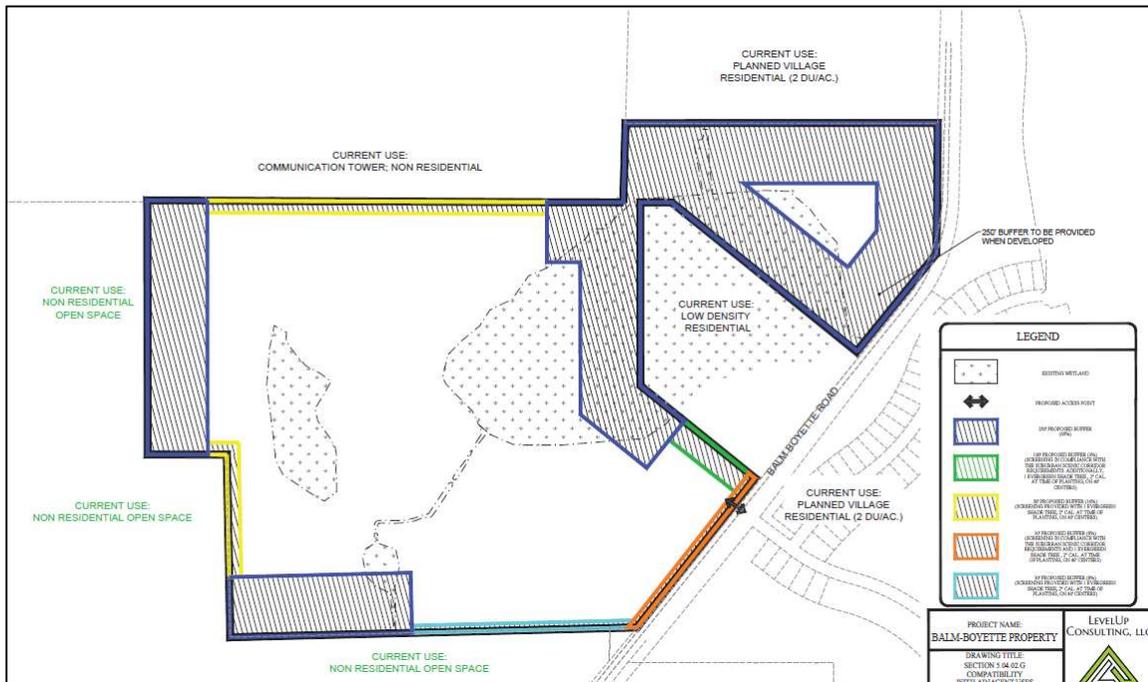


Figure 7: Proposed Perimeter Buffering & Screening

Along the north, a 50 wide foot perimeter buffer with tree plantings is proposed in lieu of a 250 foot wide open space buffer. Property adjacent to this proposed buffer is a 164+/- acre AR zoned parcel, which like the subject site, is also within the RP-2 FLU category. The property is developed with a radio/TV communication tower (with support guide wires) at a distance of approximately 1,930 feet from this property line.

A portion of the western property line will be provided with a 50 foot wide buffer, to include tree plantings. This area of the PD is adjacent to an airfield for radio controlled planes. Within the subject property, this area will be primarily developed with stormwater ponds that while not counted as required open space, serve the same intent of providing separation from adjacent uses (see Figure 6).

A 30 foot wide buffer with tree plantings will be provided along a portion of the southern PD boundary. Adjacent property is zoned AR and owned by Hillsborough County. It is for Triple Creek BMX, located approximately 340 feet from the common boundary. This property to the south is within the N (Nature) FLU category and is therefore not anticipated to be redeveloped for a residential use.

The eastern portion of the site (frontage along Balm Boyette Road) will contain a 30 foot wide buffer. This will encompass the 15 foot wide suburban scenic corridor and include both required and additional tree plantings. Property to the east is separated from the project by Balm Boyette Road and is developed in planned village manner (PD 17-1399 – B&D Ranch). The buffer along Balm Boyette Road for PD 17-1399 was previously approved to be a 50 foot wide buffer with scenic corridor plantings. Both sites are within the RP-2 FLU category utilizing 2 units per acre.

The project will wrap around folio 88495.0104 – a 13.5 acre AR zoned property within the RP-2 FLU category. The site is developed with one single-family home, located approximately 60 feet from the common property line along the south. With the exception of one area, a 250 foot wide open space buffer will be provided around this parcel. One portion of the common boundary line will be provided with a 100 foot wide buffer which will provide tree plantings. No residential development within the subject property along this 100 foot wide buffer is proposed. This area will be used for stormwater and tree plantings (see Figure 6).

1.3 Evaluation of Existing and Planned Public Facilities

The project area is located in the Rural Service Area. A 12 inch water main and 16 inch wastewater force main is located with the right-of-way of Balm Boyette Road. In the RP-2 FLU Category, the extension of water and wastewater services are the responsibility of the developer.

Review comments provided by Hillsborough County Public Schools states that the site's assigned elementary school (Pinecrest) has adequate capacity. However, the site's assigned middle (Barrington) and high (Newsome) schools do not have capacity to serve the project. An adjacent concurrency service area has available capacity at the high school level only. These comments are not a review of school concurrency, which must be met at time of platting.

The site is located on the west side of Balm Boyette Road, a 2-lane, undivided substandard road. This collector roadway contains 72+/- feet of right-of-way with 20+/- foot wide travel lanes. No sidewalks or bicycle lanes are present within the vicinity of this project. The adjacent Hawkstone residential project (on the east side of Balm Boyette Road) is making improvements to Balm Boyette Road; however, not to the full standard. Sidewalks along the east side of Balm Boyette Road will be constructed.

Two primary access points are proposed – one to serve the 1 home in the north and one to serve the remaining 204 residential units and Village Node. Roadway stubouts are proposed along the north and west to provide connectivity to adjacent parcels upon their redevelopment.

A Design Exception for Balm Boyette Road has been found to be approvable by the County Engineer. If approved, the applicant would be permitted deviations from the TS-7 Typical Section to allow utilization of existing 10 foot wide travel lands (in lieu of 12 foot wide travel lanes) and a 6 foot wide stabilized shoulder, of which 4 feet is paved (in lieu of 8 foot wide stabilized shoulders of which 5 feet is paved).

Transportation staff offers no objections to the proposed rezoning, subject to conditions that limits the non-residential square footage, provides roadway stubouts along the north and west PD boundaries, provides a turn lane on Balm Boyette Road, requires submittal of trip generation analysis at increments of developments, and adheres to the approvable Design Exception.

1.4 Natural Resources/Environmental

The Environmental Protection Commission has reviewed the application and finds that wetlands are present on the property. EPC staff has no objections, subject to proposed conditions of approval. Per the general site plan, the site contains 22 acres of wetlands, which accounts for 21% of the total site. Because this does not account for 25% or more of the site, the entire acreage can be used for density calculations and use of the environmental lands credit is not necessary.

The site is not located within a Wellhead Resource Protection Area Zone, a Surface Water Resource Protection Area Zone, a Significant Wildlife Habitat or within the Coastal High Hazard Area. The property is adjacent to ELAPP properties to the west. The Conservation and Environmental Lands Management Department has reviewed the request, and has no objections, subject to proposed conditions.

Balm Boyette Road is a Suburban Scenic Corridor, requiring a 15 foot wide buffer and tree plantings along the roadway frontage. No waiver to this requirement is requested.

1.5 Comprehensive Plan Consistency

The project is located within the RP-2 Future Land Use (FLU) category and within the Riverview Community Plan area. Planning Commission staff has found the proposed rezoning, with the proposed conditions of approval, to be **CONSISTENT** with the Future of Hillsborough Comprehensive Plan.

1.6 Compatibility

The site is located within a residential area featuring rural and suburban levels of density within the Riverview area.

Properties to the north are zoned AR and PD (Planned Development). The AR zoned area consists of 164+/- acre parcel (also within the RP-2 category). Located on the parcel (over 2,000 feet from the PD boundary) is a radio/TV communication tower with support guide wires. A 50' wide buffer with tree plantings will be provided between the common property line of this AR zoned property and the subject site. The PD zoned parcel is PD 20-0479 (Stogi Ranch) approved for a similar planned village project. Wetlands, open space areas and floodplain mitigation areas on both sites provide significant separation between the residential areas of both the adjacent PD and subject PD.

Property to the east is zoned PD (PD 17-1399 – B&D Ranch) and is separated from the subject site by Balm Boyette Road. B&D Ranch is a similar planned village in the RP-2 FLU area of Riverview. The subject PD will provide both a 20 foot buffer with tree plantings and 250 foot buffer along the perimeter of this property line.

Property to the south and west are zoned AR and within the N (Nature) Future Land Use category. This 94.9 acre parcel is owned by Hillsborough County. The south and southwest portion is developed with the Triple Creek Radio Control Airfield and the Triple Creek BMX track. The remaining portion of the site (to the immediate west of the project) is ELAPP property. The majority of the subject site's development will be located in the southwestern portion of the project. Perimeter buffers of 250, 50 and 30 feet in width, along with stormwater ponds, are located along various areas of the south and west property lines.

Staff has not identified any compatibility issues associated with this proposal.

1.7 Agency Comments

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

- Transportation
- Environmental Protection Commission
- Conservation and Environmental Lands Management
- Water Resource Services
- Hillsborough County Public Schools

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 (PD 20-1265)

2.0 Recommendation

Approvable, subject to the following conditions:

Requirements for Certification:

1. Site Plan delineate Development Envelopes A and B as provided on the Open Space Exhibit.
2. Prior to PD certification, the developer shall revise the PD site plan:
 - Modify the “Future Roadway Connection” labels to read “Proposed Roadway Stubout.”
 - Add access arrows (using the same symbology as the primary project access), to the tow roadway stubouts referenced above.

Approval - Approval of the request, subject to the conditions listed below, is based on the general site plan submitted December 21, 2020.

1. The project shall be permitted for a maximum of 204 single-family lots in Development Envelope A and 1 single-family lot and AR uses in Development Envelope B. If and when the single-family use in Development Envelope B ceases, the area shall be utilized as open space.
2. Single-family lots shall be developed in accordance with the following:

Minimum lot size:	4,000 sf
Minimum lot width:	40 ft
Minimum front yard setback (required front yard/garage in front):	25 ft*
Minimum front yard setback (required front yard/garage behind):	15 ft*
Minimum front yard setback (corner side functioning as a front yard):	10 ft
Minimum side yard setback (required and corner side functioning as a side yard):	5 ft
Minimum rear yard setback (required and corner side functioning as a rear yard):	10 ft
Minimum covered porch front yard setback:	10 ft**
Minimum garage setback:	20 ft***
Maximum building height:	35 ft/2-stories

*This setback shall be measured from the property line to the residential façade. The residential

façade shall be considered the portion of the street facing façade that does not contain the garage façade. Additionally, the residential façade does not include a covered porch, if provided. The residential façade may or may not contain the primary entrance. The garage façade shall be considered the portion of the street facing façade that contains the garage door and any façade portions around the garage door that are not flush with the residential façade.

**Covered porches, as defined in the Land Development Code, attached to the residential façade of the home. Covered porches are not included in the front yard setback/residential façade setback.

***Garages access from the front yard or the side yard functioning as a front yard (corner lot). This setback shall be measured from the property line to the garage façade portion of the street facing façade. The garage façade shall be considered the portion of the street facing façade that contains the garage door and any façade portions around the garage door that are not flush with the residential façade.

3. A maximum of 50% of the under 50 foot wide lots shall be developed with homes featuring primary entrances that do not face the street. A minimum of 50% of the under 50 foot wide lots shall be developed with home featuring primary entrances that do face the street. If the project will be platted by tract or phase, individual tracts or phases shall meet this requirement. If these percentages will be blended throughout the PD, each plat shall provide a table providing the number of and percentage of non-street facing entrance and street facing entrance homes proposed and approved within the entire PD. If when blending, an individual tract or phase will exceed the percentage of non-street facing entrance homes, the permissibility for non-street facing entrance homes will be restricted accordingly elsewhere in the PD.
4. The following shall apply to any lot developed under 50 feet in width:
 - 4.1 A maximum of 50% of the under 50 foot wide lots shall be developed with 1-story homes. A minimum of 50% of the under 50 foot wide lots shall be developed with 2-story homes. If the project will be platted by tract or phase, individual tracts or phases shall meet this requirement. If these percentages will be blended throughout the PD, each plat shall provide a table providing the number of and percentage of 1-story and 2-story homes proposed and approved within the entire PD. If when blending an individual tract or phase will exceed the number of 1-story homes, the permissibility for 1-story homes will be restricted accordingly elsewhere in the PD.
 - 4.2 All 1 and 2-story homes shall be provided with a 2-car garage in accordance with the following:
 - a. The garage door shall not exceed 60% of the unit's total façade width (for front yard and front functioning as a side yard loading garages).
 - b. A driveway of at least 16 feet in width shall be provided.
 - c. All driveways shall be located in an alternating pattern on the left or right side of the unit's front façade. Homes shall not have the same driveway location (left or right) as the adjacent home. The alternating pattern may be adjusted to accommodate corner lots as necessary.

- 4.3. All 1 and 2-story homes with primary entrances facing the street shall comply with the following:
- a. The garage façade shall be permitted to extend a maximum of 10 feet in front of the residential façade for 2-story homes and a maximum of 8 feet in front of the residential façade for 1-story homes. The garage façade shall meet the minimum setback of 20 feet and the residential façade shall meet the minimum setback of 25 feet. The offset created between the garage and residential facades shall be a minimum of 5 feet. When the garage façade extends beyond the residential façade, a covered porch along the entire length of the residential façade shall be provided. The depth of the covered porch shall be at least 50% of the offset between the garage and residential facades. In no case shall a covered porch front yard setback be less than 10 feet. When the garage façade extends beyond the residential façade, the garage façade shall have a distinct roof treatment than the residential façade, such as but not limited its own side gable roof, hip gable roof or a lean-to roof to break up the overall façade. This can also be accomplished for 2-story homes using condition 4.6.
 - b. 1 and 2-story homes with primary entrances facing the street are not required to provide a covered porch when the garage is placed behind the residential façade. In such cases, the minimum garage façade setback shall be 20 feet and minimum residential façade setback shall be 15 feet. The offset created between the garage and residential facades shall be a minimum of 5 feet. Covered porches, if provided, may extend into the required front yard at a minimum setback of 10 feet.
- 4.4 All 1 and 2-story homes with primary entrances not facing the street shall comply with the following:
- a. The garage façade shall be permitted to extend a maximum of 7 feet in front of the residential façade. The garage façade shall meet the minimum setback of 20 feet and the residential façade shall meet the minimum setback of 25 feet. The offset created between the garage and residential facades shall be a minimum of 5 feet. When the garage façade extends beyond the residential façade, at least 40% of the residential façade's area shall contain one or more windows. When the garage façade extends beyond the residential façade, the garage façade shall have a distinct roof treatment than the residential façade, such as but not limited its own side gable roof, hip gable roof or a lean-to roof to break up the overall façade. This can also be accomplished for 2-story homes using condition 4.6. Covered porches, if provided, may extend into the required front yard at a minimum setback of 10 feet.
 - b. Alternatively, the garage façade may be placed behind the residential façade. The garage façade shall meet the minimum setback of 20 feet and the residential façade shall meet the minimum setback of 15 feet. The offset created between the garage and residential facades shall be a minimum of 5 feet. When the garage façade is placed behind the residential façade, at least 40% of the residential

façade's area shall contain one or more windows. When the garage façade is behind the residential façade, the garage façade shall have a distinct roof treatment than the residential façade, such as but not limited to its own side gable roof, hip gable roof or a lean-to roof to break up the overall façade. This can also be accomplished for 2-story homes using condition 4.6. Covered porches, if provided, may extend into the required front yard at a minimum setback of 10 feet.

4.5 Garages accessed from a front yard functioning as a side yard (corner lots) shall have a minimum setback of 20 feet and may be located behind or flush with the residential façade. No required offset between the garage and residential façade is required.

4.6. All 2-story homes shall be developed in accordance with the following:

- a. A transition between the first and second floors to break up the façade shall be provided using one or more of the following:
- A roof feature with a minimum projection of 1 foot from the wall surface. The projection shall consist of overhangs or other roof elements.
 - A horizontal banding of 6 to 8 inches in height that projects at least 2 inches from the wall surface.
 - A change in materials between the first and second floors.

4.8 Street trees may include alternating shade and ornamental trees, subject to review and approval by Natural Resources staff.

5. Notwithstanding conditions 2, 3 and 4, lots developed at a lot width at or exceeding 50 feet shall comply with the following:

Minimum lot size:	4,000 sf
Minimum lot width:	50 ft
Minimum front yard setback:	20 ft
Minimum side yard setback:	5 ft
Minimum rear yard setback:	10 ft
Minimum covered porch front yard setback:	10 ft
Maximum building height:	35 ft/2-stories

6. To comply with the Planned Village minimum clustering ratio of 3.5, the development of 205 residential units is permitted on 58.51 acres or less (developable acreage). At least 43.21 acres +/- of open space (as defined in Policy 14.2 of the Comprehensive Plan) within the project shall be provided. Stormwater ponds located within a 250 foot wide perimeter buffer and not in compliance with Comprehensive Plan Policy 14.2 shall not be counted as open space per the Comprehensive Plan, but such ponds are permitted to be located within a 250 foot wide perimeter buffer when the slope does not exceed 4:1 and are therefore then part of the developable acreage rather than open space acreage. If the project will be platted by tract or phase, each plat shall provide the amount of open space to be provided and already approved.

7. Residential lots shall be arranged as generally depicted on the general site plan to provide views of the project's open space, ponds, and perimeter buffers.

8. Stormwater ponds and open space shall be provided where generally depicted on the general site plan.
9. Until the single family use within Development Envelope B ceases, at least 65% of the PD's boundaries shall be provided with a 250 foot wide buffer. Once the single family use within Development Envelope B ceases, at least 70% of the PD's boundaries shall be provided with a 250 foot wide buffer. In both instances, the following shall also be provided.
 - 9.1 A 100 foot wide buffer shall be provided were depicted on the general site plan. Within this buffer, plantings in compliance with the Suburban Scenic Corridor requirements, and one additional evergreen shade tree (2" caliper at time of planting on 40 foot centers) shall be provided.
 - 9.2 A 50 foot wide buffer shall be provided were depicted on the general site plan. Within this buffer, plantings shall be provided to consist of one evergreen shade tree (2" caliper at time of planting on 40 foot centers).
 - 9.3 30 foot wide buffers shall be provided where depicted on the general site plan. Within the buffer located along Balm-Boyette Road, plantings in compliance with the Suburban Scenic Corridor requirements, and one additional evergreen shade tree (2" caliper at time of planting on 40 foot centers) shall be provided. Within the buffer located along the southern PD boundary, plantings shall be provided to consist of one evergreen shade tree (2" caliper at time of planting on 40 foot centers).
 - 9.4 These buffers shall not be platted as part of the individual lots; rather, the buffers shall be platted as separate tracts to be owned and maintained by the homeowner's association or similar entity.
10. A 0.88 acre Village Node shall be provided where depicted on the general site plan. Within the Village Node, 2,767.5 square feet of the following uses shall be provided: art galleries, retail establishments (such as but not limited to an art supplies store, florist shop, pet stores and news stands), business services, professional services, catering services and an indoor/outdoor market. The catering service shall be open the public with the on-site sales of prepared food, in addition to client services. The sales and activity areas of the outdoor portions of an indoor/outdoor market (or a solely outdoor market) shall count towards meeting the 2,767.5 square foot requirement and contributing to the maximum square footage permitted in the Village Node. Parking areas shall not be considered sales and activity areas.
 - 10.1 The Village Node may also contain a Village Green and residential support uses. The maximum square footage for the 0.88 acre Village Node shall be limited to 5,600 square feet total based upon the transportation analysis submitted with this application.
 - 10.2 Neighborhood amenity uses, such as a clubhouse, pool or tennis courts, and mail kiosks may be located within the Village Node but shall not count towards the required 2,767.5 square feet. Such uses if located within the Village Node shall be subject to the maximum FAR of 0.35.

- 10.3 The Village Node shall be bound on at least two sides by streets. If the Village Node is provided using more than one block, each block shall be bound on at least two sides by streets.
- 10.4 Buildings within the Village Node shall have a minimum front yard setback of 10 feet. The maximum height shall be 35 feet, with an additional setback of 2 feet for every 1 foot over 20 feet in height.
- 10.5 Buffering and screening where adjacent to residential uses shall be provided.
- 10.6 A Village Green, if provided, shall be improved with amenities, such as but not limited to, one or more of the following: landscaping, walkways, benches, fountains, gazebos, bark park, playground equipment and/or similar amenities
11. Per LDC 4.01.11, compatibility of the development with the preserve will be ensured with a compatibility plan that addresses issues related to the development such as, but not necessarily limited to, access, prescribed fire, and landscaping. The compatibility plan shall be proposed by the developer, reviewed and approved by the Conservation and Environmental Lands Management Department, and shall be required as a condition of granting a Natural Resources Permit.
12. Approval of this zoning petition by Hillsborough County does not constitute a guarantee that the Environmental Protection Commission of Hillsborough County (EPC) approvals/permits necessary for the development as proposed will be issued, does not itself serve to justify any impact to wetlands, and does not grant any implied or vested right to environmental approvals.
13. The construction and location of any proposed wetland impacts are not approved by this correspondence, but shall be reviewed by EPC staff under separate application pursuant to the EPC Wetlands rule detailed in Chapter 1-11, Rules of the EPC, (Chapter 1-11) to determine whether such impacts are necessary to accomplish reasonable use of the subject property.
14. Prior to the issuance of any building or land alteration permits or other development, the approved wetland / other surface water (OSW) line must be incorporated into the site plan. The wetland/ OSW line must appear on all site plans, labeled as "EPC Wetland Line", and the wetland must be labeled as "Wetland Conservation Area" pursuant to the Hillsborough County Land Development Code (LDC).
15. Final design of buildings, stormwater retention areas, and ingress/egresses are subject to change pending formal agency jurisdictional determinations of wetland and other surface water boundaries and approval by the appropriate regulatory agencies.
16. Non-residential uses within the project shall be limited to a maximum of 5,600 s.f.
17. Notwithstanding anything on the PD site plan or herein these conditions to the contrary, bicycle and pedestrian access may be permitted anywhere along the project boundaries.
18. The developer shall construct one (1) roadway stubout to the northern project boundary and one (1) roadway stubout to the western project boundary. In addition to any end-of-roadway

treatment/signage required by the MUTCD, the developer shall place signage which identifies the stub-out as a "Future Roadway Connection".

19. Notwithstanding anything shown on the PD site plan or herein these conditions to the contrary, dead end roadway segments (temporary or otherwise) greater than 150 feet in length will be required to construct a Transportation Technical Manual (TTM) compliant cul-de-sac (in addition to any proposed roadway stubout, where applicable).
20. The developer shall construct a southbound to westbound right turn lane on Balm Boyette Rd. into the southernmost project access.
21. Concurrent with each increment of development, the developer shall submit a trip generation and site access analysis with each plat/site/construction plan submittal, which examines cumulative traffic impacts. Such analysis will be utilized to determine whether Section 6.04.04.D. LDC turn lane warrants are met for the northbound to westbound left turning movement at the southernmost project access, as well as length of the required southbound to westbound right turn lane into the southernmost project access. If warrants are met, the developer shall construct a northbound to westbound left turn lane into the project's southernmost project access.
22. As Balm Boyette Rd. is a substandard roadway collector roadway, the developer will be required to make certain improvements to Balm Boyette Rd., consistent with the Design Exception submitted by the applicant on December 23, 2020, and recommended for approval by the County Engineer on January 11, 2021. Specifically, the developer shall:
 - a. Within Segment A (i.e. between the southernmost project access and a point +/- 500 feet to its north), Segment B (i.e. between the northern boundary of folio 0088495.0102 and the northern project boundary, and between the southernmost project driveway and the southern project boundary), and Segment C (i.e. between a point +/- 500 feet north of the southernmost project access and the northern boundary of folio 0088495.0102), the developer shall construct 6-foot wide stabilized shoulders of which 4 feet shall be paved, in lieu of the 8-foot wide stabilized shoulders of which 5 feet is required to be paved per TS-7; and,
 - b. Within Segments A, B and C, the developer shall be permitted to utilize the existing 10-foot wide travel lanes in lieu of the 12-foot wide travel lanes required by Typical Section – 7 (TS-7) within the Transportation Technical Manual (TTM).
23. If the notes and/or graphics on the site plan are in conflict with specific zoning conditions and/or the LDC regulations, the more restrictive regulation shall apply, unless specifically conditioned otherwise. References to development standards of the LDC in the above stated conditions shall be interpreted as the regulations in effect at the time of preliminary site plan/plat approval.

APPLICATION: PD 20-1265

ZHM HEARING DATE: February 15, 2021

BOCC MEETING DATE: April 9, 2021

CASE REVIEWER: Michelle Heinrich, AICP

Staff's Recommendation: Approvable, subject to conditions

Zoning
Administrator
Sign-off:



J. Brian Grady
Mon Feb 1 2021 12:52:26

B. HEARING SUMMARY

This case was heard by the Hillsborough County Land Use Hearing Officer on February 15, 2021. Mr. Brian Grady of the Hillsborough County Development Services Department introduced the petition.

Applicant

Ms. Kami Corbett spoke on behalf of the applicant, Mattamy Tampa/Sarasota, LLC. Ms. Corbett introduced Mac McGraw of Mattamy Homes, Trent Stevenson of Level Up Consulting, Isabelle Albert of Halff, and Steve Henry of Lincks & Associates Transportation, who were in attendance on behalf of the applicant.

Ms. Corbett stated that the subject property is in the RP-2 Future Land Use category but is specifically excluded from the part of RP-2 that is subject to the moratorium and is not within the Balm Community Plan. Ms. Corbett asked Ms. Albert to present her planning presentation.

Ms. Albert stated the subject property is a 102-acre site located along Balm Boyette Road. She stated the subject property consists of an existing Agricultural Rural use and one single-family dwelling unit. Ms. Albert stated the current zoning is Agricultural Rural with a Future Land Use of RP-2. She stated the property is not included in the moratorium but is located within the aggregate Planned Village area.

Ms. Albert projected a slide presentation and pointed out surrounding development of Hawkstone Master Plan Community to the north, east, and south. She stated that adjacent to the site on the north boundary is a radio communication tower. Ms. Albert stated that adjacent to the subject property to the south and west is county-owned land, some of which is ELAPP land. She stated also to the south is a BMX track and remote-control airplane field.

Ms. Albert stated the applicant is requesting rezoning to allow 204 single-family homes. She stated the request includes a commercial or village node, which will consist of 2,767 square feet of commercial uses. She stated the majority of the development is to the west of the subject property.

Ms. Albert stated the subject property is within the Riverview Community Plan and SouthShore Community Plan. She stated the site plan meets the minimum clustering requirements, and the applicant is proposing onsite commercial.

Ms. Albert stated the roads will be public and ungated. She stated the access point is on Balm Boyette Road and the proposed development will have two cross access points to the north, which connects to the communications tower parcel, and to the west, which connects to the Hillsborough County-owned land for future development.

Ms. Albert stated the applicant is proposing sidewalks along the roadways. She pointed out a graphic showing the clustering ratio and stated the proposal meets the 3.5 clustering

ratio. Ms. Albert pointed out the graphics showing open space and noted most of the subdivision lots will have views of open space. Ms. Albert stated the applicant proposes 80 percent of the residential units be within a quarter-mile of the village node, which is better than the county's requirement of one-half mile.

Ms. Albert stated the on-site commercial node will provide a mix of commercial uses, open farmers' market, or retail. She stated the commercial node will be bound by two streets as required. Ms. Albert stated the developer will be required to provide water and wastewater.

Ms. Albert stated the RP-2 requires 70 percent of the site to be bordered by a 250-foot buffer. She stated the applicant is proposing 65 percent of the site be surrounded by a 250-foot buffer and the remainder of the site to be buffered and screened by a range of 100-, 50-, and 30-foot buffer. She stated there have been no objections from reviewing agencies and Planning Commission staff found the proposed rezoning consistent with the comprehensive plan. Ms. Albert stated Development Services staff found the proposed rezoning compatible with the area and has recommended approval with conditions. Ms. Albert concluded her presentation and turned the microphone over to Mr. Steve Henry.

Mr. Henry stated he conducted a traffic analysis for the project and both roadways in the area. He stated Boyette Road and Balm Boyette Road both operate at acceptable levels of service. He stated he would submit his report into the record.

Mr. Henry stated Balm Boyette Road is considered a substandard road. He stated the applicant submitted a design exception, which the County Engineer deemed approvable. He showed a diagram of the typical road section the applicant would have to meet and stated this was the TS-7 for a rural collector roadway.

Mr. Henry stated he would present some highlights of what is happening in the area concerning roadway improvements. Mr. Henry pointed to the Hawkstone development on the east side of Balm Boyette Road. He stated that development fixed the intersection by installing a round-about at Balm Boyette and then improved Balm Boyette down this section of roadway. He stated that in addition the developer improved the same section the applicant is proposing to do now. He stated that developer improved the east side of the road and the applicant is proposing to improve the west side of the road along the same section.

Mr. Henry pointed out PD 20-0479, which was recently approved. He stated that developer is required to improve Boyette Road along the area shown in green in the projected slide. Mr. Henry stated the applicant is proposing improvements along the same section, including installing a 6-foot shoulder with 4-foot paved. He stated he would submit into the record the construction plans for what was built for Hawkstone on Boyette and Balm Boyette Roads.

Mr. Henry showed the proposed site plan and pointed out the road sections the applicant is proposing to improve. He stated the applicant will add a right turn land into the project

along with the bike lane, sidewalk, and standard county ditch. He stated that the applicant is adding a 4-foot paved shoulder, 6-foot unpaved along with the county ditch and sidewalk.

Mr. Henry concluded his presentation.

Ms. Corbett stated she believed the applicant had six minutes remaining and would like to reserve any remaining time for rebuttal.

Development Services Department

Michelle Heinrich, Hillsborough County Development Services Department, presented a summary of the findings and analysis as detailed in the staff report previously submitted into the record. Ms. Heinrich stated Planning Commission staff has found the proposed rezoning to be consistent with the comprehensive plan and no reviewing agencies submitted objections. She stated Development services staff recommend approval subject to the proposed conditions.

Planning Commission

Melissa Lienhard, Hillsborough County City-County Planning Commission, presented a summary of the findings and analysis as detailed in the Planning Commission report previously submitted into the record. Ms. Lienhard stated Planning Commission staff find the proposed Planned Development rezoning consistent with the *Future of Hillsborough Comprehensive Plan for Unincorporated Hillsborough County* subject to the conditions proposed by Development Services Department.

Proponents

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

Opponents

The hearing officer asked whether there was anyone at the hearing in person or online to speak in opposition to the application. There were three persons who wished to speak. The hearing officer swore them in and informed them they had 15 minutes among them.

Mr. Buddy Harwell stated he lives in Balm and his group had a couple of issues with the proposed rezoning. He stated buffering is one of the issues. He stated it is "kind of difficult to figure out which way you're going." He stated he wanted to point out the applicant does have 65 percent of buffering and wanted to point out that the buffering has a lot of it in wetlands. He asked, "So what's the purpose of buffering wetlands from wetlands?"

Mr. Harwell stated he would like to see the portion of the subject property along Balm Boyette Road be 250-feet. He stated the main reason is that there are ditches out there that do not drain, and if the applicant is allowed to put the 30-foot or 50-foot buffer and builds a 4- or 5-foot berm, then water has no way to drain off. He stated if the applicant has the 250-foot buffer and leaves it alone it would drain a lot easier.

Mr. Harwell stated he would put other information into the record. Mr. Harwell stated he wanted to read policy 33.9 and stated “all capital improvement costs associated with this provision, a public facility services determined by appropriate regulatory agencies or public service provider, including but not limited to water, wastewater, schools, parks, and libraries shall be the responsibility of the developer or the Planned Village and not the responsibility of Hillsborough County. All public facilities and services shall be provided concurrent with development.”

Mr. Harwell stated, “we’re lacking fire stations.” He stated he thought that is a “number one safety item we need to address.” He stated he wanted to address some of the road issues. He stated there were bike lanes on part of the road, but they stop at the round-about and that should be a safety issue. He stated, “this is their attempt to—at a previous rezoning to put some bike lanes which is inadequate.” He showed photographs and stated, “these are just more pictures of the roadways out there.” Mr. Harwell stated there are patch jobs and inadequate bike lanes.

Mr. Harwell showed a photograph of a public notice sign and pointed out the water in the ditch. He stated the water has no place to flow. He stated this was done Super Bowl Sunday about 4:00 or 5:00 o’clock in the afternoon. He stated there was less than one-half inch of rain at that time.

Mr. Harwell stated the applicant said something about improving the whole length of the road. He stated there is a good section that he showed that is unimproved. He stated these are the reasons he wants buffering. He stated these are previously approved subdivisions. He pointed out Southfork. He stated after rain the water has no place to go but out in the roads and that is a big safety issue. He showed a photograph and stated this is another view of the water flooding the sidewalk and coming out towards the water at Southfork Lakes.

Mr. Harwell showed a photograph and stated, “this one is right across from Triple Creek. As you can see there, water coming out towards there.” Mr. Harwell said he asked for the 250-foot buffer along Balm Boyette Road. He stated, “Leave it natural. No berms. Don’t build it up.” He stated that he asks with the commercial inside the RP-2, “to leave it in here because they’ve—you’ve already approved three other subdivisions out here, and every time they’ve come back and asked for a variance to take out the commercial.” He stated there is no other commercial in the area. He stated Triple Creek and Fishhawk are two miles away as the crow flies, but the way a cow has to walk is anywhere from five to 10 miles to get to commercial.

Mr. Harwell concluded his presentation.

Mr. Alfred Brunner, Carlton Lake Road, stated he opposes the rezoning for the same reasons Mr. Harwell just highlighted. He stated he took great offense at the lawyer prior to this hearing who talked about laymen and their ability to comment. He stated he works as a senior systems engineer who takes disparate and similar pieces of information from all kinds of change very dynamically and brings them together. He stated his point of view

should not be invalidated simply for the fact of not being labeled a professional transportation engineer. He stated, “we all know when engineers don’t engage in the environment and they don’t test those theories it looks good on paper and it may meet certain policy, but it’s—it doesn’t meet the intent.”

Mr. Brunner referred to photographs Mr. Harwell showed, and stated the applicant has not accounted for flooding and roads. He stated there is more and more housing and said, “no building on roads that are already substandard.”

Mr. Brunner stated he is very much against the removal of the buffer. He stated he has two questions for the applicant to answer. He asked, “Does the traffic study include just the traffic for the Planned Development, or is it inclusive of all the development that is currently going on?” He stated he lost count of the number of developments that are planned.

Mr. Brunner stated the limited bit of community or commercial space does not account for the jobs. He stated everyone who can afford the homes is going to have to commute on roads that are already subpar.

Mr. Brunner concluded his presentation.

Mr. Glen Fiske stated he is from Balm. He stated he has a question for the Planning Commission. He stated Ms. Heinrich said something about gross acres as opposed to net acres on another item, D-8. He stated he was just curious that she mentioned gross acres again. He stated the gross acres would mean not counting the wetlands. He stated “gross” would mean stuff that can be used or the other way around. He stated he is concerned about net acreage. He stated when talking about gross or net, nothing seems to be considering that you cannot build on wetlands property. He stated he did not care if it was 5 percent of the property that is underwater, the 5 percent should not be counted towards the total amount of homes to be built on that piece of land.

Mr. Fiske stated from what he saw on Mr. Harwell’s photograph it looked like about 25 percent of the subject property, maybe 20 percent, is under water. He stated they are counting that towards the 200-plus homes. He stated that is his objection, net acreage—gross acreage. He asked, “Can you all just keep not counting the wetlands and something’s got to be done to count about the wetlands that you can’t build on anyway.” Mr. Fiske stated the developers so far are able to say, “we’ve got 102 acres, we don’t care how much wetlands are on there, we’re going to build 205 homes.”

Mr. Fiske concluded his presentation.

Development Services Department

Mr. Grady asked the hearing officer whether Planning Commission or Ms. Heinrich should speak to the gross-net question. The hearing officer stated she would ask the applicant’s representatives to speak to that. Mr. Grady stated Development Services had nothing further.

Applicant Rebuttal

Ms. Corbett stated she was not saying the gentleman's testimony is irrelevant or not important for the hearing officer to listen to, rather she was making a distinction on the difference in a quasi-judicial proceeding where testimony and evidence is heard. She stated it is required to have substantial competent evidence in the record to support findings, and there are matters such as issues of compatibility, transportation, drainage, and those types of things that are best left to the experts and that require expert testimony. Ms. Corbett stated lay opinion testimony is not sufficient to constitute substantial, competent evidence.

Ms. Corbett stated she objects to the photographs from Prodera and Southfork and other parts of the county being brought in as evidence with respect to this rezoning application because those are in other parts of the county, and there is not any direct correlation made between what is proposed in this rezoning application and what is proposed in those.

Ms. Corbett asked Mr. Henry to address some of the transportation issues. She stated she would ask Mr. Trent Stevenson to address some of the drainage issues and would ask Ms. Albert to address some of the planning issues.

Mr. Henry stated he would address a couple of the drainage questions. He stated the opponents were talking about the ditches. He stated when the improvements were constructed for Hawkstone the developer did not have control of the property on the west side of Balm Boyette so the ditches were not built to county standards. He stated that when the applicant constructs the proposed project it will be able to put those ditches and drainage in to be able to do that. He stated the right-of-way was not there to be able to do that with the other project.

Mr. Henry stated the applicant did add the paved shoulders. He stated they added a 6-foot shoulder with a 4-foot paved. He stated they are taking care of the drainage.

Mr. Henry stated regarding the traffic analysis, the county adopted mobility fees so the applicant is not required to look at the overall but did look at the impact of the developments that were just approved, the Hawkstone development and the Stogi. He stated even with those developments and with the proposed rezoning the roadways will operate at acceptable levels of service.

Mr. Trent Stevenson stated regarding the drainage and buffering, the proposed 30-foot buffer is not going to have any issues with drainage into the roadway because all the development beyond that 30-foot buffer is going to go into the development's stormwater systems, and the development must adhere to the county and water management district standards. He stated the development will not just freely discharge water into the county right-of-way.

Ms. Albert stated that, in terms of calculating the density, there is a comprehensive plan policy that provides if you have a site that is greater than 25 percent wetland, the density would be calculated on the net. She stated in the case of the proposed rezoning, there is less than 25 percent of the site in wetlands, so the applicant must calculate density on the gross and that is how they arrived at the numbers.

The hearing officer asked Ms. Albert to confirm this is based on existing policy in the comprehensive plan. Ms. Albert confirmed it was.

The hearing officer asked the applicant's representative whether any of its experts would speak to the issue with the berm since one of the residents showed a photograph indicating a berm was creating a problem with flooding. Ms. Corbett stated the applicant was not proposing a berm, and since it was not proposing one it had nothing to offer on that question. Ms. Corbett stated the comprehensive plan policy Ms. Albert was referring to is Policy 13.3.

Ms. Corbett stated she would submit into the record a memorandum of law in support of her statements were with respect to substantial competent evidence.

Ms. Corbett pointed out the rezoning request has recommendations of approval from Development Services and a finding of compatibility and consistency from Planning Commission staff. Ms. Corbett stated that is not a rubber stamp. She stated many times county staff or Planning Commission staff will disagree and the hearing officer will be asked to figure out between the two and the applicant's expert whether the applicant has demonstrated compliance with the Land Development Code and comprehensive plan. She stated that ambiguity is not present with this rezoning request. She stated the applicant even has its approvable design exception, so it has gone through the entire process carefully and thoughtfully planned out the development. She stated it is consistent not only with the comprehensive plan, but with the surrounding Hawkstone area.

Ms. Corbett asked the hearing officer for a recommendation of approval and concluded her presentation.

C. EVIDENCE SUBMITTED

Mr. Steve Henry submitted into the record at the hearing 2019 Level of Service Report, typical roadway section diagram, roadway improvement plans for Balm-Boyette and Boyette Roads.

Mr. Buddy Harwell submitted into the record at the hearing copies of policies from the *Future of Hillsborough Comprehensive Plan*, pages from the staff report for this rezoning file, photographs of flooding in The Reserve at Pradera and Southfork Lakes, a Google Maps aerial of the Boyette Road and Balm Boyette Road intersection, and photographs of flooding on Balm Boyette.

Ms. Kami Corbett submitted into the record at the hearing a packet of documents consisting of a PowerPoint presentation and memorandum of law on lay witness testimony.

D. FINDINGS OF FACT

1. The subject property consists of approximately 102.6 acres located on the west side of Balm Boyett Road, south of Boyette Road, in the Riverview community.
2. The subject property is currently zoned AR. The subject property is designated Residential Planned-2 on the Future Land Use Map. The site is within the Aggregate Planned Village area, which permits planned villages consisting of less than 160 acres.
3. The subject property is the Rural Services Area and is within the boundaries of the Riverview and SouthShore Areawide Community Plans.
4. The applicant is requesting to rezone the subject property to Planned Development to allow for a 204-unit single-family residential development and Village Node in Development Envelope A, and the interim use of 1 single-family unit and AR uses in Development Envelope B. The Village Node is proposed to include retail uses, commercial uses, office uses, and an open-air market.
5. Land uses north of the subject property include agricultural, natural, single-family, and public/quasi-public lands with Planned Development, Agricultural Rural, and Agricultural Single-Family Conventional-1 zoning. Land uses east of the subject property include Planned Development with approval for a Planned Village (PD 17-1399) and vacant land. Land uses west and south of the subject property are county-owned public-institutional lands with AR zoning.
6. The proposed Planned Development is compatible with existing development pattern found in the surrounding area.
7. The proposed Planned Development supports the vision of the Riverview community Plan and will allow for development that is consistent with the Goals, Objectives, and Policies of the *Future of Hillsborough Comprehensive Plan for Unincorporated Hillsborough County*.

E. FINDING OF COMPLIANCE OF NON-COMPLIANCE WITH COMPREHENSIVE PLAN

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

F. CONCLUSIONS OF LAW

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

G. SUMMARY

The applicant is requesting to rezone the subject property to Planned Development to allow for a 204-unit single-family residential development and Village Node in Development Envelope A, and the interim use of 1 single-family unit and AR uses in Development Envelope B.

H. RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, this recommendation is for **approval** of the rezoning request.

Pamela Jo Hatley March 3, 2021
Pamela Jo Hatley, PhD, JD Date
Land Use Hearing Officer



Hillsborough
County Florida

DEVELOPMENT SERVICES

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

April 22, 2021

**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

Reference: PRS 20-1265
Mattamy Tampa/Sarasota, LLC
Balm Boyette Rd. & Canterfield Dr.

Kami E. Corbett
Hill Ward Henderson, PA
101 E. Kennedy Blvd., Ste. 3700
Tampa, FL 33602

Dear Applicant:

At the regularly scheduled public meeting on April 13, 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 this, please feel free to contact Brian Grady at 813-276-8343 or GradyB@HCFLGov.net.

Sincerely,

Joseph Moreda, AICP,
Zoning Administrator

JM/ml

TUESDAY, APRIL 13, 2021

► Commissioner Overman was not willing to waive the condition. Commissioner Cohen believed the condition was inequitable for the size of the development. Following dialogue, ► **Commissioner Smith moved a substitute motion to continue in order to provide an opportunity for the applicant to work with the County transportation plans and bring back some specific contribution to the general area of Boyette Road, seconded by Commissioner Cohen.** Commissioner White would not support the substitute motion. ► Mr. Gormly announced the item would be continued to May 11, 2021, at 9:00 a.m. Upon roll call vote, ► **the motion carried five to two; Commissioners Hagan and White voted no.**

G.2. Application Number: RZ-PD 20-1265
Applicant: MATTAMY TAMPA/ SARASOTA, LLC
Location: 1350ft N of Intersection: Balm
Boyette Rd. / Canterfield Dr.
Folio Number: 88486.0150, 88486.0200, 88495.0102,
88495.0106 & 88495.0108
Acreage: 102.6 acres, more or less
Comp Plan: RP-2
Service Area: Rural
Community Plan: Riverview & SouthShore Areawide
Systems Plan
Existing Zoning: AR
Request: Rezone to PD
RECOMMENDATION:
ZHM: Approval
Development Services: Approvable, Subject to Conditions
PC: Consistent with Plan
ORAL ARGUMENT

► Mr. Moreda and Ms. Michelle Heinrich, Development Services, introduced the item. ► **Commissioner Cohen moved to open for oral argument, seconded by Commissioner Smith, and carried seven to zero.** ► Attorney Lundgren sought a motion to deny the request for additional evidence. ► **Commissioner Hagan so moved, seconded by Commissioner Overman.** Commissioner Smith spoke on the oral argument/additional evidence process. Upon roll call vote, ► **the motion carried seven to zero.**

TUESDAY, APRIL 13, 2021

▶ Attorney Kamala Corbett, Ms. Isabelle Albert, and Mr. Steven Henry, applicant team, explained the request. Chair Kemp called for public comment. The following individuals spoke: ▶ Messrs. Buddy Harwell, Alfred Brunner, and ▶ Glen Fiske. ▶ Attorney Corbett, Mr. Henry, and Mr. Trent Stephenson, applicant representative, provided rebuttal. ▶ Ms. Lienhard and Attorney Lundgren reviewed PC/ZHM recommendations. ▶ After comments on the timing of the item, design exceptions, connectivity, access points, the Riverview Community Plan, buffering/open space requirements, and lot sizes, ▶ **Commissioner Smith moved denial, seconded by Commissioner Overman.** Believing the subject site to be a logical outgrowth of Fishhawk, ▶ **Commissioner White moved a substitute motion for approval, seconded by Commissioner Hagan.** Chair Kemp touched on the community benefit and a recent court decision clarifying project timing was a condition of approval. ▶ Commissioner Myers sought clarity on staff recommendations. Dialogue ensued on staff recommendations, the Riverview Community Plan, and school capacity. Upon roll call vote, ▶ **the substitute motion failed three to four; Chair Kemp and Commissioners Cohen, Overman, and Smith voted no.**

Upon roll call vote, ▶ **the original motion carried four to three; Commissioners Hagan, Myers, and White voted no.**

G.3. Application Number:	RZ-STD 20-1279
Applicant:	MAGNO MELO
Location:	6911 Gibsonton Dr.
Folio Number:	50344.0000
Acreage:	1.24 acres, more or less
Comp Plan:	RES-6
Service Area:	Urban
Community Plan:	Gibsonton
Existing Zoning:	ASC-1
Request:	Rezone to CG
<u>RECOMMENDATION:</u>	
ZHM:	Denial
Development Services:	Not Supported
PC:	Inconsistent with Plan
	ORAL ARGUMENT