



Meeting Date December 12, 2023

Consent Section

Regular Section

Public Hearing

Subject: Approve a resolution providing for the rendition of the denial of application RZ 22-0075, an application for a rezoning to a Planned Development. The Board of County Commissioners voted to deny this application during the October 10, 2023 Board of County Commissioners Land Use Meeting.

Department Name: County Attorney's Office

Contact Person: Johanna M. Lundgren

Contact Phone: 272-5670

Staff's Recommended Board Motion:

Approve a resolution providing for the rendition of the denial of application RZ 22-0075, an application for rezoning to a Planned Development.

Background:

Sec. 10.03.04 (G) of the Land Development Code (LDC) provides for the process for the Board of County Commissioners' consideration of rezonings and major modifications to Planned Development zonings. 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 22-0075 during the October 10, 2023 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 approve the attached resolution providing for the rendition of the Board's denial of application RZ 22-0075.

List Attachments:

Resolution providing for denial of RZ 22-0075, with the following attachments: (1) Land Use Hearing Officer Recommendation, (2) Excerpt of Minutes of October 10, 2023 Board of County Commissioners Land Use Meeting

**RESOLUTION # \_\_\_\_\_**

**REZONING PETITION # RZ-PD 22-0075**

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

|        |        |
|--------|--------|
| Cepeda | yes    |
| Cohen  | yes    |
| Hagan  | yes    |
| Kemp   | yes    |
| Myers  | yes    |
| Owen   | yes    |
| Wostal | absent |

WHEREAS, on the 18th day of October, 2021, Mattamy Tampa/Sarasota, LLC submitted a rezoning petition requesting a change from AR (Agricultural Rural) zoning classification to PD (Planned Development) zoning classification for the parcel of land described in said petition; and,

WHEREAS, the Land Use Hearing Officer on July 24, 2023, held a duly noticed public hearing on said rezoning petition for PD (Planned Development) zoning and heard and considered testimony and documents received thereon; and,

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

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

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

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

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

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

WHEREAS, the Board of County Commissioners of Hillsborough County has on October 10, 2023, held a duly noticed public meeting on the petition for PD (Planned Development) 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 recitals stated above are incorporated into this resolution.

B. The Board of County Commissioners of Hillsborough County (the "Board") is authorized and empowered to consider the petition for rezoning to PD (Planned Development) zoning filed by Mattamy Tampa/Sarasota, LLC.

C. The Board has considered the petition in accordance with Sec. 10.03.03 and Sec. 10.03.04 of the Hillsborough County Land Development Code.

D. Section 10.03.04 G.1. of the Hillsborough County Land Development Code provides that the Board shall approve or deny the application by resolution, and that "(t)he 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 decisions contrary to his recommendation."

E. The Board having considered the report and recommendation of the Hillsborough County Administration, the report and recommendation of the Planning Commission, and the recommendation of the Land Use Hearing Officer, and having considered all record evidence and oral argument, finds that the proposed uses in the rezoning petition are not compatible with the existing land uses present in the area surrounding the subject property.

F. The Board having considered the report and recommendation of the Hillsborough County Administration, the report and recommendation of the Planning Commission, and the recommendation of the Land Use Hearing Officer, and having considered all record evidence and oral argument, finds that the PD (Planned Development) zoning classification is not compatible with the zoning districts applicable to the lands surrounding the subject property.

G. The Board, having considered the report and recommendation of the Hillsborough County Administration, the report and recommendation of the Planning Commission, and the recommendation of the Land Use Hearing Officer, and having considered all record evidence and oral argument, finds that the rezoning of the subject property is inconsistent with the goals, policies and objectives contained in the Comprehensive Plan enacted by the Board of County Commissioners of Hillsborough County pursuant to the authority contained in Chapter 75-390, Laws of Florida (1975), as amended, and Part II of Chapter 163, Florida Statutes, entitled, "Community Planning Act" ("Comprehensive Plan").

1. The Board finds that based upon the record evidence the rezoning petition is not compliant with the Comprehensive Plan. Specifically, the rezoning petition is inconsistent with Objective 16, Objective 22, and Policies 1.4, 16.2, 16.3, 16.10, 22.1, 22.2, 22.8 of the Future Land Use

Element; and is inconsistent with Goals 1 and 6 of the Riverview Community Plan included in the Livable Communities Element.

2. The density, the non-residential uses, and the intensity of the non-residential uses of the rezoning petition are not compatible with the character of the area surrounding the subject property.

H. The record evidence supports that the retention of the existing zoning accomplishes a legitimate public purpose.

## II. CONCLUSION

The Board of County Commissioners of Hillsborough County hereby denies the petition for rezoning to PD (Planned Development) zoning filed by Mattamy Tampa/Sarasota, LLC.

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 PD 22-0075

**DATE OF HEARING:** July 25, 2022

**APPLICANT:** Mattamy Tampa/Sarasota, LLC.

**PETITION REQUEST:** A request to rezone property from AR to PD to permit a mixed-use development consisting of 86 multi-family dwelling units (attached single-family) and a maximum of 20,000 square feet of commercial, office, residential support uses and/or a Community Residential Home (Type C)

**LOCATION:** 12910 Boyette Road

**SIZE OF PROPERTY:** 17.67 acres, m.o.l.

**EXISTING ZONING DISTRICT:** AR

**FUTURE LAND USE CATEGORY:** RES-4

**SERVICE AREA:** Urban

**COMMUNITY PLAN:** Riverview

## DEVELOPMENT REVIEW STAFF REPORT

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

### 1.0 APPLICATION SUMMARY

Applicant: Mattamy Tampa/Sarasota, LLC

FLU Category: RES-4

Service Area: Urban

Site Acreage: 18 +/-

Community Plan Area: Riverview

Overlay: None



#### Introduction Summary:

The applicant seeks to rezone a parcel zoned Agricultural Rural (AR) to Planned Development (PD) to allow for the development of a mixed-use project. The project is located on the north side of Boyette Road, 1/2 mile west of Bell Shoals Rd. in Riverview. A TECO easement runs east-west bisecting the parcel into two areas. The project will consist of 86 multifamily units (attached single-family) north of the TECO easement and up to 20,000 square feet of commercial, office, residential support uses and/or a Community Residential Home Type C south of the TECO easement, along Boyette Road. The developer intends to utilize the Mixed Use Incentive program set forth in the Comprehensive Plan to achieve a density up to 6 du/acre on the site. The site will have one access points on Boyette Rd.

| Zoning: Existing Proposed |  |  |
|---------------------------|--|--|
| District(s)               | AR   | Planned Development                          |
| Typical General Use(s)    | Single-Family Residential (Conventional/Mobile Home) | Multi-family Residential and Non-Residential |
| Acreage                   | 18   | 18   |
| Density/Intensity         | 1 unit per 5 acre (upland)                           | 6 units per acre/0.20 FAR                    |
| Mathematical Maximum*     | 3 units  | 86 Res. Units / 20,000 sq ft                 |

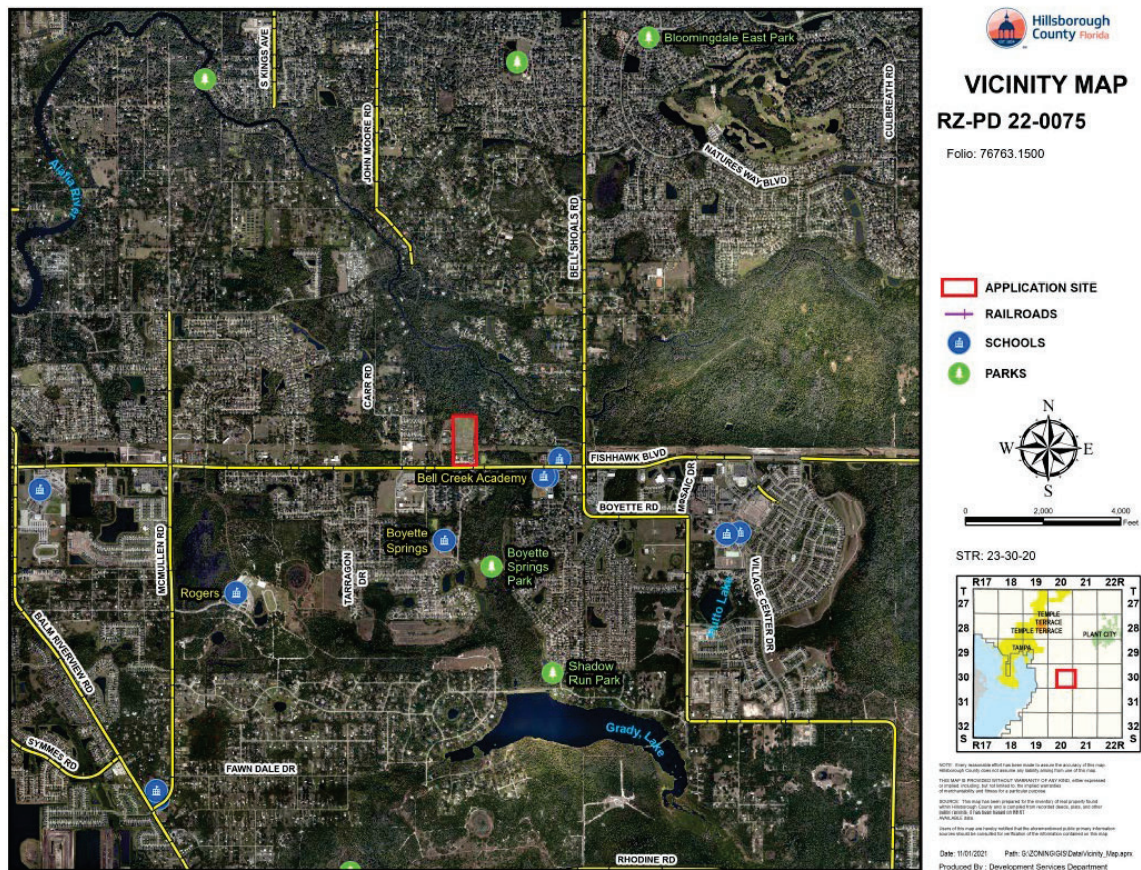
\*number represents a pre-development approximation

| Development Standards: Existing Proposed |                              |  |  |
|--|------------------------------|--|--|
| District(s)                              | AR                           | PD   |  |
| Lot Size / Lot Width                     | 5 Ac / 150'                  | 1,620 sq ft / 18'  |  |
| Setbacks/Buffering and Screening         | 50' Front 50' Rear 15' Sides | Residential 20' Front 10' Rear (35' east) 10' Sides (35' east) | Non-Residential 20' Front 20' Rear 20' Sides |
| Height                                   | 50'                          | 35'  | 35'  |



| Additional Information:                                      |  |
|--|--|
| PD Variation(s)  | None requested as part of this application   |
| Waiver(s) to the Land Development Code                       | To Section 6.01.01.01 Footnote 8.<br>Reduce the required building setback for building height over 20 feet (west). |
| <b>Planning Commission Recommendation:</b><br><br>Consistent | <b>Development Services Recommendation:</b><br><br>Approvable, subject to proposed conditions                      |

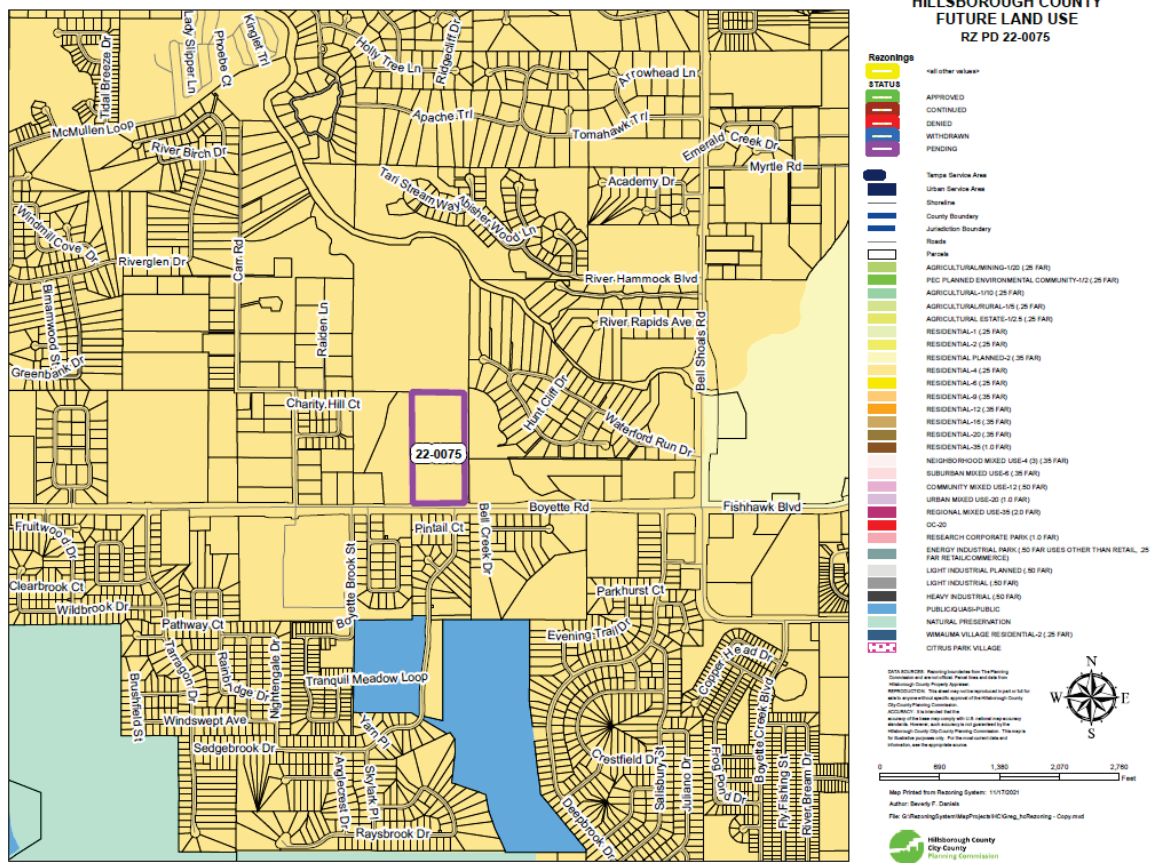
## 2.0 LAND USE MAP SET AND SUMMARY DATA 2.1 Vicinity Map



### Context of Surrounding Area:

The project is located north of Boyette Road, between McMullen Rd. and Bells Shoals Rd. Area mostly consists of residential land. Some office uses are located to the west and east. Commercial uses are found further east, at the intersection of Boyette Rd and Bell Shoals Rd. Private schools and churches are also found in the area.

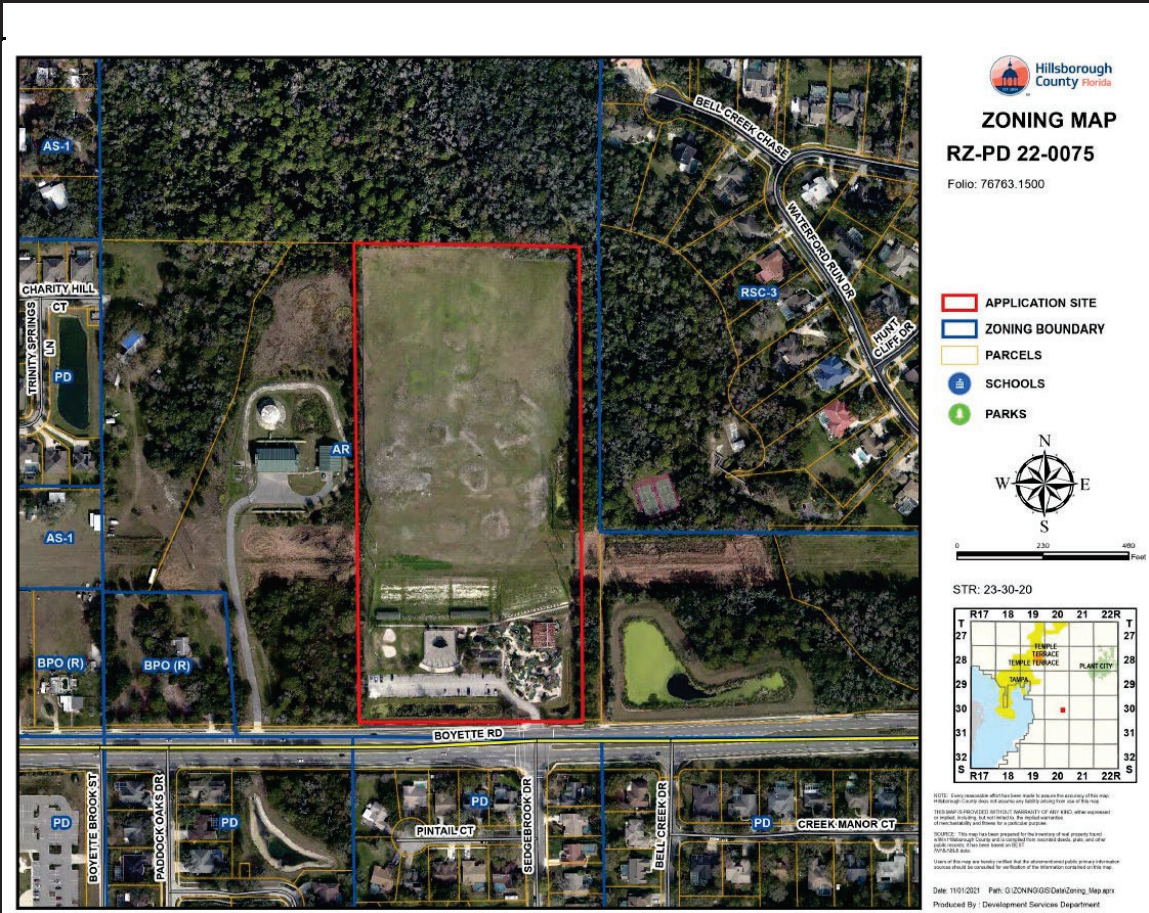
## 2.0 LAND USE MAP SET AND SUMMARY DATA 2.2 Future Land Use Map



|  |   |
|--|---|
| Subject Site Future Land Use Category: | Residential - 4   |
| Maximum Density/F.A.R.:                | Up to a maximum of 4.0 dwelling units per gross acre. Alternative methods for calculating density of certain uses are specified in the land development regulations. Density bonuses and credits may be considered in this category and are described in the Plan. suburban scale neighborhood commercial, office, multi-purpose or mixed use projects limited to 175,000 sq. ft. or .25 FAR, whichever is less intense. Actual square footage limit is dependent on classification of roadway intersection where project is located. |
| Typical Uses:                          | Residential, suburban scale neighborhood commercial, office uses, and multi-purpose projects. Nonresidential uses shall meet locational criteria for specific land use. Agricultural uses   |

may be permitted pursuant to policies in the agricultural objective areas of the Future Land Use Element.

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

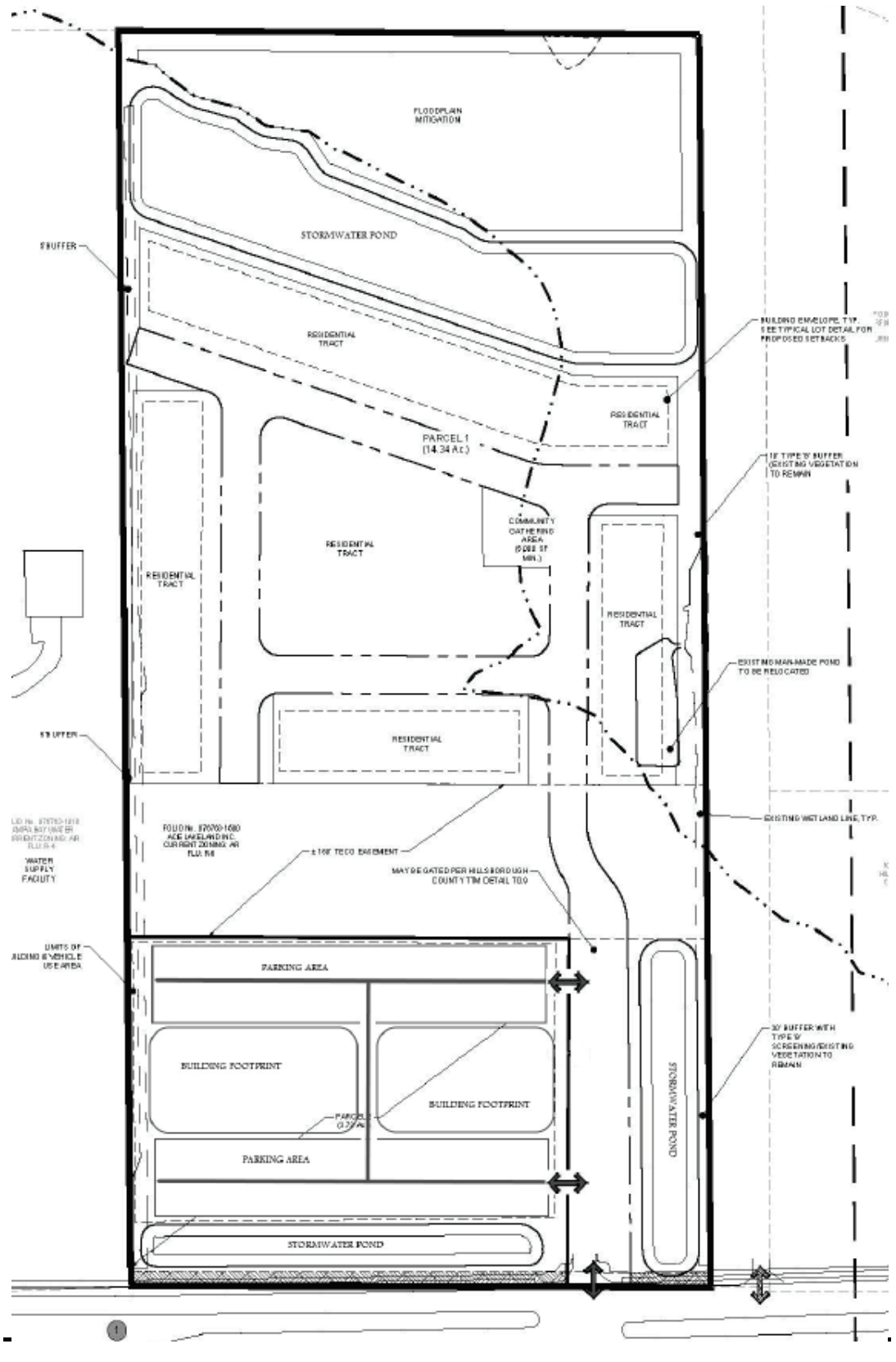


| Adjacent Zonings and Uses |            |  |                                      |                  |
|---------------------------|------------|--|--------------------------------------|------------------|
| Location                  | Zoning:    | Maximum Density/F.A.R. Permitted by Zoning District: | Allowable Use:                       | Existing Use:    |
| North                     | AR,        | 1 Du/5 ac  | Single Family Detached, Agricultural | Natural Preserve |
| South                     | PD 85-0014 | 4 Du/ac  | Single Family Detached               | Single Family    |

|      |     |                      |                                      |                              |
|------|-----|----------------------|--------------------------------------|------------------------------|
| East | AR, | 1 Du/5 ac            | Single Family Detached, Agricultural | Natural Preserve             |
| West | AR, | 1 Du/5 ac / 0.25 FAR | Single Family Detached, Agricultural | Public Use / Water Treatment |

**2.0 LAND USE MAP SET AND SUMMARY DATA**

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



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

| <b>Adjoining Roadways (check if applicable)</b> |                          |   |  |
|---|--------------------------|---|--|
| Road Name                                       | Classification           | Current Conditions  | Select Future Improvements   |
| Boyette Rd.                                     | County Collector - Urban | 4 Lanes<br><input type="checkbox"/> Substandard Road<br><input type="checkbox"/> Sufficient ROW Width | <input checked="" type="checkbox"/> Corridor Preservation Plan<br><input checked="" type="checkbox"/> Site Access Improvements<br><input type="checkbox"/> Substandard Road Improvements<br><input type="checkbox"/> Other |

| <b>Project Trip Generation</b> <input type="checkbox"/> Not applicable for this request |                            |                      |                      |
|---|----------------------------|----------------------|----------------------|
|   | Average Annual Daily Trips | A.M. Peak Hour Trips | P.M. Peak Hour Trips |
| Existing  | 630                        | 12                   | 60                   |
| Proposed  | 2,929                      | 224                  | 232                  |
| Difference (+/-)  | +2,299                     | +212                 | +172                 |

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

| <b>Connectivity and Cross Access</b> <input type="checkbox"/> Not applicable for this request |                |                                |              |           |
|---|----------------|--------------------------------|--------------|-----------|
| Project Boundary  | Primary Access | Additional Connectivity/Access | Cross Access | Finding   |
| North   |                | None                           | None         | Meets LDC |
| South   | X              | None                           | None         | Meets LDC |
| East  |                | None                           | None         | Meets LDC |
| West  |                | None                           | None         | Meets LDC |

Notes:

| <b>Design Exception/Administrative Variance</b> <input checked="" type="checkbox"/> Not applicable for this request |                 |                 |
|---|-----------------|-----------------|
| Road Name/Nature of Request   | Type            | Finding         |
|   | Choose an item. | Choose an item. |

Notes:

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

**4.0 ADDITIONAL SITE INFORMATION & AGENCY COMMENTS SUMMARY**

| INFORMATION/REVIEWING AGENCY        | Comments Received   | Objections  | Conditions Requested  | Additional Information/Comments |
|-------------------------------------|---|---|---|---------------------------------|
| Environmental Protection Commission | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |                                 |
| Natural Resources                   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |                                 |

|  |   |   |   |  |
|--|---|---|---|--|
| Conservation & Environ. Lands Mgmt.  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |  |
| Check if Applicable:<br><input checked="" type="checkbox"/> Wetlands/Other Surface Waters<br><input type="checkbox"/> Use of Environmentally Sensitive Land Credit <input type="checkbox"/> Wellhead Protection Area<br><input type="checkbox"/> Surface Water Resource Protection Area<br><br><input type="checkbox"/> Potable Water Wellfield Protection Area <input type="checkbox"/> Significant Wildlife Habitat<br><input type="checkbox"/> Coastal High Hazard Area<br><input type="checkbox"/> Urban/Suburban/Rural Scenic Corridor <input checked="" type="checkbox"/> Adjacent to ELAPP property<br><br><input type="checkbox"/> Other _____ |   |   |   |  |
| <b>Public Facilities:</b>  | <b>Comments Received</b>  | <b>Objections</b>   | <b>Conditions Requested</b>   | <b>Additional Information/Comments</b> |
| <b>Transportation</b><br><br><input type="checkbox"/> Design Exc./Adm. Variance Requested <input type="checkbox"/> Off-site Improvements Provided  | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |  |
| <b>Service Area/ Water &amp; Wastewater</b><br><br><input type="checkbox"/> Urban <input type="checkbox"/> City of Tampa<br><input 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            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |  |
| <b>Hillsborough County School Board</b><br><br>Adequate <input checked="" type="checkbox"/> K-5<br><input type="checkbox"/> 6-8 <input type="checkbox"/> 9-12 <input type="checkbox"/> N/A<br>Inadequate <input type="checkbox"/> K-5<br><input checked="" type="checkbox"/> 6-8 <input checked="" type="checkbox"/> 9-12 <input type="checkbox"/> N/A   | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |  |



**Impact/Mobility Fees**

(Fee estimate is based on a 1,500 square foot, 3 bedroom, 1-2 story townhome)  
 Mobility: \$5,995.00 \* 86 units = \$515,570

Shopping Center (per 1,000 s.f.) Mobility: \$12,206 Fire: \$313

ALF

(per Bed/Fire per 1k sf)

Mobility: \$1,128 Fire: \$95

Parks: \$1,957 \* 86 units School: \$7,027.00 \* 86 units Fire:\$249.00\*86units Total townhome

= \$168,302 = \$604,322 =\$ 21,414

= \$1,309,608

Daycare

(per 1,000 s.f.)

Mobility: \$11,840

Fire: \$95

**Project Summary/Description:**

Urban Mobility, Central Park, South Fire - 86 townhome units; 31-36k s.f. retail strip; 10k Urgent Care (Clinic), 10k Med Office; 10k Daycare, 125bedALF.10kCharterschool. Charter school is exempt from impacts.

Medical Office (10k or less s.f.) (per 1,000 s.f.)

Mobility: \$19,674

Fire: \$158

Clinic

(per 1,000 s.f.) Mobility: \$30,011 Fire: \$95

| Comprehensive Plan: | Comments Received   | Findings  | Conditions Requested  | Additional Information/Comments |
|---------------------|---|---|---|---------------------------------|
| Planning Commission | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Inconsistent<br><input checked="" type="checkbox"/> Consistent | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |                                 |

|   |  |  |  |  |
|---|--|--|--|--|
| <input type="checkbox"/> Meets Locational Criteria<br><input type="checkbox"/> N/A<br><br><input checked="" type="checkbox"/> Locational Criteria Waiver Requested<br><br><input type="checkbox"/> Minimum Density Met <input type="checkbox"/> N/A<br><input checked="" type="checkbox"/> Density Bonus Requested<br><input checked="" type="checkbox"/> Consistent<br><input type="checkbox"/> Inconsistent |  |  |  |  |
|---|--|--|--|--|

**5.0 IMPLEMENTATION RECOMMENDATIONS**

**5.1 Compatibility**

The property’s existing use is a recreational golf course. The site is surrounded to the south, southeast, and southwest by single-family detached home sub. Further southwest is Saint Stephens Catholic Church and School. The parcel adjacent to the west contains the Hillsborough County South Central Water Pump Station. Further to the west is single- family detached housing. The adjacent parcel to the north and east is owned by the Tampa Bay Conservancy Inc. (Myron and Helen Gibbons Nature Preserve). Further to the northeast is the western boundary of a large single-family detached home subdivision with frontage directly on Bell Shoals Road. To the east, along Boyette Rd., is land owned by Hillsborough County containing a large water retention pond.

The subject property is currently developed as a golf driving range. According to the project’s narrative, this property is one of the last developable sites in the area, and with its direct access onto Boyette Road, a lighted intersection, and close proximately to Bell Shoals Road, it is a prime location for a mixed-use project. Boyette Road is a 4-lane collector road and existing land uses along this corridor range from commercial uses, private educational facilities, retail uses, residential uses, and preserved areas.

The request is to rezone the subject site from Agricultural Rural (AR) to Planned Development (PD) to allow up to 86 Townhomes (single-family attached) with a density bonus within Parcel 1 (north an existing TECO easement) and up to 20,000 sq. ft. of limited Commercial Neighborhood (CN) from three distinct use categories in Parcel 2 (south of the TECO easement, along Boyette Rd.). In order achieve 86 residential units (at 6 du/ac), the applicant is utilizing Policy

19.3 which provides incentives to encourage mixed-use development by providing at least 3 uses on site which in turn will permit density/FAR up to the next land use category, where 2 uses shall be non-residential uses. The non-residential uses have been classified into 3 Groups. The applicant met with staff and is proposing a list and size of development that could be considered, where at least 2 uses shall be developed in Parcel 2, one use from either Group, where no two uses are chosen from the same group. The applicant is also committed to limiting the height to one-story and architecturally finished on all four sides with a residential like appearance for the non-residential portion of the site.

The three use Groups are proposed as follows:

**Group A – Retail – No drive-thru**

4,500 SF site down restaurant 2,500 SF coffee shop  
5,000 SF Bank  
4,000 SF Fitness Center

5,000 SF Brewery/Beer Garden 5,000 SF Retail limited to:

Apparel and Shoe Store  
Appliance Stores, Small  
Art Supply Store  
Bicycle Sales/repair  
Book/Stationary Store, New and Used Camera/Photography Store

Florist Shop  
Furniture/home furnishings  
General Business, Such as Retail Goods and Stores Jewelry Store (Watch, clock, Jewelry Repair)  
New Stand  
Novelty and Souvenir Shop  
Optician/Optical Supplies

Locksmith  
Mail and Package Services Mail Order Office  
Mail Order Pickup Facilities Pet shop (no outdoor rec area) Sporting Goods Store

5,000 – 10,000 SF Specialty Food Store to include:  
Bakery, Candies, & Nuts, Dairy, Delicatessens, Meat Seafood and Produce

**Group B – Office - No drive-thru**

10,000 SF limited to:  
Urgent Care (no 24 hour operation)

Outpatient Surgical Center (no 24 hour operation) Employment Services  
Government Office

Health Practitioner's Office  
Medical Offices or Clinics with scheduled or Emergency Services by Physicians  
(No 24 hr use) Professional Office  
Professional Services

**Group C – Residence Support - No drive-thru**

10,000 SF limited to:  
Day Care (child / pet)

Community Residential Home/Memory Care (maximum 125 beds)  
No drive thru facilities will be permitted to prevent intense uses from developing on site.

A waiver to the additional 2-foot setback for every foot above 20-feet in height, per LDC Section 6.01.01. endnote 8 is being requested only on the west side of the site. The 2:1 requirement is to address potential compatibility issues however; the adjacent use is TBW water facility. There is a 5-foot buffer proposed along the western PD boundary. The eastern boundary will maintain the "2:1" requirement although the closest single- family development is located 500 feet to the east with heavy vegetation functioning as a buffer between both uses. The LDC requires a 5-foot buffer with a Type A screening between the proposed residential use and the adjacent AR zoning along the east/north. With the required 5-foot buffer and building height of 35-feet, an additional 30-foot setback is required ( $35' - 20' = 15' \times 2 = 30' + 5' \text{ buffer}$ ). The total required setback is 35 feet. Furthermore, the applicant is committed to include a 6-foot fence with a 10-foot buffer / type B screening.

Commercial development standards will be of the Commercial Neighborhood (CN) standards, single story structures. The applicant is committed to a timing mechanism that would guarantee the development of all proposed uses and comply with the mixed use Objectives and Policies from the Comprehensive Plan. Prior to the issuance of any Certificate of Occupancy for 58 or more residential units, two of the non-residential uses listed in the Group lists above will need be constructed with a Certificate of Occupancy issued.

Staff has received letters of concerns and opposition from area residents, the Tampa Bay Conservancy and Sierra Club. The letters expressed concerns with traffic generated by the proposed development, school capacity, noise, impacts to the nature preserve, increase in density, introduction of commercial uses in the area, impacts to water supply and reduction of setbacks/buffer from the natural preserve along the east. The applicant has amended the application and reduced the intensity of the non-residential uses, restricted square footage of the day

care, eliminated school uses, and will maintain the required buffer/setback along the east in accordance with the Land Development Code. The project will maintain a minimum of 35 feet of building setback along the east, meeting the requirement of the Code. In addition, a 20-foot buffer, with Type B screening will be in place for the residential portion. Per LDC Sec. 6.06.06, the proposed project would require at least 5 feet of buffer between residential uses (Parcel 1) and AR zoning with Type A screening. The Type A screening requires plantings or a solid fence. The applicant proposes 20 feet of buffer with Type B screening. Existing vegetation will be allowed to remain in lieu of required landscaping and trees, subject to approval by Natural Resources. The additional landscaping (Type B) consists of a row of evergreen shade trees which are not less than ten feet high at the time of planting, a minimum of two-inch caliper, and are spaced not more than 20 feet apart. The trees are to be planted within ten feet of the property line. The solid fence will also be placed at least 10 feet from the parcel line, away from existing vegetated areas. Between Parcel 2 (non-residential uses) and the nature preserve site along the east, the applicant proposes a 30-foot buffer with Type B screening. The Code requires at least 20 feet of buffer and Type B screening. Per the submitted site plan, retention ponds will be placed along the east, adjacent to the nature preserve, and vegetation will be preserved subject to Natural Resources review and approval. As part of the site development review process, the developer is required to provide wildlife and environmental studies in accordance with the Land Development Code. The project will be conditioned requiring that water distribution system improvements will need to be completed prior to connection to the County's water system by this future development. No building permits that would create demand for water service will be issued until the completion of two County funded Capital Improvement Program projects in South County are put into operation. Stormwater design and construction will be subject to review and approval by the site development review section as established in the Land Development Code to ensure the project will capture all stormwater onsite. The proposed PD plan shows areas for future retention ponds. Comments from the School Board state that a school concurrency review will be issued PRIOR TO preliminary plat or site plan approval. The School Board also indicated that at this time, additional capacity at the middle and high school levels exists in adjacent service areas to accommodate the proposed project, and capacity exists in the Elementary School level for this area.

Although cross access to adjacent parcels is encouraged, the existing adjacent uses restricts this. The Tampa Bay Water supply facility is located to the west with its own access fenced with a 6-foot chain link fence with electrical wires to prevent trespassing. The Gibbon Nature Preserve is located to the north and east of the subject site and future development of this site is unlikely.

The is located between a water supply facility to the west and a storm water pond and recreation land/preserve to the east and to the north. Residential subdivisions surround this area to the north, northeast and south. Other

residential projects are located further to the west. The site is also bisected by the 150-foot wide TECO easement creating two distinct areas for commercial use along Boyette Road and the residential component internal to the site, adjacent to the preserve. The TECO easement functions as buffer between both uses, however the site will be interconnected by vehicular and pedestrian access.

There are wetlands present on the site. The Environmental Protection Commission, EPC, reviewed the proposed Site Plan and does not object. No impact to wetlands or setbacks are shown on the proposed plan. The Conservation and Environmental Lands Management reviewed this rezoning petition and has no comments. Transportation staff does not object to this request and proposes conditions for site access and road improvements along Boyette Rd.

The area is a mix of mostly residential single family-detached, and low scale commercial, and office uses. Residential support uses (schools and churches) are also commonly found in the area. The proposed project scale and design would ensure that is compatible with the surrounding development pattern and land uses. Intensive uses are being eliminated from the proposed development. The project will maintain the required setbacks along the east, where the adjacent nature preserve is located, as required per the LDC. The applicant, however, will provide additional buffer and screening more than what the Code requires. The non-residential component will be limited to 1-story buildings with a residential design. Compared to the initial proposal by the applicant, the project has been scaled down, more restrictions have been proposed, and compliance with provision from the Code has been maintained. Staff from the Planning Commission has evaluated the request and has found it Consistent. Objective 19 and Policy 19.2 indicates that a mixed-use development must be integrated. Policy 16.2 requires the gradual transition between uses. The applicant's site plan shows the commercial buildings are in the southern portion of the property facing south towards Boyette Road. The proposed site plan shows an integrated design to the residential located on the northern portion of the property and a gradual transition from the natural preservation area to the north and east, consistent with policy direction. To ensure the project will be developed in accordance with the objectives and policies above, a timing mechanism for the development of the mix of uses is being proposed requiring the construction and certificates of occupancies for two non-residential uses to be issued before the additional residential units can be constructed. Planning Commission staff also sees no compatibility issues as the adjacent use is public institutional. Lastly, a waiver to the Commercial Locational Criteria (CLC) has been requested, and Planning Commission staff recommends approval of the waiver.

## **5.2 Recommendation**

Based on the above considerations, staff recommends approval with conditions.

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

## **SUMMARY OF HEARING**

THIS CAUSE came on for hearing before the Hillsborough County Land Use Hearing Officer on July 25, 2022. Mr. Brian Grady of the Hillsborough County Development Services Department introduced the petition.

Ms. Kami Corbett testified on behalf of the applicant. She submitted binders of documents into the record and stated that Isabelle Albert would testify regarding land planning issues.

Ms. Isabelle Albert 1000 North Ashley Drive Suite 900 Tampa testified on behalf of the applicant. Ms. Albert stated that the request is to rezone the subject property which is currently operating as the Ace Golf Range to Planned Development. She described the location of the property and the surrounding land uses which include residential development and a stormwater pond to the east, a Hillsborough County pump station to the west and residential to the south. A 160 foot wide TECO easement bisects the subject property which results in the development of the site on the north side of Boyette Road to be non-residential. On the south side of Boyette is residential development along with a church and commercial land uses. Ms. Albert showed aerial photos to describe the specific land uses in the area. She stated that Boyette Road was a two-lane roadway until 2010 when it was improved to be a four-lane road. The proposed concept is to develop townhomes on the north side of the TECO easement and maintain commercial development on the south side of the easement. Ms. Albert stated that the existing Ace Golf Range is a recreational use but functions as a commercial business. A density bump up is requested to permit Residential-6 density in order to develop a proper townhome project. To achieve the density bonus, three land uses are required. She added that by reintroducing the commercial development, a waiver of commercial locational criteria has been requested. The proposed commercial land uses have been limited to recognize discussions with County staff who support the rezoning request. A condition has been proposed to specify the type of fencing that will be installed on the north side of the TECO easement. The neighbors stated that they did not want a white PVC fence. On the east side of the property is a 50-foot wide easement for a preservation area with existing vegetation. Therefore, the fence is proposed to be a non-white trek style six-foot high fence. Conditions are also proposed that restrict the maximum height and architectural features of the buildings. Ms. Albert testified that the requested density bonus requires three land uses. The Planning Commission has requested a timing mechanism which is not something that is found in the Comprehensive Plan. She added that the Planning Commission wanted to ensure that the commercial development was going to happen. Ms. Albert discussed a revised zoning condition that she would like to discuss with the Board of County Commissioners but wanted to enter it into the

record at the Zoning Hearing Master.

Hearing Master Finch asked if the new condition was a part of the revised County staff report. Ms. Albert replied no. Hearing Master Finch asked Ms. Albert if she would be explaining the new timing mechanism. Ms. Albert replied that previously, the Planning Commission had requested that after a percentage of the housing was built, about 56 or 58 units, the commercial had to be built and developed. The new timing condition proposes to have all of the residential developed and then have the commercial portion pad ready. She added that all of the utilities, the access, parking, ponds would be ready for a commercial use.

Hearing Master Finch asked Ms. Albert if she was saying that all 86 townhomes would be built and the infrastructure for the commercial would be in place but that the commercial portion would not be vertical. Ms. Albert replied yes.

Hearing Master Finch asked Ms. Albert if the Planning Commission had accepted the new zoning condition. Ms. Albert replied not and stated that it was something the applicant was presenting.

Ms. Albert continued her presentation by stating that she feels that the new zoning condition is a better proposition which would work better.

Hearing Master Finch asked Ms. Albert how the timing mechanism in the County's staff report currently reads. Ms. Albert replied that proposed zoning condition # 1.4 addresses the timing of the commercial. She stated that the property is small and the alternate condition would continue to meet the Planning Commission's intent. Having the commercial site pad ready is better and provides more opportunities for different developers.

Hearing Master Finch asked Ms. Albert if the Planning Commission was aware of the revised zoning condition prior to the Zoning Hearing Master hearing. Ms. Albert replied that the condition was submitted to the Planning Commission at 4pm that day. The Planning Commission informed Ms. Albert that they would not support the revised zoning condition. She added that the applicant wanted to submit it into the record to discuss it.

Hearing Master Finch asked Ms. Albert to provide a snapshot of the existing golf course driving range uses. Ms. Albert replied that there are retail land uses.

Hearing Master Finch how long had the golf course driving range use been on-site. Ms. Albert replied 20 years.

Hearing Master Finch asked Ms. Albert if the driving range has lights to operate at night. Ms. Albert replied yes.

Ms. Abbey Naylor 14706 Tudor Chase Drive Tampa testified on behalf of the applicant regarding environmental issues for the project. Ms. Naylor stated that there isn't much in terms of wetlands on the subject property. She added that



there are some on the fringe which will be completely avoided. She testified that she had completed a protected species survey on-site and determined that there are no protected species. Ms. Naylor showed a picture of the site and discussed the adjacent preserve. There is an access road that runs along the eastern side of the driving range and the preserve is located to the east and the north. She stated that she is aware of the sensitivity and importance of the preserve to the Hillsborough County and the applicant has incorporated that into the design to have the floodplain mitigation compensation area directly adjacent to the preserve. The floodplain area will be planted with native species where feasible. An additional buffer is proposed by means of a stormwater pond adjacent to the floodplain compensation. Ms. Naylor completed her testimony by stating that any impervious surface area would be approximately 340 feet away from the preserve which is almost a football field away.

Mr. Israel Monsanto, Development Services Department testified regarding the County's staff report. Mr. Monsanto stated that the property is currently developed with a recreational golf course. He described the surrounding uses and stated that there are residential detached homes, residential support uses such as churches and schools, a water pump station adjacent to the subject property to the west and a nature preserved known as the Myron and Helen Gibbons Nature preserve. He added that there is also a Hillsborough County retention pond further to the east. Mr. Monsanto testified that the request is to rezone property from Agricultural Rural to Planned Development to allow up to 86 townhomes using a density bonus within Parcel 1 which is located north of the existing TECO easement. Also requested is up to 20,000 square feet of limited Commercial Neighborhood uses within Parcel 2 which is south of the TECO easement. The applicant is utilizing Policy 19.3 which provides incentives to encourage mixed use development by providing at least three land uses on-site which then permits a density and floor area ratios up to the next Future Land Use category. Mr. Monsanto discussed the proposed zoning conditions which classify the three groups of land uses that could be considered for Parcel 2. The applicant has agreed to limit the height to one-story and architecturally finish the building on all four sides with a residential-like appearance. He described the proposed three groups of uses and limitations on square footage for each. A waiver is requested to the required two-to-one building setback for structures over 20 feet in height along the western side of the parcel adjacent to the Tampa Bay Water facility. Staff supports the waiver as there are no compatibility concerns with that adjacent use. The project will meet the required setbacks on the eastern side. The Parcel 1 development will include a 10 foot buffer with Type B screening and a solid fence where a 5 foot buffer with Type A screening is required by Code. Parcel 2 will conform to CN standards with single-story structures. Mr. Monsanto referred to zoning condition 1.4 regarding a timing mechanism that would guarantee the development of all proposed land uses to comply with the mixed use policy. He stated that staff has received letters of concern and opposition from area residents, the Tampa Bay Conservancy and the Sierra Club. The letters expressed concerns with the traffic generated by the project as well as concerns regarding school capacity, noise, impacts to the

nature preserve, the introduction of commercial uses, impacts to water supply and the reduction in setback/buffer from the nature preserve to the east. He detailed how the applicant had amended the original rezoning application to reduce the intensity of the non-residential land uses. Mr. Monsanto detailed proposed zoning conditions regarding water, stormwater and school capacity. He stated that the Conservation and Environmental Lands Management section had no comments regarding the rezoning. The County's Transportation staff did not object to the request and proposed conditions that require road improvements along Boyette Road. The Planning Commission supports the request including the waiver to commercial locational criteria. Mr. Monsanto summed up his presentation by stating that staff recommends approval of the rezoning with the proposed zoning conditions. He added that there was a typographical error on zoning condition 4 as the buffer along the eastern side of Parcel 1 should be 10 feet instead of the listed 20 feet.

Hearing Master Finch asked Mr. Monsanto if he had seen the proposed revision to zoning condition 1.4. Mr. Monsanto replied yes and stated that he received at 4pm that day. He added that he had concerns about the change as the staff reports including the density bonus were based on the requirement that all three land uses would be in place when developed.

Hearing Master Finch asked Mr. Monsanto that because the revised zoning condition removes the timing mechanism, would that change the Development Services Department recommendation. Mr. Monsanto replied yes and stated that the change is not consistent with what was proposed and not consistent with the Comprehensive Plan.

Hearing Master Finch asked Mr. Grady if he would like to add any comments regarding the change to the zoning condition. Mr. Grady replied that there is an issue of consistency to obtain the density bonus and if the Planning Commission did not support the request, then Development Services would also not support the request. Mr. Grady testified that zoning condition 4 might contain a typographical error as he believed the intent was to provide a natural looking fence which has wood or the look of wood.

Ms. Jillian Massey of the Planning Commission staff testified that the property is designated Residential-4 and located within the Urban Service Area and the Riverview Community Planning Area. The proposed density of six dwelling units per acre exceeds the density permitted under the RES-4 Future Land Use category however, a density bonus is proposed as outlined in Policy 19.3. She added that a zoning condition is proposed to ensure all three uses are developed to comply with the density bonus criteria. Neighborhood Commercial land uses are proposed for the non-residential portion of the site. Planning Commission staff worked with the applicant to limit the possible Neighborhood Commercial uses to help protect the surrounding residential and preservation land uses. The request is consistent with Objective 16 and Policy 16.3 regarding compatibility. A

waiver of commercial locational criteria is supported by staff as the project is a mixed use development with limited Neighborhood Commercial land uses. Ms. Massey testified that the staff report was filed with the understanding of the agreed upon zoning condition 1.4. A change to that condition would undermine the connection between the proposed mixed use density bonus and the required three land uses needed to achieve the bonus. She stated that the applicant's proposed zoning condition change is a substantial change to the project and would not be supported by Planning Commission staff. She concluded her remarks by stating that the rezoning request which includes zoning condition 1.4 as previously prepared is consistent with the Future of Hillsborough Comprehensive Plan. A change to that condition would result in a finding of inconsistency with the Comprehensive Plan.

Hearing Master Finch asked Ms. Massey to clarify as there was a break in her audio that if the proposed zoning condition 1.4 were changed to the applicant's latest change, then the Planning Commission would find the rezoning inconsistent with the Comprehensive Plan. Ms. Massey replied that was correct.

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

Mr. William Place 610 Garrison Cove Lane Tampa testified in support. Mr. Place introduced his wife Ms. Su Lee and stated that they are the property owners of the subject property which is operated since 2003 as the Ace Golf Range. He stated that the timing mechanism zoning condition has unintended consequences and does not benefit the public. The property is 17 acres in size and can only succeed if all parts of it are built. He described the existing commercial uses that include a miniature golf course, batting cages and driving range. The County four-laned Boyette Road since the driving range was built. He showed an aerial of the site to discuss the access, traffic light and buffering of the existing land use. Regarding the adjacent preserve, Mr. Place stated that the property is wet and no one goes into it. There is no parking. It serves as a buffer for the subject site. Mr. Place testified that there is 495 feet between the subject property and the nearest home. He detailed concerns and opposition to his driving range that never materialized. The residents across the street requested a crosswalk to access the site. He described interest in the property from other developers. Mr. Place stated that the size of the property necessitates the builder mobilizing once to build both the residential and non-residential uses. He referenced a letter from Alliant Partners which is a firm he retained that states that the project does not make sense without the commercial land uses. Mr. Place testified that the restriction against drive-throughs seems odd given the pandemic.

Hearing Master Finch asked Mr. Place about the proposed condition regarding the interim golf driving range land use and the timing of his operation. Mr. Place replied that he anticipates about one more year of operation until the residential builder has permits in place.

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

Mr. James Anderson 10514 Sedgebrook Drive Riverview testified in opposition. Mr. Anderson stated that he and his wife built their home in 1999. He stated that he uses the preserve to walk his dogs. He referred to the property owners mention of affordable housing and that he did not believe that fire fighters, policemen or teachers could afford the proposed dwelling units. He discussed the parcel not meeting commercial locational criteria and that the proposed six dwelling units per acre is not compatible with the surrounding residential projects which are developed at four units per acre. He added that there is a project to the west that is developed at one dwelling unit per five acres. The area is not a town center. The project would use the same traffic light as the Boyette Springs development which has a school across the street. The school traffic backs up every morning and afternoon. Mr. Anderson concluded his comments by discussing the additional traffic from the project and its impact to the area.

Ms. Ethel Hammer 19825 Angel Lane Odessa testified in opposition. Ms. Hammer stated that she was representing the Tampa Bay Conservancy and serves as President. She added that the Conservancy is a non-profit organization which owns the 60 acre parcel of land adjacent to the north of the subject property. The property is known as the Myron and Helen Gibbons Nature Preserve and is a pristine riverine habitat on Bell creek and the Alafia River. The property has recently been recognized as a growth forest by the Old Forest Network and is a premier property in Hillsborough County. The preserve is a highly sensitive habitat with over 120 species. It is a refuge for wildlife and contributes to the protection of water quality in the Alafia River. Regarding the statements made by the property owner, the preserve does have parking. A 50-foot access strip into the preserve affords quite a bit of parking for visitors. The preserve is not all wet. The site would not have been designated an Old Growth Forest if it were wet. Organized groups visit the preserve. The Boy Scouts and Girl Scouts have been collaborated with to attend educational visits. Last year, the preserve hosted the Florida Birding Festival. The Board of the Conservancy reviewed the rezoning application and voted unanimously to oppose it as presented. The basis for the objection is the intensity of the project and potential impacts to the preserve. The increase in density and introduction of commercial into the area is objectionable and not appropriate at the location. The introduction of commercial is not compatible with the surrounding residential development nor is it compatible with the pristine environment of the preserve. The project has the potential to bring unwanted foot traffic into the preserve which could result in negative impacts. Ms. Hammer stated that recently some of the structures in the preserve have been vandalized. The potential increase in noise from the project results in the project being incompatible with the preserve. She concluded her comments by requesting that the application be denied in order to protect the Gibbons preserve.

Hearing Master Finch asked Mr. Grady if he had additional comments and to

respond to the question of if the timing mechanism zoning condition were changed, would that change the recommendation of Development Services. Mr. Grady replied that staff recommendation would change. He added that he would like the applicant to clarify the proposed fencing condition.

Ms. Corbett testified during the rebuttal period and asked Ms. Naylor if her resume was filed into the County record. Ms. Naylor replied that she had a copy of her resume. Ms. Corbett asked Ms. Naylor to qualify herself and if she believed, in her professional opinion, that the proposed development is incompatible with the nature preserve to the north. Ms. Naylor replied that she did not see the development as being incompatible. Ms. Naylor stated her name and address into the record.

Ms. Naylor continued her testimony and stated that she did not see the development as incompatible with the adjacent land use given the amount of additional buffer that will be provided adjacent to the preserve. She added that she had seen the comments from the Sierra Club and the Tampa Bay Conservancy and recognized the value of the preserve by providing the floodplain compensation and stormwater management directly adjacent to the preserve which serves as a buffer from impervious development at the narrowest part being 213 feet. She added that she believed that the buffer area is a very compatible transition for the project.

Ms. Corbett continued her rebuttal testimony by stating that the gentleman in opposition who read from the staff report which concludes that the development is compatible and consistent. Regarding the proposed change to zoning condition 1.4, she stated that the interpretation of Policy 19.3 and the timing mechanism that either exists or doesn't exist in the Comprehensive Plan has been evolving over the last several years. The proposed condition is consistent with the conditions proposed in other development that have been approved. She described another rezoning that did not have a timing mechanism also requested a density bump up. Ms. Corbett stated that her client was asked at the Board of County Commissioner's meeting if they would agree to a condition that would limit the development of the residential to having a Certificate of Occupancy for the proposed day care. Her client was the developer for both the residential and the day care center and was able to agree to that condition. She stated that the zoning was now the guidepost that timing mechanisms should be in place. Her client for the subject property was caught off guard based on prior interpretations of Policy 19.3. Ms. Corbett testified that if the Hearing Master was only comfortable recommending approval with the timing mechanism in place, she would ask to do so. She stated that the only way to address the revised condition was to bring it up at the Zoning Hearing Master hearing.

Hearing Master Finch stated that the revised condition eliminates the timing mechanism as well the commitment to develop three land uses.

Ms. Corbett stated that the intent is to have three land uses and added that the

language is not clear.

Hearing Master Finch stated that the newly proposed condition as drafted eliminates the requirement for the three uses and stated that she understood the intent of presenting the issue at the hearing. She asked Ms. Corbett if she understood the Planning Commission and Development Services Department testimony regarding their position if the proposed condition were to go forward. Ms. Corbett replied yes.

Ms. Corbett asked Mr. Grady about the fence condition clarification. Mr. Grady stated that he believed there was a typographical error regarding the reference to a Trex fence. Ms. Corbett replied that the fence will not be white. Mr. Grady stated that a Trex fence is a natural looking fence with the look of wood and not a PVC fence. Ms. Corbett testified that there are two photographs in the record that were submitted by someone in opposition and that she would not object to somehow incorporating those photos into the site plan in some manner. Mr. Grady testified that a clarification is needed so that any County reviewer will understand what is intended in terms of the fencing.

Ms. Corbett stated that she would provide the fencing clarification. She also stated that the floodplain compensation area will be planted with a 4-to-1 slope with appropriate native species on 3-foot centers for herbaceous ground cover and 5-foot centers for shrubs and 10-foot centers for trees. Ms. Corbett stated that it would be added as a zoning condition.

Mr. Mac McGraw with Mattamy Homes 3000 West San Nicholas Tampa testified during the rebuttal period as the applicant. Mr. McGraw stated that he wanted to correct a comment made by the property owner, Mr. Place, regarding the price of the townhomes as being at a significant discount relative to single-family homes. He added that he was not building affordable housing. Regarding the timing mechanism, he proposes 86 townhomes. The prices will stop at 56 townhomes and wait for the commercial to come on-line. He stated that it is an extreme burden to build the infrastructure up front and then possibly wait. He testified that he does not control the commercial component of the development. Mr. McGraw concludes his remarks by stating that it will be very difficult to go back and finish the 20 or 30 more townhomes.

The hearing was then concluded.

## **EVIDENCE SUBMITTED**

\*Ms. Timateo of County staff submitted a revised County staff report into the record.

\*Ms. Albert submitted a letter from Alliant Partners objecting to the proposed timing condition, a copy of her resume, a copy of the revision to proposed zoning 1.4, and a copy of her PowerPoint presentation into the record.

\*Mr. Place submitted a letter from Alliant Partners objecting to the proposed timing condition and aerial photos of the subject property into the record.

\*Ms. Naylor submitted a copy of her resume into the record.

## **PREFACE**

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

## **FINDINGS OF FACT**

1. The subject site is 17.67 acres in size and is zoned Agricultural Rural (AR) and designated Residential-4 (RES-4). The property is located in the Urban Service Area and the Riverview Community Planning Area.
2. The purpose of the rezoning from AR to Planned Development (PD) is to permit the development of a maximum of 86 townhomes and up to 20,000 square feet of commercial, office, residential support uses and/or a Type C Community Residential Home.
3. The PD includes a request to utilize Policy 19.3 of the Comprehensive Plan's Future Land Use Element which states that projects with three or more land uses may utilize the density of the next higher land use category which would be the RES-6 Future Land Use category. Zoning condition 1.4 that was reviewed and supported by both the Development Services Department and the Planning Commission states that "Prior to the issuance any Certificate of Occupancy for 58 or more residential units, two of the non-residential uses...shall be constructed with a Certificate of Occupancy issued..."

At the Zoning Hearing Master hearing, the applicant's representative submitted a new zoning condition 1.4 which states "Construction plans for Parcel 1 (the townhome parcel) shall include Parcel 2 (the non-residential parcel) with utilities connection on site, stormwater, driveway access and drive-aisle between Parcel 1 and 2."

4. The applicant has requested a waiver to the additional two-to-one setback for buildings over twenty (20) feet in height on the western side of the project only.

The waiver is justified as the adjacent use along the entire western boundary is a Tampa Bay Water supply facility (the Hillsborough County South Central Water Pump Station). The applicant is providing a five (5) foot buffer along the western PD boundary.

5. No Planned Development Variations have been requested by the applicant.
6. The Planning Commission found the proposed density of six dwelling units per acre exceeds the density permitted under the RES-4 Future Land Use category however, a density bonus is proposed as outlined in Policy 19.3 which states that projects with three or more land uses may utilize the density of the next higher land use category which would be the RES-6 Future Land Use category. Staff testified that a zoning condition is proposed to ensure all three uses are developed to comply with the density bonus criteria. The Planning Commission staff worked with the applicant to limit the possible Neighborhood Commercial uses to help protect the surrounding residential and preservation land uses. The request is consistent with Objective 16 and Policy 16.3 regarding compatibility. Staff stated that a waiver of commercial locational criteria is supported by staff as the project is a mixed use development with limited Neighborhood Commercial land uses. The Planning Commission found the rezoning request as reviewed prior to the Zoning Hearing Master hearing consistent with the Comprehensive Plan.

Regarding the proposed change to zoning condition 1.4, Planning Commission staff testified that the staff report was filed with the understanding of the agreed upon zoning condition 1.4. Staff further stated that a change to that condition would undermine the connection between the proposed mixed-use density bonus and the required three land uses needed to achieve the bonus. The proposed zoning condition would be a substantial change to the project and would not be supported by Planning Commission staff and would result in a finding of inconsistency with the Comprehensive Plan.

7. The Development Services Department staff testified that they found the request approvable subject to the proposed zoning conditions. Staff stated that if the Planning Commission did not support the request due to the proposed change to zoning condition 1.4, then Development Services would also not support the request.
8. The subject property is currently developed with a golf driving range facility which includes batting cages, a miniature golf course and associated retail land uses. The facility is lighted for operation at night and has been in existence for approximately twenty (20) years.
9. The subject property is bisected by a TECO easement which runs east-west through the property. The Planned Development proposes to locate the townhomes north of the TECO easement (Parcel 1) and the non-residential land uses south of the TECO easement (Parcel 2) which fronts Boyette Road.



10. The area surrounding the subject property is developed with a water supply facility owned by Tampa Bay Water to the west, a 60-acre nature preserve with an ownership strip to the east and the majority of the preserve to the north and residential subdivisions across Boyette Road to the south. Hillsborough County owns a larger tract of land fronting Boyette Road to the east of the nature preserve property that includes a stormwater pond. Also to the east of the nature preserve property is a wooded tract that is owned by the homeowners association for the residential subdivision to the northeast. The tract appears to be developed with recreational amenities including a lighted tennis court that serve the residents of the subdivision.
11. The applicant proposes to provide the required floodplain mitigation compensation area with native plantings as well as the stormwater pond at the northern portion of the subject property to buffer the nature preserve to the north and northeast corner of the site from the proposed townhomes. Further, a stormwater pond is proposed to be located at the southeastern portion of the parcel to also buffer the non-residential development from the nature preserve property.

The applicant's representative submitted a new zoning condition at the Zoning Hearing Master hearing which requires a 4:1 slope that will be planted with appropriate native species on three-foot centers for herbaceous ground cover, five-foot centers for shrubs and ten-foot center for trees.

12. Testimony in support was provided at the Zoning Hearing Master hearing from the current owner of the property.
13. Testimony in opposition was provided at the Zoning Hearing Master hearing and also submitted into the County's record prior to the hearing. A neighbor who lives in the area testified regarding the incompatibility of the proposed density of the townhomes and the possible negative traffic impacts to the area.

The President of the Tampa Bay Conservancy who owns the nature preserve to the east and north also testified in opposition at the Zoning Hearing Master hearing. Opposition was based upon the property which is a refuge for wildlife being recently recognized as a growth forest by the Old Forest Network. Additionally, concerns were expressed that the preserve has recently experienced vandalism of some of their on-site structures and could be negatively impacted by an increase in foot-traffic from the project development. Finally, concerns were stated that the increase in density and introduction of commercial into the area is objectionable and not appropriate at the location.

14. A non-residential land use has operated on the subject property for almost twenty (20) years. The existing golf driving range, miniature golf course and batting cages land use includes a lighted field and parking lot area as well as accessory retail sales. The impacts to the surrounding parcels from the existing use are similar in nature to similarly sized commercial land uses.
15. The development of Parcel 2 with limited Commercial Neighborhood land uses is appropriate along the frontage of Boyette Road which is a four-lane collector roadway.
16. The proposed land use of single-family attached dwelling units (townhomes) is consistent with the development pattern in the area and serves to provide an alternative housing option to the community. The requested density bonus to achieve a maximum of 86 dwelling units is supportable if development proceeds in accordance with Policy 19.3 of the Comprehensive Plan ensuring three land uses on-site. The proposed timing mechanism for construction of the townhomes relative to the requirement that a portion of the commercial be completed is reasonable.
17. The applicant's proposed replacement to zoning condition 1.4 eliminates the both the requirement that three land uses be provided as well as the timing mechanism that some portion of the commercial be built prior to the completion of the 86 townhome project. The condition does not comply with Policy 19.3 and therefore the project should not be eligible for the density bonus if the revised condition is requested by the applicant.

It is emphasized that both professional planning staffs testified that if the application were to proceed with the revised zoning condition 1.4, the staff recommendations would be changed to unsupported and/or denial.

18. The design of the site plan with the floodplain mitigation and stormwater ponds adjacent to the nature preserve both to the north and east as well as along the Boyette Road frontage is considerate to the surrounding area. The delineation of the land uses north and south of the TECO easement with a connecting access road provides a gradual transition of land uses from the preserve to Boyette Road.
19. The rezoning to Planned Development with the zoning conditions as prepared by the Development Services Department for 86 townhomes and up to 20,000 square feet of commercial, office, residential support uses and/or a Type C Community Residential Home is an appropriate mixed-use project. The site plan and associated zoning conditions result in a project that is compatible with the surrounding land uses in the area.

20. If the Planned Development were to proceed with the revised zoning condition 1.4 which eliminates the requirement for three land uses as well as the timing mechanism that ensures that a portion of the non-residential land uses are completed prior to the completion of the townhome project, then the project is not eligible for the requested density bonus. The Planning Commission testified that the change to the zoning condition would be a substantial change to the project and would not be supported by Planning Commission staff and would result in a finding of inconsistency with the Comprehensive Plan. The Development Services Department testified that if the Planning Commission did not support the rezoning, then staff would also not support the request.

### **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 unless zoning condition 1.4 is revised as presented by the applicant's representative at the Zoning Hearing Master hearing.

### **CONCLUSIONS OF LAW**

Based on the Findings of Fact cited above, there is substantial competent evidence to demonstrate that the requested Planned Development rezoning is in conformance with the applicable requirements of the Land Development Code and with applicable zoning and established principles of zoning law unless zoning condition 1.4 is revised as presented by the applicant's representative at the Zoning Hearing Master hearing.

### **SUMMARY**

The request is to rezone 17.67 acres from AR to PD to permit the development of a maximum of 86 townhomes and up to 20,000 square feet of commercial, office, residential support uses and/or a Type C Community Residential Home.

The PD includes a request to utilize Policy 19.3 of the Comprehensive Plan's Future Land Use Element which states that projects with three or more land uses may utilize the density of the next higher land use category which would be the RES-6 Future Land Use category. Zoning condition 1.4 that was reviewed and supported by both the Development Services Department and the Planning Commission states that "Prior to the issuance any Certificate of Occupancy for 58 or more residential units, two of the non-residential uses...shall be constructed with a Certificate of Occupancy issued...". At the Zoning Hearing Master hearing, the applicant's representative submitted a new zoning condition 1.4 which states "Construction plans for Parcel 1 (the townhome parcel) shall

include Parcel 2 (the non-residential parcel) with utilities connection on site, stormwater, driveway access and drive-aisle between Parcel 1 and 2.”

The applicant has requested a waiver to the additional two-to-one setback for buildings over twenty (20) feet in height on the western side of the project only. The waiver is justified as the adjacent use along the entire western boundary is a Tampa Bay Water supply facility (the Hillsborough County South Central Water Pump Station). The applicant is providing a five (5) foot buffer along the western PD boundary.

Testimony in opposition was provided at the Zoning Hearing Master hearing and also submitted into the County’s record prior to the hearing. A neighbor who lives in the area testified regarding the incompatibility of the proposed density of the townhomes and the possible negative traffic impacts to the area. The President of the Tampa Bay Conservancy who owns the nature preserve to the east and north also testified in opposition at the Zoning Hearing Master hearing. Opposition was based upon the property which is a refuge for wildlife being recently recognized as a growth forest by the Old Forest Network. Additionally, concerns were expressed that the preserve has recently experienced vandalism of some of their on-site structures and could be negatively impacted by an increase in foot-traffic from the project development. Finally, concerns were stated that the increase in density and introduction of commercial into the area is objectionable and not appropriate at the location.

A non-residential land use has operated on the subject property for almost twenty (20) years. The existing golf driving range, miniature golf course and batting cages land use includes a lighted field and parking lot area as well as accessory retail sales. The impacts to the surrounding parcels from the existing use are similar in nature to similarly sized commercial land uses. The design of the site plan with the floodplain mitigation and stormwater ponds adjacent to the nature preserve both to the north and east as well as along the Boyette Road frontage is considerate to the surrounding area. The delineation of the land uses north and south of the TECO easement with a connecting access road provides a gradual transition of land uses from the preserve to Boyette Road.

The rezoning to Planned Development with the zoning conditions as prepared by the Development Services Department for 86 townhomes and up to 20,000 square feet of commercial, office, residential support uses and/or a Type C Community Residential Home is an appropriate mixed-use project. The site plan and associated zoning conditions result in a project that is compatible with the surrounding land uses in the area.

If the Planned Development were to proceed with the revised zoning condition 1.4 which eliminates the requirement for three land uses as well as the timing mechanism that ensures that a portion of the non-residential land uses are completed prior to the completion of the townhome project, then the project is not

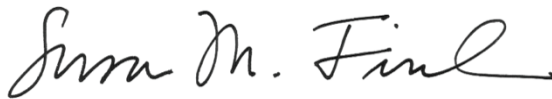
eligible for the requested density bonus. The Planning Commission testified that the change to the zoning condition would be a substantial change to the project and would not be supported by Planning Commission staff and would result in a finding of inconsistency with the Comprehensive Plan. The Development Services Department testified that if the Planning Commission did not support the rezoning, then staff would also not support the request.

### RECOMMENDATION

Based on the foregoing, this recommendation is for **APPROVAL** of the Planned Development rezoning request as indicated by the Findings of Fact and Conclusions of Law stated above subject to the zoning conditions prepared by the Development Services Department which include zoning condition 1.4 which is proposed as follows:

“Prior to the issuance any Certificate of Occupancy for 58 or more residential units two of the non-residential uses listed in the Group lists above shall be constructed with a Certificate of Occupancy issued. Additionally:

- a. The developer shall pick/develop the required two uses from different Groups.
- b. No single non-residential uses shall be less than 2,500 square feet in building space.”



August 15, 2022

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**Susan M. Finch, AICP**  
**Land Use Hearing Officer**

**Date**

**COUNTY OF HILLSBOROUGH**

**RECOMMENDATION OF THE  
LAND USE HEARING OFFICER**

**APPLICATION NUMBER:** RZ PD 22-0075 REMAND

**DATE OF HEARING:** January 17, 2023

**APPLICANT:** MattMattamy Tampa/Sarasota, LLC.

**PETITION REQUEST:** A request to rezone property from AR to PD to permit a mixed-use development consisting of 86 multi-family dwelling units (attached single-family) and a maximum of 20,000 square feet of commercial, office, residential support uses and/or a Community Residential Home (Type C)

**LOCATION:** 12910 Boyette Road

**SIZE OF PROPERTY:** 17.67 acres, m.o.l.

**EXISTING ZONING DISTRICT:** AR

**FUTURE LAND USE CATEGORY:** RES-4

**SERVICE AREA:** Urban

**COMMUNITY PLAN:** Riverview

## DEVELOPMENT REVIEW STAFF REPORT

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

### 1.0 APPLICATION SUMMARY

Applicant: Mattamy Tampa/Sarasota, LLC

FLU Category: RES-4

Service Area: Urban

Site Acreage: 18 +/-

Community Plan Area: Riverview

Overlay: None



#### Introduction Summary:

The applicant seeks to rezone a parcel zoned Agricultural Rural (AR) to Planned Development (PD) to allow for the development of a mixed-use project. The project is located on the north side of Boyette Road, 1/2 mile west of Bell Shoals Rd. in Riverview. A TECO easement runs east-west bisecting the parcel into two areas. The project will consist of 86 multifamily units (attached single-family) north of the TECO easement and up to 20,000 square feet of commercial, office, residential support uses and/or a Community Residential Home Type C south of the TECO easement, along Boyette Road. The developer intends to utilize the Mixed Use Incentive program set forth in the Comprehensive Plan to achieve a density up to 6 du/acre on the site. The site will have one access points on Boyette Rd.

**Zoning: Existing Proposed**

|                        |  |  |
|------------------------|--|--|
| District(s)            | AR   | Planned Development                          |
| Typical General Use(s) | Single-Family Residential (Conventional/Mobile Home) | Multi-family Residential and Non-Residential |
| Acreage                | 18   | 18   |
| Density/Intensity      | 1 unit per 5 acre (upland)                           | 6 units per acre/0.20 FAR                    |
| Mathematical Maximum*  | 3 units  | 86 Res. Units / 20,000 sq ft                 |

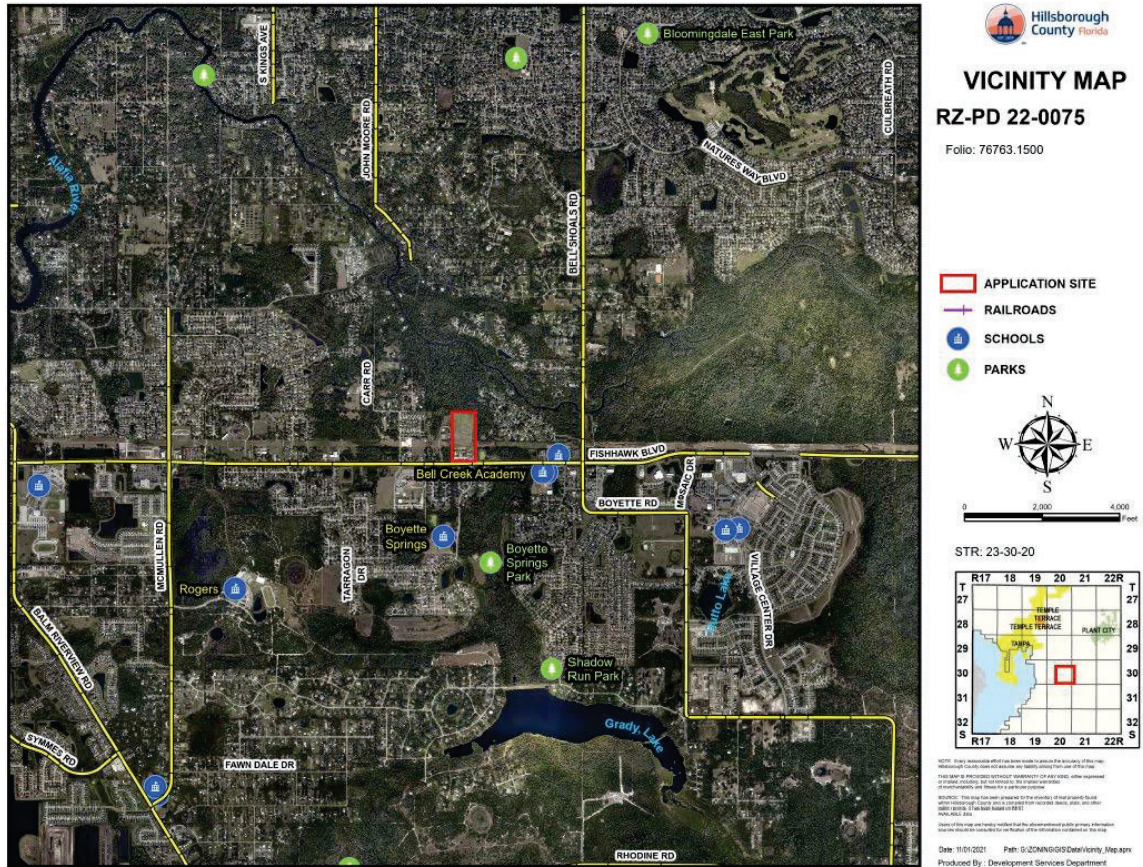
\*number represents a pre-development approximation

| <b>Development Standards: Existing Proposed</b> |                              |  |  |
|---|------------------------------|--|--|
| District(s)                                     | AR                           | PD   |  |
| Lot Size / Lot Width                            | 5 Ac / 150'                  | 1,620 sq ft / 18'  |  |
| Setbacks/Buffering and Screening                | 50' Front 50' Rear 15' Sides | Residential 20' Front 10' Rear (35' east) 10' Sides (35' east) | Non-Residential 20' Front 20' Rear 20' Sides |
| Height  | 50'                          | 35'  | 35'  |



| Additional Information:                                      |  |
|--|--|
| PD Variation(s)  | None requested as part of this application   |
| Waiver(s) to the Land Development Code                       | To Section 6.01.01.01 Footnote 8.<br>Reduce the required building setback for building height over 20 feet (west). |
| <b>Planning Commission Recommendation:</b><br><br>Consistent | <b>Development Services Recommendation:</b><br><br>Approvable, subject to proposed conditions                      |

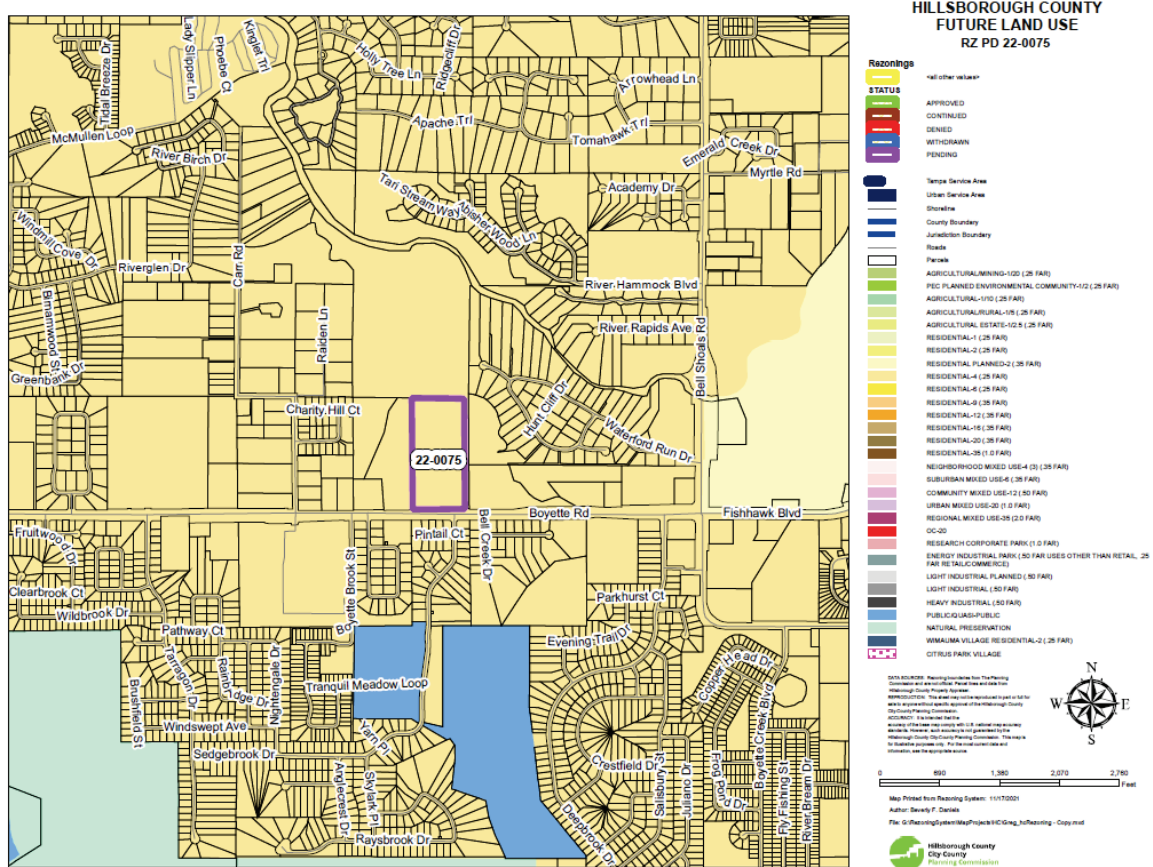
## 2.0 LAND USE MAP SET AND SUMMARY DATA 2.1 Vicinity Map



### Context of Surrounding Area:

The project is located north of Boyette Road, between McMullen Rd. and Bells Shoals Rd. Area mostly consists of residential land. Some office uses are located to the west and east. Commercial uses are found further east, at the intersection of Boyette Rd and Bell Shoals Rd. Private schools and churches are also found in the area.

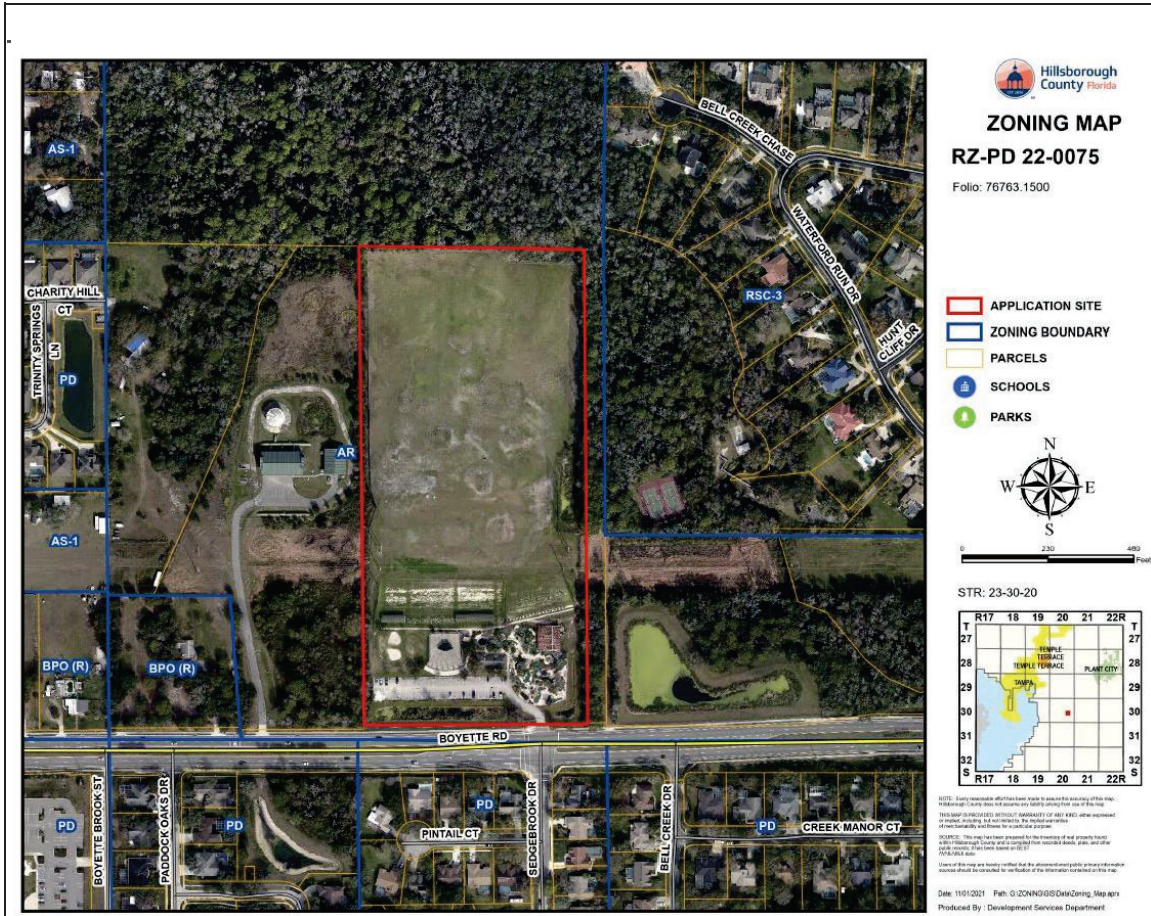
## 2.0 LAND USE MAP SET AND SUMMARY DATA 2.2 Future Land Use Map



|  |   |
|--|---|
| Subject Site Future Land Use Category: | Residential - 4   |
| Maximum Density/F.A.R.:                | Up to a maximum of 4.0 dwelling units per gross acre. Alternative methods for calculating density of certain uses are specified in the land development regulations. Density bonuses and credits may be considered in this category and are described in the Plan. suburban scale neighborhood commercial, office, multi-purpose or mixed use projects limited to 175,000 sq. ft. or .25 FAR, whichever is less intense. Actual square footage limit is dependent on classification of roadway intersection where project is located. |
| Typical Uses:                          | Residential, suburban scale neighborhood commercial, office uses, and multi-purpose projects. Nonresidential uses shall meet locational criteria for specific land use. Agricultural uses   |

may be permitted pursuant to policies in the agricultural objective areas of the Future Land Use Element.

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



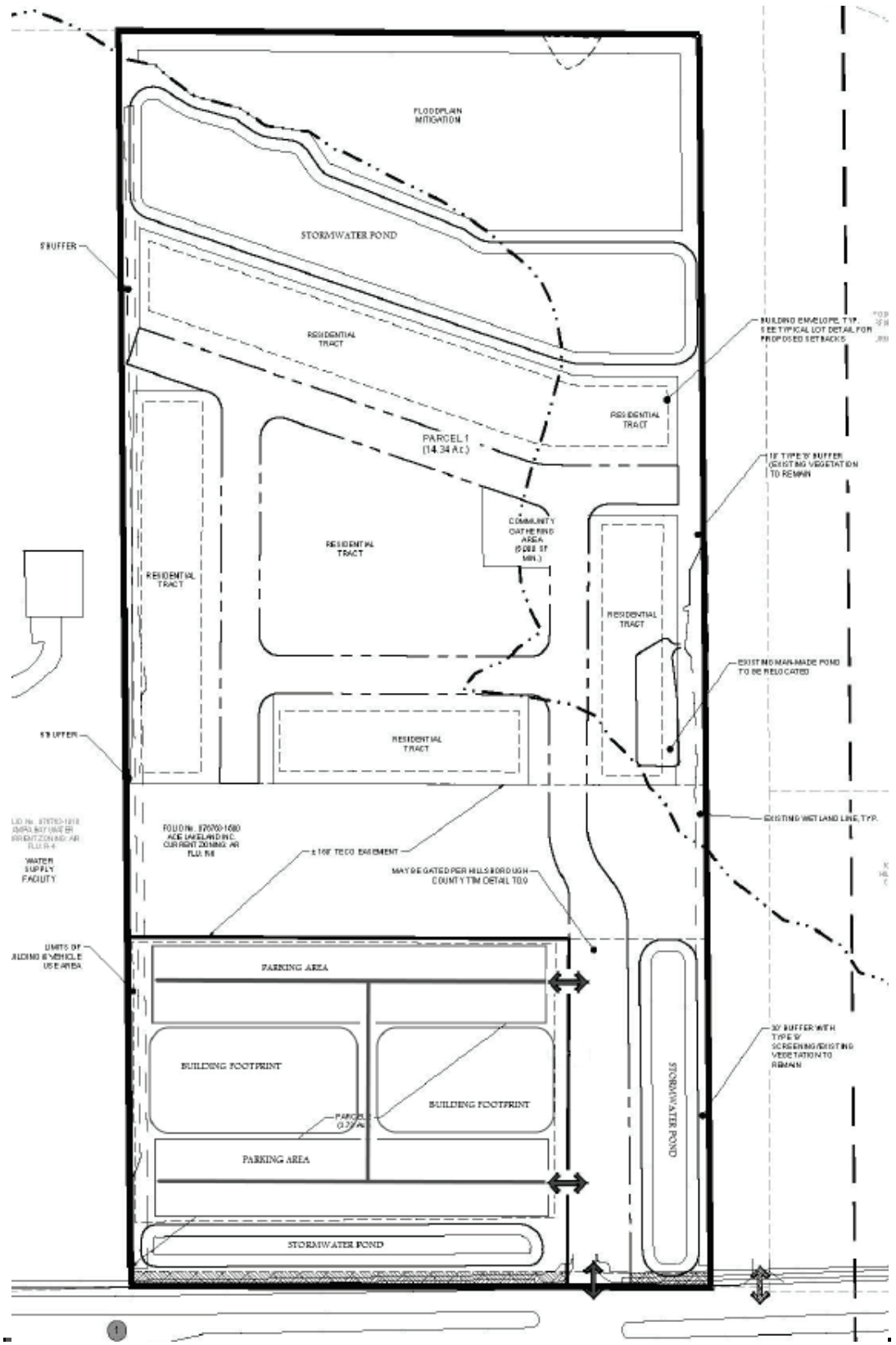
### Adjacent Zonings and Uses

| Location | Zoning:    | Maximum Density/F.A.R. Permitted by Zoning District: | Allowable Use:                       | Existing Use:    |
|----------|------------|--|--------------------------------------|------------------|
| North    | AR,        | 1 Du/5 ac  | Single Family Detached, Agricultural | Natural Preserve |
| South    | PD 85-0014 | 4 Du/ac  | Single Family Detached               | Single Family    |

|      |     |                      |                                      |                              |
|------|-----|----------------------|--------------------------------------|------------------------------|
| East | AR, | 1 Du/5 ac            | Single Family Detached, Agricultural | Natural Preserve             |
| West | AR, | 1 Du/5 ac / 0.25 FAR | Single Family Detached, Agricultural | Public Use / Water Treatment |

**2.0 LAND USE MAP SET AND SUMMARY DATA**

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



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

| <b>Adjoining Roadways (check if applicable)</b> |                          |   |  |
|---|--------------------------|---|--|
| Road Name                                       | Classification           | Current Conditions  | Select Future Improvements   |
| Boyette Rd.                                     | County Collector - Urban | 4 Lanes<br><input type="checkbox"/> Substandard Road<br><input type="checkbox"/> Sufficient ROW Width | <input checked="" type="checkbox"/> Corridor Preservation Plan<br><input checked="" type="checkbox"/> Site Access Improvements<br><input type="checkbox"/> Substandard Road Improvements<br><input type="checkbox"/> Other |

| <b>Project Trip Generation</b> <input type="checkbox"/> Not applicable for this request |                            |                      |                      |
|---|----------------------------|----------------------|----------------------|
|   | Average Annual Daily Trips | A.M. Peak Hour Trips | P.M. Peak Hour Trips |
| Existing  | 630                        | 12                   | 60                   |
| Proposed  | 2,929                      | 224                  | 232                  |
| Difference (+/-)  | +2,299                     | +212                 | +172                 |

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

| <b>Connectivity and Cross Access</b> <input type="checkbox"/> Not applicable for this request |                |                                |              |           |
|---|----------------|--------------------------------|--------------|-----------|
| Project Boundary  | Primary Access | Additional Connectivity/Access | Cross Access | Finding   |
| North   |                | None                           | None         | Meets LDC |
| South   | X              | None                           | None         | Meets LDC |
| East  |                | None                           | None         | Meets LDC |
| West  |                | None                           | None         | Meets LDC |

Notes:

| <b>Design Exception/Administrative Variance</b> <input checked="" type="checkbox"/> Not applicable for this request |                 |                 |
|---|-----------------|-----------------|
| Road Name/Nature of Request   | Type            | Finding         |
|   | Choose an item. | Choose an item. |

Notes:

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

**4.0 ADDITIONAL SITE INFORMATION & AGENCY COMMENTS SUMMARY**

| INFORMATION/REVIEWING AGENCY        | Comments Received   | Objections  | Conditions Requested  | Additional Information/Comments |
|-------------------------------------|---|---|---|---------------------------------|
| Environmental:                      |   |   |   |                                 |
| Environmental Protection Commission | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |                                 |
| Natural Resources                   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |                                 |
| Conservation & Environ. Lands Mgmt. | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |                                 |

Check if Applicable:

- Wetlands/Other Surface Waters
- Use of Environmentally Sensitive Land Credit  Wellhead Protection Area
- Surface Water Resource Protection Area
- Potable Water Wellfield Protection Area  Significant Wildlife Habitat
- Coastal High Hazard Area
- Urban/Suburban/Rural Scenic Corridor  Adjacent to ELAPP property
- Other \_\_\_\_\_

| Public Facilities:   | Comments Received   | Objections  | Conditions Requested  | Additional Information/Comments |
|--|---|---|---|---------------------------------|
| <b>Transportation</b><br><input type="checkbox"/> Design Exc./Adm. Variance Requested<br><input type="checkbox"/> Off-site Improvements Provided   | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |                                 |
| <b>Service Area/ Water &amp; Wastewater</b><br><input type="checkbox"/> Urban <input type="checkbox"/> City of Tampa<br><input 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            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |                                 |
| <b>Hillsborough County School Board</b><br>Adequate <input checked="" type="checkbox"/> K-5 <input type="checkbox"/> 6-8<br><input type="checkbox"/> 9-12 <input type="checkbox"/> N/A Inadequate<br><input type="checkbox"/> K-5 <input checked="" type="checkbox"/> 6-8 <input checked="" type="checkbox"/> 9-12<br><input type="checkbox"/> N/A | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |                                 |
| <b>Impact/Mobility Fees</b><br><br>(Fee estimate is based on a 1,500 square foot, 3 bedroom, 1-2 story townhome)<br>Mobility: \$5,995.00 * 86 units = \$515,570<br><br>Shopping Center (per 1,000 s.f.) Mobility: \$12,206 Fire: \$313   |   |   |   |                                 |



ALF

(per Bed/Fire per 1k sf)

Mobility: \$1,128 Fire: \$95

Parks: \$1,957 \* 86 units School: \$7,027.00 \* 86 units Fire:\$249.00\*86units Total townhome

= \$168,302 = \$604,322 =\$ 21,414

= \$1,309,608

Daycare

(per 1,000 s.f.)

Mobility: \$11,840

Fire: \$95

**Project Summary/Description:**

Urban Mobility, Central Park, South Fire - 86 townhome units; 31-36k s.f. retail strip; 10k Urgent Care (Clinic), 10k Med Office; 10k Daycare, 125bedALF.10kCharterschool. Charter school is exempt from impacts.

Medical Office (10k or less s.f.) (per 1,000 s.f.)

Mobility: \$19,674

Fire: \$158

Clinic

(per 1,000 s.f.) Mobility: \$30,011 Fire: \$95

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

|   |  |  |  |  |
|---|--|--|--|--|
| Requested <input checked="" type="checkbox"/> Consistent<br><input type="checkbox"/> Inconsistent |  |  |  |  |
|---|--|--|--|--|

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## 5.0 IMPLEMENTATION RECOMMENDATIONS

### Remand

This case was presented at the July 25, 2022 Zoning Hearing Master hearing. In order to build more than 57 residential units and exceed the density of 4 DU/ac in Parcel 1, the applicant proposed a mixed use project. In conversations with Planning Commission staff, the applicant had proposed and committed to a timing mechanism that would guarantee the development of all proposed uses (residential in Parcel 1 and non-residential in Parcel 2) and comply with the mixed use Objectives and Policies from the Comprehensive Plan Objective 19 and Policy 19.2 for the integration of mixed-use developments. A condition was proposed stating that *prior to the issuance of any Certificate of Occupancy for 58 or more residential units, two of the non-residential uses listed in the Group lists need be constructed with a Certificate of Occupancy issued*. At the July hearing, the applicant submitted a modification to this condition to require that *prior to the issuance of any building permits for 58 dwelling units or more, the road and utility infrastructure (North South Entry Road with sidewalks and pedestrian connections and utility stub outs necessary to service Parcel 2) to be constructed and Certificate of Completion issued*. This modification of the condition would not require two of the non-residential uses listed in the Group lists to be constructed with a Certificate of Occupancy issued prior to the issuance of any Certificate of Occupancy for 58 or more residential units. Staff from the Planning Commission and Development Services could not amend the reports and the case remained scheduled for the BOCC Land Use Meeting. At the BOCC Land Use Hearing on October 11, 2022, the case was remanded to the Zoning Hearing Master hearing in order to allow the evaluation by staff of the proposed modification to the condition with the timing mechanism for the development of the two project Parcels.

### 5.1 Compatibility

The property's existing use is a recreational golf course. The site is surrounded to the south, southeast, and southwest by single-family detached home sub. Further southwest is Saint Stephens Catholic Church and School. The parcel adjacent to the west contains the Hillsborough County South Central Water Pump Station. Further to the west is single-family detached housing. The adjacent parcel to the north and east is owned by the Tampa Bay Conservancy Inc. (Myron and Helen Gibbons Nature Preserve). Further to the northeast is the

western boundary of a large single-family detached home subdivision with frontage directly on Bell Shoals Road. To the east, along Boyette Rd., is land owned by Hillsborough County containing a large water retention pond.

The subject property is currently developed as a golf driving range. According to the project's narrative, this property is one of the last developable sites in the area, and with its direct access onto Boyette Road, a lighted intersection, and close proximately to Bell Shoals Road, it is a prime location for a mixed-use project. Boyette Road is a 4-lane collector road and existing land uses along this corridor range from commercial uses, private educational facilities, retail uses, residential uses, and preserved areas.

The request is to rezone the subject site from Agricultural Rural (AR) to Planned Development (PD) to allow up to 86 Townhomes (single-family attached) with a density bonus within Parcel 1 (north an existing TECO easement) and up to 20,000 sq. ft. of limited Commercial Neighborhood (CN) from three distinct use categories in Parcel 2 (south of the TECO easement, along Boyette Rd.). In order achieve 86 residential units (at 6 du/ac), the applicant is utilizing Policy 19.3 which provides incentives to encourage mixed-use development by providing at least 3 uses on site which in turn will permit density/FAR up to the next land use category, where 2 uses shall be non-residential uses. The non-residential uses have been classified into 3 Groups. The applicant met with staff and is proposing a list and size of development that could be considered, where at least 2 uses shall be developed in Parcel 2, one use from either Group, where no two uses are chosen from the same group. The applicant is also committed to limiting the height to one-story and architecturally finished on all four sides with a residential like appearance for the non-residential portion of the site.

The three use Groups are proposed as follows:

**Group A – Retail – No drive-thru**

4,500 SF site down restaurant 2,500 SF coffee shop  
5,000 SF Bank

4,000 SF Fitness Center  
5,000 SF Brewery/Beer Garden 5,000 SF Retail limited to:

Apparel and Shoe Store  
Appliance Stores, Small  
Art Supply Store  
Bicycle Sales/repair  
Book/Stationary Store, New and Used Camera/Photography Store

Florist Shop  
Furniture/home furnishings

General Business, Such as Retail Goods and Stores Jewelry Store (Watch, clock, Jewelry Repair)  
New Stand  
Novelty and Souvenir Shop  
Optician/Optical Supplies  
Locksmith  
Mail and Package Services  
Mail Order Office  
Mail Order Pickup Facilities  
Pet shop (no outdoor rec area)  
Sporting Goods Store

5,000 – 10,000 SF Specialty Food Store to include:  
Bakery, Candies, & Nuts, Dairy, Delicatessens, Meat Seafood and Produce

**Group B – Office - No drive-thru**

10,000 SF limited to:  
Urgent Care (no 24 hour operation)

Outpatient Surgical Center (no 24 hour operation) Employment Services  
Government Office  
Health Practitioner's Office

Medical Offices or Clinics with scheduled or Emergency Services by Physicians  
(No 24 hr use) Professional Office  
Professional Services

**Group C – Residence Support - No drive-thru**

10,000 SF limited to:  
Day Care (child / pet)

Community Residential Home/Memory Care (maximum 125 beds)

No drive thru facilities will be permitted to prevent intense uses from developing on site.

A waiver to the additional 2-foot setback for every foot above 20-feet in height, per LDC Section 6.01.01. endnote 8 is being requested only on the west side of the site. The 2:1 requirement is to address potential compatibility issues however; the adjacent use is TBW water facility. There is a 5-foot buffer proposed along the western PD boundary. The eastern boundary will maintain the "2:1" requirement although the closest single- family development is located 500 feet to the east with heavy vegetation functioning as a buffer between both uses. The LDC requires a 5-foot buffer with a Type A screening between the

proposed residential use and the adjacent AR zoning along the east/north. With the required 5-foot buffer and building height of 35-feet, an additional 30-foot setback is required ( $35' - 20' = 15' \times 2 = 30' + 5'$  buffer). The total required setback is 35 feet. Furthermore, the applicant is committed to include a 6-foot fence with a 10-foot buffer / type B screening.

Commercial development standards will be of the Commercial Neighborhood (CN) standards, single story structures.

As part of this remand, the condition pertaining to the timing mechanism for the development of the Parcel 1 (residential) will require that prior to the issuance of any building permits for 58 dwelling units or more, the road and utility infrastructure (North South Entry Road with sidewalks and pedestrian connections and utility stub outs necessary to service Parcel 2) will need to be constructed and Certificate of Completion issued.

The new condition will still require that Parcel 2 be developed with two non-residential uses from two different use Groups. Each use will have a minimum of 2,500 square feet of building space.

Additionally, the applicant commits that in order to demonstrate that Parcel 2 will have adequate land area to accommodate two non-residential uses and related parking, open space, etc., if Parcel 2 is developed in more than one phase, a Preliminary Site Development Plan (PSDP) will be required to be submitted for site development review and approval. The PSDP will need to include the use proposed as Phase 1 along with the most intense use from a different Group list as Phase 2. For instance, if a developer proposes a use from Group A as Phase 1, the PSDP shall include the most intense use remaining in Group B or C (10K sq ft Medical / Health Practitioner's Office). If a developer proposes a use from Group B as Phase 1, the PSDP shall include the most intense use remaining in Group A or C (4,500 sq ft Sit Down Restaurant).

Planning Commission and Development Services staff have reviewed the change in the conditions and has found them acceptable. The condition will still ensure that the project be developed with three different uses and be reviewed in accordance with site development regulations established by the Land Development Code.

The applicant also proposes to provide landscaping and native species vegetation along the floodplain compensation slope areas, subject to review and approval by the County Stormwater review section.

Staff has received letters of concerns and opposition from area residents, the Tampa Bay Conservancy and Sierra Club. The letters expressed concerns with traffic generated by the proposed development, school capacity, noise, impacts to the nature preserve, increase in density, introduction of commercial uses in the

area, impacts to water supply and reduction of setbacks/buffer from the natural preserve along the east. The applicant has amended the application and reduced the intensity of the non-residential uses, restricted square footage of the day care, eliminated school uses, and will maintain the required buffer/setback along the east in accordance with the Land Development Code. The project will maintain a minimum of 35 feet of building setback along the east, meeting the requirement of the Code. In addition, a 20-foot buffer, with Type B screening will be in place for the residential portion. Per LDC Sec. 6.06.06, the proposed project would require at least 5 feet of buffer between residential uses (Parcel 1) and AR zoning with Type A screening. The Type A screening requires plantings or a solid fence. The applicant proposes 20 feet of buffer with Type B screening. Existing vegetation will be allowed to remain in lieu of required landscaping and trees, subject to approval by Natural Resources. The additional landscaping (Type B) consists of a row of evergreen shade trees which are not less than ten feet high at the time of planting, a minimum of two-inch caliper, and are spaced not more than 20 feet apart. The trees are to be planted within ten feet of the property line. The solid fence will also be placed at least 10 feet from the parcel line, away from existing vegetated areas. Between Parcel 2 (non-residential uses) and the nature preserve site along the east, the applicant proposes a 30-foot buffer with Type B screening. The Code requires at least 20 feet of buffer and Type B screening. Per the submitted site plan, retention ponds will be placed along the east, adjacent to the nature preserve, and vegetation will be preserved subject to Natural Resources review and approval. As part of the site development review process, the developer is required to provide wildlife and environmental studies in accordance with the Land Development Code. The project will be conditioned requiring that water distribution system improvements will need to be completed prior to connection to the County's water system by this future development. No building permits that would create demand for water service will be issued until the completion of two County funded Capital Improvement Program projects in South County are put into operation. Stormwater design and construction will be subject to review and approval by the site development review section as established in the Land Development Code to ensure the project will capture all stormwater onsite. The proposed PD plan shows areas for future retention ponds. Comments from the School Board state that a school concurrency review will be issued PRIOR TO preliminary plat or site plan approval. The School Board also indicated that at this time, additional capacity at the middle and high school levels exists in adjacent service areas to accommodate the proposed project, and capacity exists in the Elementary School level for this area.

Although cross access to adjacent parcels is encouraged, the existing adjacent uses restricts this. The Tampa Bay Water supply facility is located to the west with its own access fenced with a 6-foot chain link fence with electrical wires to prevent trespassing. The Gibbon Nature Preserve is located to the north and east of the subject site and future development of this site is unlikely.

The is located between a water supply facility to the west and a storm water pond and recreation land/preserve to the east and to the north. Residential subdivisions surround this area to the north, northeast and south. Other residential projects are located further to the west. The site is also bisected by the 150-foot wide TECO easement creating two distinct areas for commercial use along Boyette Road and the residential component internal to the site, adjacent to the preserve. The TECO easement functions as buffer between both uses, however the site will be interconnected by vehicular and pedestrian access.

There are wetlands present on the site. The Environmental Protection Commission, EPC, reviewed the proposed Site Plan and does not object. No impacts to wetlands or setbacks are shown on the proposed Plan. The Conservation and Environmental Lands Management reviewed this rezoning petition and has no comments. Transportation staff does not object to this request and proposes conditions for site access and road improvements along Boyette Rd.

The area is a mix of mostly residential single family-detached, and low scale commercial, and office uses. Residential support uses (schools and churches) are also commonly found in the area. The proposed project scale and design would ensure that is compatible with the surrounding development pattern and land uses. Intensive uses are being eliminated from the proposed development. The project will maintain the required setbacks along the east, where the adjacent nature preserve is located, as required per the LDC. The applicant, however, will provide additional buffer and screening more than what the Code requires. The non-residential component will be limited to 1-story buildings with a residential design. Compared to the initial proposal by the applicant, the project has been scaled down, more restrictions have been proposed, and compliance with provision from the Code has been maintained. Staff from the Planning Commission has evaluated the request and has found it Consistent. Objective 19 and Policy 19.2 indicates that a mixed-use development must be integrated. Policy 16.2 requires the gradual transition between uses. The applicant's site plan shows the commercial buildings are in the southern portion of the property facing south towards Boyette Road. The proposed site plan shows an integrated design to the residential located on the northern portion of the property and a gradual transition from the natural preservation area to the north and east, consistent with policy direction. To ensure the project will be developed in accordance with the objectives and policies above, a timing mechanism for the development of the mix of uses is being proposed requiring the construction of the access road and infrastructure serving the project and the non-residential uses in Parcel 2 to be completed before more than 57 residential units can be issued building permits. Planning Commission staff also sees no compatibility issues as the adjacent use is public institutional. Lastly, a waiver to the Commercial Locational Criteria (CLC) has been requested, and Planning Commission staff recommends approval of the waiver.

## 5.2 Recommendation

Based on the above considerations, staff recommends approval with conditions.

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

### SUMMARY OF HEARING

THIS CAUSE came for hearing before the Hillsborough County Land Use Hearing Officer on January 17, 2023. Mr. Brian Grady of the Hillsborough County Development Services Department introduced the petition. He stated that Mr. Cameron Clark of the County Attorney's Office would make a brief statement regarding the application prior to the applicant's presentation.

Mr. Cameron Clark of the County's Attorney's Office stated that there was a letter in the record that was submitted on the day of the Zoning Hearing Master (ZHM) hearing from Attorney Jane Graham who is objecting to the ZHM hearing going forward and wished to address that objection at the start of the ZHM hearing. He added that he understood that Ms. Graham was present at the hearing and is representing opponents. Mr. Clark stated that when he looked at the reasons behind the objection, the substantive one was the allegation that the ZHM hearing initially violated the six month window where the application has to go to a hearing within the first six months on the initial hearing date or its withdrawn. In conferring with staff, Mr. Clark testified that did not happen. The initial hearing date was set for January 18, 022 and Ms. Graham concluded that the application should have been withdrawn by June. He added that it was actually five months as July would be six months from the hearing date. The application was heard in July of 2022 and staff determined that it was in order to be heard. The application went to the Board of County Commissioners and it was remanded which resets the six month window for withdrawal. Mr. Clark stated that there was also an objection that the Planning Commission and Development Services staff changed their recommendations but there is nothing in the Land Development Code that requires the reports after a remand be the same. Staff can always reanalyze the application and there is not a final decision until they go to the Board and are voted on at that time. Mr. Clark concluded his comments by stating that he did not see any reason for anything to be heard prior to the hearing and that Ms. Graham would be able to testify at the appropriate time during the ZHM hearing.

Ms. Kami Corbett testified on behalf of MattMattamy Homes. She stated that the application had been remanded at the request of the applicant. She added that a full presentation including transportation and environmental was made at the prior ZHM hearing and those sections will not be repeated. This issue for the remand pertains to the condition which included a timing mechanism associated



with providing three land uses. The condition proposed at the prior hearing did not capture the spirit of the providing the uses therefore the applicant requested a remand to work with staff on a revised condition. Conditions 1.4 and 1.5 in the staff report have been revised and is supported by the applicant. A condition regarding additional wetland plantings has been proposed. Ms. Corbett stated that those are the only changes to the application since the last hearing. There are additional letters in opposition from citizens regarding generalized concerns about traffic but not specific to the development itself. She stated that Ms. Graham submitted a letter asserting that the rezoning was inconsistent with the Riverview Community Plan which specifically addresses densities along the Alafia River. Ms. Corbett testified that the subject property is not along the Alafia River therefore the policy is not applicable. She added that County staff accurately analyzed this issue in their staff report.

Mr. Israel Monsanto, Development Services Department testified regarding the County's staff report and the remand. Mr. Monsanto stated that in order to build more than 57 residential units and exceed the density of four dwelling units per acre in Parcel 1, the applicant has proposed a mixed use project. The applicant committed to a timing mechanism that would guarantee the development of all proposed uses, residential in Parcel 1 and non-residential in Parcel 2, and comply with the mixed use objectives from Comprehensive Plan Objective 19 and Policy 19.2 for the integration of mixed use development. Mr. Monsanto testified that a zoning condition was proposed stating that prior to the issuance of any Certificate of Occupancies for 58 or more residential units, two of the non-residential uses listed in the Group lists need to be constructed with a Certificate of Occupancy issued. Mr. Monsanto summarized the condition and circumstances that followed at the prior ZHM hearing which led to the staffs not supporting the revised condition. Subsequent to the remand, the applicant worked with staff to draft a condition that requires Parcel 2 to be developed with two non-residential uses from two different use Groups with each use having a minimum of 2,500 square feet of building space. The applicant has committed submit a Preliminary Site Development plan for review and approval to ensure that there is adequate land area to accommodate two non-residential land uses and the associated parking, open space and other requirements. Mr. Monsanto concluded his presentation by stating that the Planning Commission has found the request consistent with the Comprehensive Plan. The applicant proposes to provide landscaping and native species vegetation along the floodplain compensation slope area subject to the review and approval of the Stormwater review section.

Ms. Jillian Massey of the Planning Commission staff testified that the property is designated Residential-4 and located within the Urban Service Area and the Riverview Community Planning Area. The proposed density of six dwelling units per acre exceeds the density permitted under the RES-4 Future Land Use category however, a density bonus is proposed as outlined in Policy 19.3. She added that a zoning condition is proposed to ensure all three uses are developed to comply with the density bonus criteria. Neighborhood Commercial land uses

are proposed for the non-residential portion of the site. Planning Commission staff worked with the applicant to limit the possible Neighborhood Commercial uses to help protect the surrounding residential and preservation land uses. The request is consistent with Objective 16 and Policy 16.3 regarding compatibility. A waiver of commercial locational criteria is supported by staff as the project is a mixed use development with limited Neighborhood Commercial land uses. Ms. Massey testified that the request meets Goal One of the Riverview Community Plan which strives to achieve better design and densities compatible with the Riverview vision. In closing, Ms. Massey stated that the Planning Commission staff finds the request consistent with the Comprehensive Plan subject to the proposed conditions.

Hearing Master Finch asked audience members if there were any proponents of the application. No one replied.

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

Ms. Jane Graham testified on behalf of Mr. James Anderson who resides at 10514 Sedbrook Drive. She stated that Mr. Anderson opposes the application and requests that it be denied. She referred to her letter objecting to the remand of the rezoning application and entered it into the record. Ms. Graham stated that several people will speak in opposition and explain why the application fails to meet the rezoning criteria under Land Development Code Section 10.03.03.E. The application is inconsistent with the Comprehensive Plan Goal 6 which intends to reduce density along the Alafia River. The rezoning requests to increase density. Ms. Graham testified that Bell Creek is a tributary of the Alafia River and is only a number of feet away on the norther border of the subject property. She concluded her comments by stating that the request is incompatible with the surrounding uses.

Mr. James Anderson 105146 Brook Drive Riverview testified in opposition. Ms. Graham asked Mr. Anderson if he had taken the pictures that were shown during his presentation. Mr. Anderson replied yes. He described the traffic that comes from Boyette Elementary and the backups that are existing which effectively block parts of Boyette Road when the school dismisses students in the afternoon. Ms. Graham asked Mr. Anderson if agreed that the traffic congestion is existing and could be further aggravated. Mr. Anderson replied that it will and stated that the addition of 2,299 cars coming from Sedbrook Drive which is where Boyette Elementary is will make the traffic worse. Ms. Graham asked Mr. Anderson to describe the next photo. Mr. Anderson stated that it is a photo of the property and shows that there is about 50 to 60 feet between the Ace Golf facility and Bell Creek. A bridge goes across Bell Creek which is connected to the Alafia River. Ms. Graham showed several other photos of the subject property. Mr. Anderson discussed a photo of the power lines that go across the Ace Golf property and stated that the proposed townhome location will require residents to go under the power line as they leave the property. He added that

there are also pipelines including ammonia and water that are existing. Ms. Graham submitted photos and letters of objection into the record.

Ms. Ethel Hammer 19825 Angel Lane Odessa testified in opposition. Ms. Hammer stated that she was representing the Tampa Bay Conservancy and that their Board of Directors had voted unanimously to oppose the application as submitted. Ms. Hammer continued by stating that the objection is based on the density and intensity of the project including the proposed waivers. She added that the Conservancy does not object to the development of the site as long as it would be within the parameters of the RES-4 Future Land Use category. Ms. Hammer stated that the waiver to commercial locational criteria is not justified as commercial land uses are inconsistent with the surrounding land use pattern. There is single-family residential to the north, south, east and west. County staff mentioned the presence of a school nearby but that is a residential support use which should not be used to justify commercial development. She discussed the existing commercial to the east of Bell Shoals and also to the west and stated that is where the commercial development belongs. The approval of commercial on the subject property would serve as a precedent for other vacant parcels along Boyette Road. Ms. Hammer stated that not only is the developer asking for a waiver, but also to develop four times the amount of square footage that would be permitted if the site met commercial locational criteria. She stated that if the property met the criteria, it would only be permitted to develop 5,000 square feet. Instead, the rezoning requests 20,000 square feet which is four times more. Goal 1 of the Riverview Community Plan strongly encourage the avoidance of strict commercial. Goal 6 of the Riverview Plan directs the protection of the Alafia River watershed. She stated that it is her opinion that the word watershed is more than just the properties that are immediately adjacent. A portion of the subject property fronts Bell Creek and the property is also located in the Coastal High Hazard Area. Ms. Hammer concluded her presentation by stating that the Tampa Bay Conservancy objects to the granting of the density bonus as the waiver of commercial locational criteria. Ms. Graham submitted a copy of Ms. Hammer's written statement and resume into the record.

Mr. Gary Gibbons 800 29<sup>th</sup> Avenue North St. Petersburg testified in opposition and on behalf of the Gibbons family. Mr. Gibbons stated that the preserve is named after his mother. He detailed his family's ownership of land in the area and stated that the property is located in the Coastal High Hazard Area and has significant wildlife habitat. He discussed Goal 6 of the Riverview Community Plan and the reduction of densities and intensities to protect the environment and wildlife along the Alafia River and surrounding watershed. Mr. Gibbons summed up his comments by stating that the Alafia River is the primary source of drinking water for Tampa Bay Water which serves the entire region and that the project is incompatible with the surrounding properties.

Mr. Ryan Brooks 12714 Shadowcrest Court testified in opposition and stated that he was speaking both as a private resident and as Vice President of the Boyette Springs Homeowners Association. He filed their objection into the record. Mr.

Brooks described the existing traffic generated by the school and stated that the additional project traffic will result in cars blocking the entrances to the subdivision. He stated that he has witnessed several accidents at the neighboring intersections.

Ms. Jennifer Miller 13317 Waterford Run Drive testified in opposition and stated that he is the Waterford on the Alafia Homeowners Association President. She added that she was speaking on behalf of everyone in the Waterford community. A letter of opposition was sent to County staff in January of 2022. Ms. Miller stated that she met with representatives of the Mattamy group to discuss their opposition and sent pictures of Bell Creek flooding to the County. The pictures were shown at the ZHM hearing and Ms. Miller stated that they show that the Creek overflows not only during hurricanes but also where there is severe rain for more than two days. She described the traffic generated by the school and concluded her comments by stating that the rezoning does not fit into the area.

Ms. Prather attempted to virtually testify in opposition but had technical issues such that she could not be heard or understood.

Ms. Graham asked if she could call Ms. Prather as she could be seen to ensure compliance with County policy. Ms. Prather could not be heard via Ms. Graham's cell phone.

Ms. Graham asked the Hearing Master if she could submit additional evidence from Ms. Prather after the hearing due to the technical audio difficulties.

Mr. Clark of the County Attorney's Office stated that the virtual participation in the hearing is an option and does not preclude the fact that there may be audio difficulties. He added that additional evidence is rarely approved and stated that it would be unlikely for this circumstance. Mr. Clark stated that if Ms. Prather was on the adjacent property owner mailing list, she would be able to come to the Board. Hearing Master Finch asked Mr. Clark if she had already affirmed that. Mr. Clark replied that she had but that he had not confirmed it.

Ms. Graham asked if Ms. Prather could submit her comments after the hearing. Hearing Master Finch replied no as the hearing would be closed and documents are to be submitted at the hearing into the record as Ms. Graham had done with Ms. Hammer's report at the ZHM hearing.

Ms. Prather resolved her audio issues and began her testimony in opposition.

Ms. Sabine Prather 1601 Bentwood Drive Sun City Florida testified and stated that she had signed off on a letter that Attorney Graham proposed in November about the project's consistency with the community planning. She added that two of the parcels are located in a flood zone. Ms. Prather stated that she is very concerned with climate change and the weather changes that are going on. She expressed concerns regarding flooding and the impact of insurance companies leaving Florida that may make it impossible for new residents to obtain insurance

in flood zones.

County staff did not have additional comments.

Ms. Corbett testified during the rebuttal period and asked Mr. Henry to testify regarding traffic issues and then Abbey Naylor will address the environmental concerns.

Mr. Steve Henry 5023 West Laurel testified on behalf of the applicant regarding transportation issues. Mr. Henry stated that the school hours are from 7:40 am to 1:55 pm. The traffic counts conducted incorporated the am peak hours and show that the intersection operates at an acceptable level of service. He added that he suspects that there may be some operational issues with the school drop off and pick up. But from a capacity standpoint, the intersection currently operates at an acceptable level of service and continues that acceptable level with the project traffic. County staff stated in their staff report that Boyette Road operates at Level of Service C. Mr. Henry concluded his comments by submitting the County's Level of Service report documenting Boyette Road's Level of Service C status into the record.

Ms. Abbey Naylor 14706 Tudor Chase Drive testified on behalf of the applicant regarding environmental issues. Ms. Naylor stated that the nature preserve is important and offers a good habitat for wildlife. Ms. Naylor showed a graphic to discuss the proposed development plan. She stated that there is proposed flood mitigation on the northern and eastern sides of the preserve. To the south will be a storm water management pond and then south of the pond will be the beginning of the building area. On the west side of the preserve is 194 feet of buffer area between the adjacent parcel and the start of the subject development. There is 343 feet of buffer on the eastern side which is farther away than the length of a football field. The floodplain mitigation area will include native vegetation which will be coordinated with the County at the time of development. No wetlands will be impacted and the floodplain mitigation area will essentially become a wetland by design. Regarding the concerns stated by the opposition that development is intended to be reduced adjacent to the Alafia River, Ms. Naylor testified that the Alafia River watershed is 118 square miles in size. The Goal stated in the Comprehensive Plan is intended to reduce the density and intensity directly adjacent to the Alafia River, i.e. river front properties thereby protecting the surrounding watershed. She added that she did not believe the intent of the goal was to reduce the density and intensity of 118 square miles. Ms. Naylor described other examples of projects adjacent to preserves in Hillsborough County such as the Fish Hawk Nature Preserve. She concluded her comments by stating that there is an apartment complex abutting the Bell Creek preserve to the south.

Mr. Trent Stephenson 505 East Jackson testified on behalf of the applicant and stated that he is the civil engineer for the project. He discussed the proposed encroachment into the flood plain and stated that there will be a compensation

area which is required by the County and that includes not having any adverse impacts to the neighbors. Mr. Stephenson stated that the area is a sensitive basin that the County has identified as having low flooding and limits the project to a discharge rate of the mean annual storm event which is a 2.33 year storm versus the 25 year storm. Therefore restrictions are in place to try to reduce the flooding situation in the area.

Ms. Corbett continued the applicant's rebuttal and stated that the subject property is an existing golf driving range. She added that it is not a vacant environmentally sensitive piece of property. There are TECO and gas lines on-site that were acknowledged by the opposition that have an equal or more detrimental potential for environmental impacts than the proposed project. She concluded her testimony by stating that the traffic concerns have been addressed as has the environmental compatibility.

The hearing was then concluded.

### **EVIDENCE SUBMITTED**

\*Mr. Anderson submitted copies of site and surrounding area photographs into the record.

\*Ms. Graham submitted copies of letters in opposition to the Hearing Master, Ms. Lundgren and Mr. Tschantz of the County Attorney's Office, Mr. Monsanto of the Development Services Department and a copy of Ms. Hammer's planning analysis of the rezoning application into the record.

\*Mr. Gibbons submitted a copy of his written presentation and aerial photographs and a Hillsborough County map into the record.

\*Mr. Brooks submitted a copy of a letter in opposition from the Boyette Springs Homeowners Association into the record.

\*Ms. Miller submitted a copy of a letter and photographic exhibits in opposition from the Waterford on the Alafia Homeowners Association into the record.

\*Ms. Corbett submitted a site plan depicting the proposed location of the flood plain mitigation and storm water pond, and graphics showing development adjacent to other nature preserves into the record.

\*Mr. Henry submitted a copy of the 2020 Hillsborough County Level of Service report 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.

## REMAND FINDINGS OF FACT

1. The subject site is 17.67 acres in size and is zoned Agricultural Rural (AR) and designated Residential-4 (RES-4). The property is located in the Urban Service Area and the Riverview Community Planning Area.
2. The purpose of the rezoning from AR to Planned Development (PD) is to permit the development of a maximum of 86 townhomes and up to 20,000 square feet of commercial, office, residential support uses and/or a Type C Community Residential Home.
3. The rezoning application was remanded to the Zoning Hearing Master hearing at the request of the applicant to revise a zoning condition pertaining to the timing of the development of Phase I which is the residential portion of the project. Additionally, a zoning condition has been added to require additional plantings in the floodplain compensation area.
4. The PD includes a request to utilize Policy 19.3 of the Comprehensive Plan's Future Land Use Element which states that projects with three or more land uses may utilize the density of the next higher land use category which in this case would be the RES-6 Future Land Use category.
5. The applicant has requested a waiver to the additional two-to-one setback for buildings over twenty (20) feet in height on the western side of the project only.

The waiver is justified as the adjacent use along the entire western boundary is a Tampa Bay Water supply facility (the Hillsborough County South Central Water Pump Station). The applicant is providing a five (5) foot buffer along the western PD boundary.

6. No Planned Development Variations have been requested by the applicant.
7. The Planning Commission found the proposed density of six dwelling units per acre exceeds the density permitted under the RES-4 Future Land Use category however, a density bonus is proposed as outlined in Policy 19.3 which states that projects with three or more land uses may utilize the density of the next higher land use category which would be the RES-6 Future Land Use category. Staff testified that the revised zoning condition proposed to ensure all three uses are developed to comply with the density bonus criteria is supported by staff. The Planning Commission staff worked with the applicant to limit the possible Neighborhood Commercial uses to help protect the surrounding residential and preservation land uses. The request is consistent with Objective 16 and Policy 16.3 regarding compatibility. Staff stated that a waiver of commercial locational criteria is supported by staff as the project is a mixed use development with limited Neighborhood

Commercial land uses. The Planning Commission found the rezoning request as reviewed prior to the Zoning Hearing Master hearing consistent with the Comprehensive Plan.

8. The Development Services Department staff testified that they found the request approvable and supports the revised zoning condition regarding the development timing mechanism.
9. The subject property is currently developed with a golf driving range facility which includes batting cages, a miniature golf course and associated retail land uses. The facility is lighted for operation at night and has been in existence for approximately twenty (20) years.
10. The subject property is bisected by a TECO easement that includes existing power lines which run east-west through the property. The Planned Development proposes to locate the townhomes north of the TECO easement (Parcel 1) and the non-residential land uses south of the TECO easement (Parcel 2) which fronts Boyette Road.
11. The area surrounding the subject property is developed with a water supply facility owned by Tampa Bay Water to the west, a 60-acre nature preserve with an ownership strip to the east and the majority of the preserve to the north and residential subdivisions across Boyette Road to the south. Hillsborough County owns a larger tract of land fronting Boyette Road to the east of the nature preserve property that includes a stormwater pond. Also to the east of the nature preserve property is a wooded tract that is owned by the homeowners association for the residential subdivision to the northeast. The tract appears to be developed with recreational amenities including a lighted tennis court that serve the residents of the subdivision.
12. The applicant proposes to provide the required floodplain mitigation compensation area with native plantings as well as the stormwater pond at the northern portion of the subject property to buffer the nature preserve to the north and northeast corner of the site from the proposed townhomes. Further, a stormwater pond is proposed to be located at the southeastern portion of the parcel to also buffer the non-residential development from the nature preserve property.

The applicant committed to a zoning condition which requires a 4:1 slope that will be planted with appropriate native species on three-foot centers for herbaceous ground cover, five-foot centers for shrubs and ten-foot center for trees.



13. Testimony in opposition was provided at the Zoning Hearing Master hearing and also submitted into the County's record prior to the hearing.

An attorney representing a neighbor submitted letters in opposition to the Zoning Hearing Master and the Development Services Department planner assigned to the rezoning case and letters requesting the County cancel the Zoning Hearing Master hearing to attorneys in the County Attorney's Office. The request to cancel the hearing was based on the alleged violation of the Land Development Code (LDC) section pertaining to the time in which an application must be heard at a public hearing. It is noted that the Assistant County Attorney at the Zoning Hearing Master hearing addressed the request and found the application had met the requirements of the LDC and therefore the application could proceed and be heard.

The President of the Tampa Bay Conservancy who owns the nature preserve to the east and north testified in opposition at the Zoning Hearing Master hearing. A planning analysis was submitted into the record. The objections were based on the proposed density and intensity of the project including the proposed waivers and a concern that approving the project would provide precedent for future development. Further, opposition to the waiver of commercial locational criteria was expressed as commercial land uses are inconsistent with the surrounding land use pattern. The Conservancy representative stated that the intensity bonus equates to four times the square footage permitted under the Future Land Use designation. Objections to the rezoning were also cited in conflict with the Goal 1 of the Riverview Community Plan which strongly encourages the avoidance of strict commercial and Goal 6 encouraging the reduction of densities and intensities along the Alafia River.

A family member of the Gibbons Nature Preserve testified in opposition and expressed concerns regarding the property's location in the Coastal High Hazard Area, incompatibility with the Comprehensive Plan and Riverview Community Plan and possible effects to the County's drinking water given the parcel's proximity to the Alafia River.

Two citizens from neighboring Homeowner's Associations testified in opposition. The first was a representative of the Boyette Springs Homeowners Association who stated that the existing traffic generated by the school and additional project traffic will result in cars blocking the entrances to the subdivision. The second citizen was a representative of the Waterford on the Alafia Homeowners Association who had concerns regarding traffic and flooding.

14. A non-residential land use has operated on the subject property for almost twenty (20) years. The existing golf driving range, miniature golf course and batting cages land use includes a lighted field and parking lot area as well as

accessory retail sales. The impacts to the surrounding parcels from the existing use are similar in nature to similarly sized commercial land uses.

15. The development of Parcel 2 with limited Commercial Neighborhood land uses is appropriate along the frontage of Boyette Road which is a four-lane collector roadway.
16. The proposed land use of single-family attached dwelling units (townhomes) is consistent with the development pattern in the area and serves to provide an alternative housing option to the community. The requested density bonus to achieve a maximum of 86 dwelling units is appropriate given the required mixed use development and the timing mechanism which requires that the road and utility infrastructure be constructed and Certificates of Occupancy issued prior to any building permits being issued after the 57<sup>th</sup> dwelling unit.
17. Opposition to the rezoning request included concerns regarding the possible negative impact to the transportation network in the area as traffic is currently congested given the school in the area. The applicant's professional engineer testified that the traffic counts conducted for the project incorporated the existing school traffic and resulted in an acceptable level of service both before the development and after with the project traffic. Further, County staff stated in their staff report that Boyette Road operates at Level of Service C. County Transportation staff had no objection to the rezoning request subject to the proposed zoning conditions.
18. Testimony from the opposition addressed the rezoning request's conflict with certain environmental policies in the Comprehensive Plan including Goal 6 of the Riverview Community Plan which seeks to protect properties along the Alafia River. The Planning Commission stated in their staff report that the Alafia River does not abut the subject property. Further, Planning Commission staff stated that a small portion in the northeast corner of the subject property is located in the Coastal High Hazard Area and no development will occur in this area.
19. The design of the site plan with the floodplain mitigation and stormwater ponds adjacent to the nature preserve both to the north and east as well as along the Boyette Road frontage mitigates the impacts of the project to the surrounding area. The delineation of the land uses north and south of the TECO easement with a connecting access road provides a gradual transition of land uses from the preserve to Boyette Road.

20. The rezoning to Planned Development with the zoning conditions as prepared by the Development Services Department for 86 townhomes and up to 20,000 square feet of commercial, office, residential support uses and/or a Type C Community Residential Home is an appropriate mixed-use project. The site plan and associated zoning conditions result in a project that is compatible with the surrounding land uses in the area and consistent with the Comprehensive Plan.

### **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 unless zoning condition 1.4 is revised as presented by the applicant's representative at the Zoning Hearing Master hearing.

### **CONCLUSIONS OF LAW**

Based on the Findings of Fact cited above, there is substantial competent evidence to demonstrate that the requested Planned Development rezoning is in conformance with the applicable requirements of the Land Development Code and with applicable zoning and established principles of zoning law unless zoning condition 1.4 is revised as presented by the applicant's representative at the Zoning Hearing Master hearing.

### **SUMMARY**

The request is to rezone 17.67 acres from AR to PD to permit the development of a maximum of 86 townhomes and up to 20,000 square feet of commercial, office, residential support uses and/or a Type C Community Residential Home.

The rezoning application was remanded to the Zoning Hearing Master hearing at the request of the applicant to revise a zoning condition pertaining to the timing of the development of Phase I which is the residential portion of the project. Additionally, a zoning condition has been added to require additional plantings in the floodplain compensation area.

The PD includes a request to utilize Policy 19.3 of the Comprehensive Plan's Future Land Use Element which states that projects with three or more land uses may utilize the density of the next higher land use category which in this case would be the RES-6 Future Land Use category. The applicant has requested a waiver to the additional two-to-one setback for buildings over twenty (20) feet in height on the western side of the project only. The waiver is justified as the adjacent use along the entire western boundary is a Tampa Bay Water supply facility (the Hillsborough County South Central Water Pump Station). The applicant is providing a five (5) foot buffer along the western PD boundary.

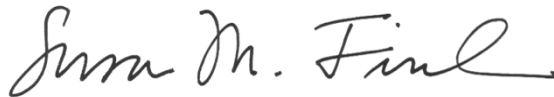
Testimony in opposition was provided at the Zoning Hearing Master hearing and also submitted into the County's record prior to the hearing. The concerns expressed pertained to compatibility with the surrounding area, the increase in density and intensity of the project and its possible effects on the transportation network and environmental features. An attorney representing a property owner requested to cancel the hearing based on the alleged violation of the Land Development Code (LDC) section pertaining to the time in which an application must be heard at a public hearing. The Assistant County Attorney at the Zoning Hearing Master hearing addressed the request and found the application had met the requirements of the LDC and therefore the application could proceed and be heard. The opposition addressed the rezoning request's conflict with Goal 6 of the Riverview Community Plan which seeks to protect properties along the Alafia River. The Planning Commission stated in their staff report that the Alafia River does not abut the subject property and concluded that the project is in accordance with the Riverview Community Plan. Further, Planning Commission staff stated that a small portion in the northeast corner of the subject property is located in the Coastal High Hazard Area and no development will occur in this area. Specific concern was noted by the opposition regarding the possible negative impact to the transportation network in the area as traffic is currently congested given the school in the area. The applicant's professional engineer testified that the traffic counts conducted for the project incorporated the existing school traffic and resulted in an acceptable level of service both before the development and after with the project traffic. Further, County staff stated in their staff report that Boyette Road operates at Level of Service C. County Transportation staff had no objection to the rezoning request subject to the proposed zoning conditions.

A non-residential land use has operated on the subject property for almost twenty (20) years. The existing golf driving range, miniature golf course and batting cages land use includes a lighted field and parking lot area as well as accessory retail sales. The impacts to the surrounding parcels from the existing use are similar in nature to similarly sized commercial land uses. The design of the site plan with the floodplain mitigation and stormwater ponds adjacent to the nature preserve both to the north and east as well as along the Boyette Road frontage is considerate to the surrounding area. The delineation of the land uses north and south of the TECO easement with a connecting access road provides a gradual transition of land uses from the preserve to Boyette Road.

The rezoning to Planned Development with the zoning conditions as prepared by the Development Services Department for 86 townhomes and up to 20,000 square feet of commercial, office, residential support uses and/or a Type C Community Residential Home is an appropriate mixed-use project. The site plan and associated zoning conditions result in a project that is compatible with the surrounding land uses in the area and consistent with the Comprehensive Plan.

## RECOMMENDATION

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



February 7, 2023

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**Susan M. Finch, AICP**  
**Land Use Hearing Officer**

**Date**

**COUNTY OF HILLSBOROUGH**

**RECOMMENDATION OF THE  
LAND USE HEARING OFFICER**

**APPLICATION NUMBER:** RZ PD 22-0075 / SECOND REMAND

**DATE OF HEARING:** July 24, 2023

**APPLICANT:** MattMattamy Tampa/Sarasota, LLC.

**PETITION REQUEST:** A request to rezone property from AR to PD to permit a mixed-use development consisting of 86 multi-family dwelling units (attached single-family) and a maximum of 20,000 square feet of commercial, office and residential support uses

**LOCATION:** 12910 Boyette Road

**SIZE OF PROPERTY:** 17.67 acres, m.o.l.

**EXISTING ZONING DISTRICT:** AR

**FUTURE LAND USE CATEGORY:** RES-4

**SERVICE AREA:** Urban

**COMMUNITY PLAN:** Riverview

## DEVELOPMENT REVIEW STAFF REPORT

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

### 1.0 APPLICATION SUMMARY

Applicant: Mattamy Tampa/Sarasota, LLC

FLU Category: RES-4

Service Area: Urban

Site Acreage: 18 +/-

Community Plan Area: Riverview

Overlay: None



#### Introduction Summary:

The applicant seeks to rezone a parcel zoned Agricultural Rural (AR) to Planned Development (PD) to allow for the development of a mixed-use project. The project is located on the north side of Boyette Road, 1/2 mile west of Bell Shoals Rd. in Riverview. A TECO easement runs east-west bisecting the parcel into two areas. The project will consist of 86 multifamily units (attached single-family) north of the TECO easement and up to 20,000 square feet of commercial, office, residential support uses and/or a Community Residential Home Type C south of the TECO easement, along Boyette Road. The developer intends to utilize the Mixed Use Incentive program set forth in the Comprehensive Plan to achieve a density up to 6 du/acre on the site. The site will have one access points on Boyette Rd.

**Zoning: Existing Proposed**

|                        |  |  |
|------------------------|--|--|
| District(s)            | AR   | Planned Development                          |
| Typical General Use(s) | Single-Family Residential (Conventional/Mobile Home) | Multi-family Residential and Non-Residential |
| Acreage                | 18   | 18   |
| Density/Intensity      | 1 unit per 5 acre (upland)                           | 6 units per acre/0.20 FAR                    |
| Mathematical Maximum*  | 3 units  | 86 Res. Units / 20,000 sq ft                 |

\*number represents a pre-development approximation

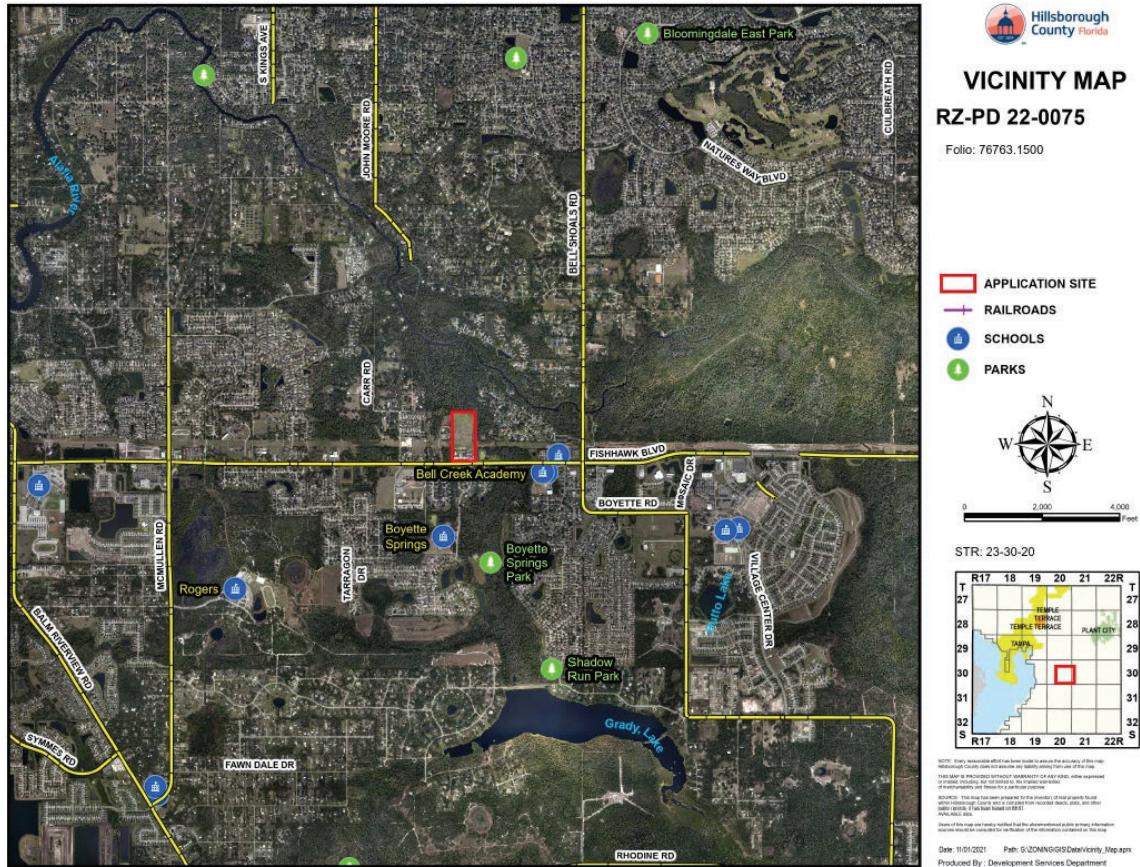
**Development Standards: Existing Proposed**

|                                  |                              |  |  |
|----------------------------------|------------------------------|--|--|
| District(s)                      | AR                           | PD   |  |
| Lot Size / Lot Width             | 5 Ac / 150'                  | 1,620 sq ft / 18'  |  |
| Setbacks/Buffering and Screening | 50' Front 50' Rear 15' Sides | Residential 20' Front 10' Rear (35' east) 10' Sides (35' east) | Non-Residential 20' Front 20' Rear 20' Sides |
| Height                           | 50'                          | 35'  | 35'  |



| Additional Information:                                      |  |
|--|--|
| PD Variation(s)  | None requested as part of this application   |
| Waiver(s) to the Land Development Code                       | To Section 6.01.01.01 Footnote 8.<br>Reduce the required building setback for building height over 20 feet (west). |
| <b>Planning Commission Recommendation:</b><br><br>Consistent | <b>Development Services Recommendation:</b><br><br>Approvable, subject to proposed conditions                      |

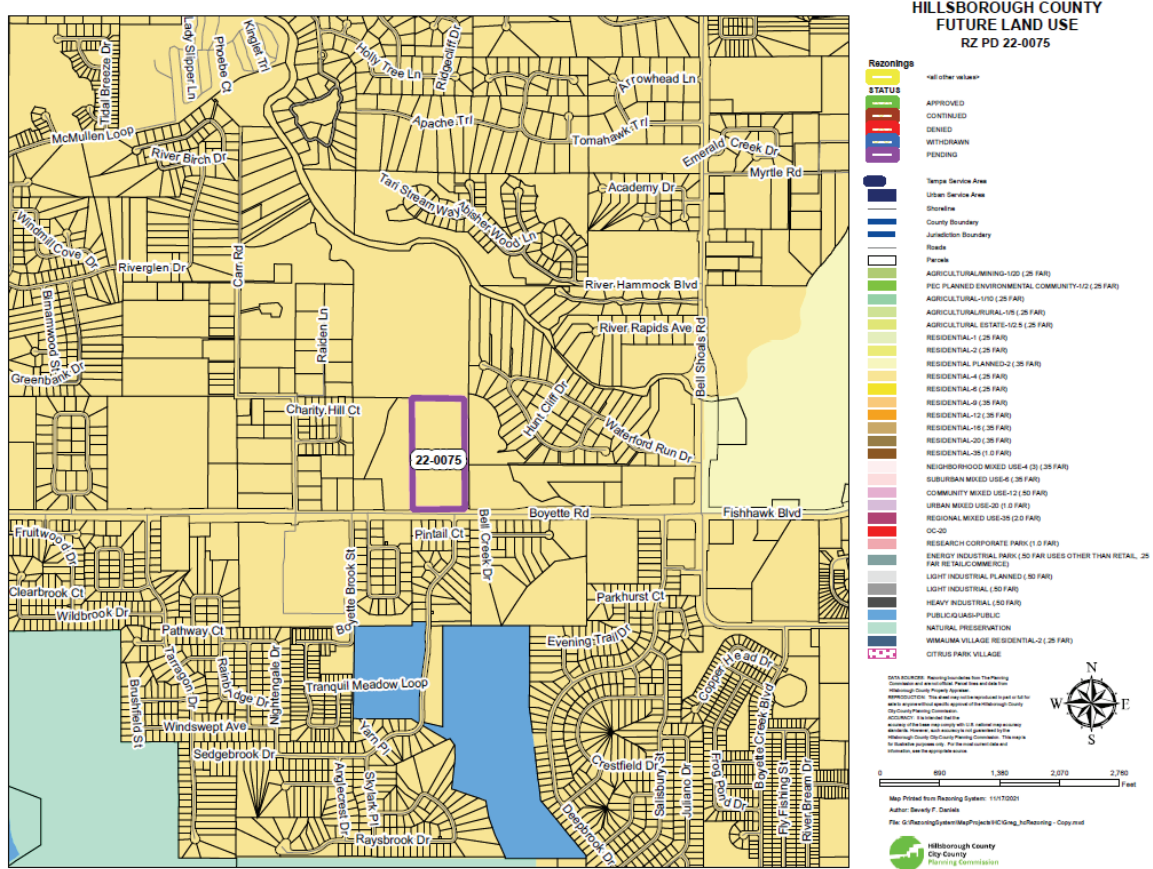
## 2.0 LAND USE MAP SET AND SUMMARY DATA 2.1 Vicinity Map



### Context of Surrounding Area:

The project is located north of Boyette Road, between McMullen Rd. and Bells Shoals Rd. Area mostly consists of residential land. Some office uses are located to the west and east. Commercial uses are found further east, at the intersection of Boyette Rd and Bell Shoals Rd. Private schools and churches are also found in the area.

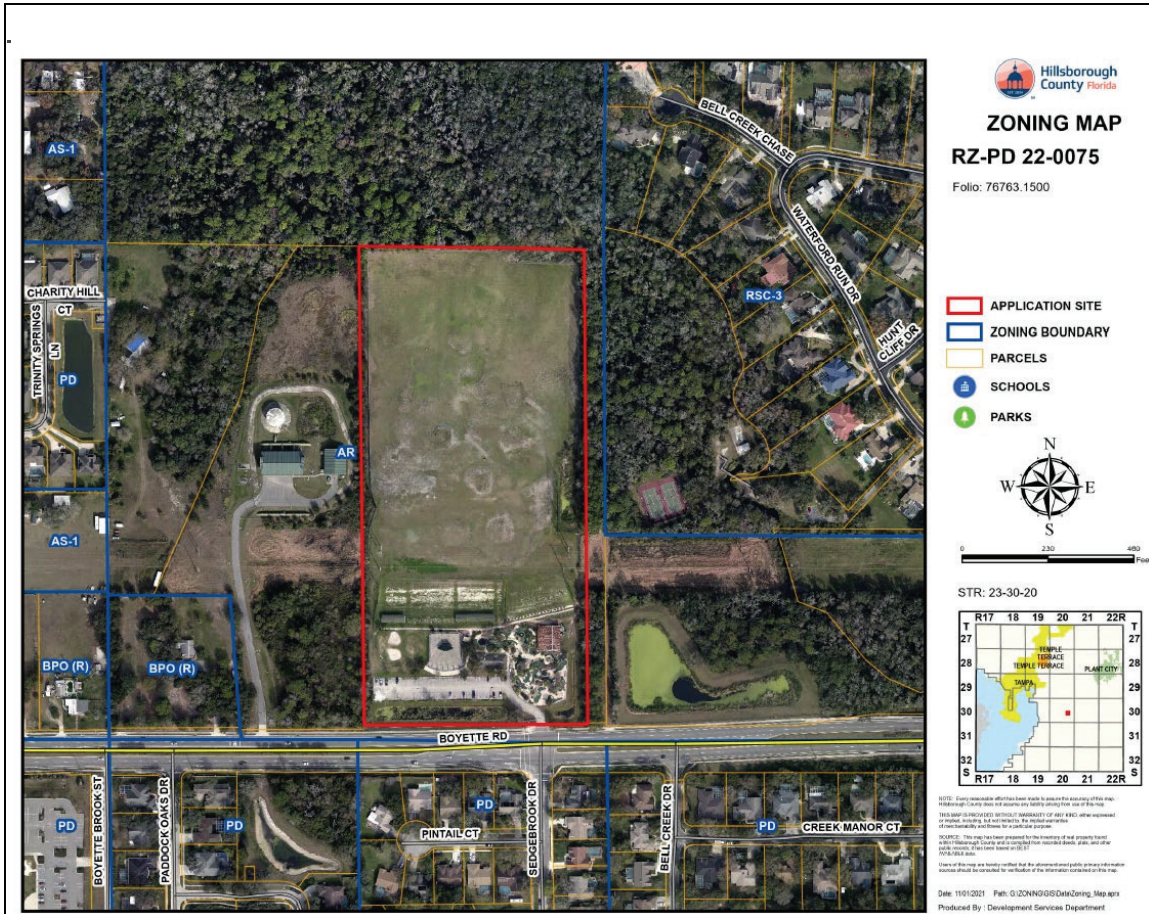
## 2.0 LAND USE MAP SET AND SUMMARY DATA 2.2 Future Land Use Map



|  |   |
|--|---|
| Subject Site Future Land Use Category: | Residential - 4   |
| Maximum Density/F.A.R.:                | Up to a maximum of 4.0 dwelling units per gross acre. Alternative methods for calculating density of certain uses are specified in the land development regulations. Density bonuses and credits may be considered in this category and are described in the Plan. suburban scale neighborhood commercial, office, multi-purpose or mixed use projects limited to 175,000 sq. ft. or .25 FAR, whichever is less intense. Actual square footage limit is dependent on classification of roadway intersection where project is located. |
| Typical Uses:                          | Residential, suburban scale neighborhood commercial, office uses, and multi-purpose projects. Nonresidential uses shall meet locational criteria for specific land use. Agricultural uses   |

may be permitted pursuant to policies in the agricultural objective areas of the Future Land Use Element.

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



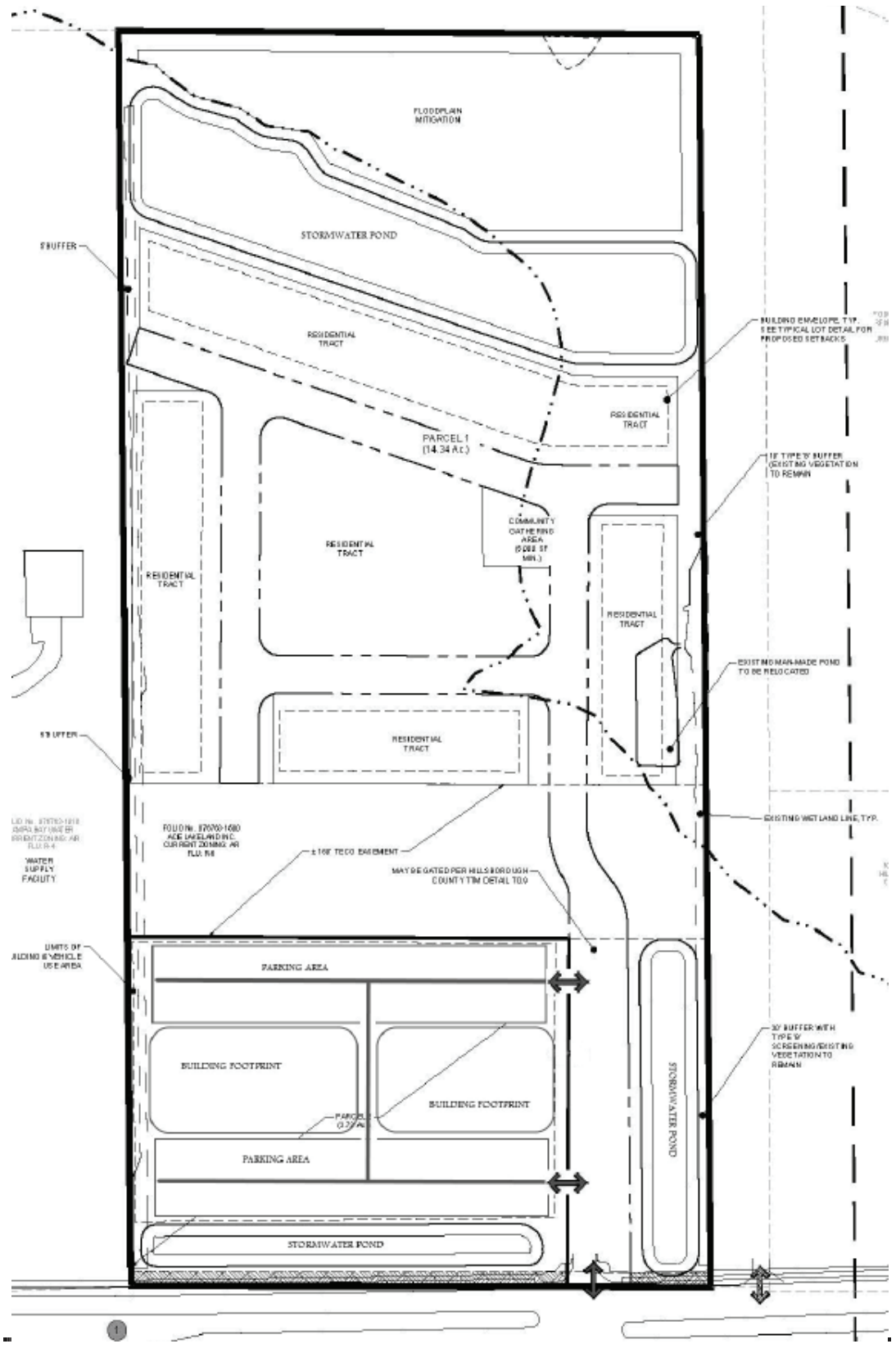
### Adjacent Zonings and Uses

| Location | Zoning:    | Maximum Density/F.A.R. Permitted by Zoning District: | Allowable Use:                       | Existing Use:    |
|----------|------------|--|--------------------------------------|------------------|
| North    | AR,        | 1 Du/5 ac  | Single Family Detached, Agricultural | Natural Preserve |
| South    | PD 85-0014 | 4 Du/ac  | Single Family Detached               | Single Family    |

|      |     |                      |                                      |                              |
|------|-----|----------------------|--------------------------------------|------------------------------|
| East | AR, | 1 Du/5 ac            | Single Family Detached, Agricultural | Natural Preserve             |
| West | AR, | 1 Du/5 ac / 0.25 FAR | Single Family Detached, Agricultural | Public Use / Water Treatment |

**2.0 LAND USE MAP SET AND SUMMARY DATA**

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



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

| Adjoining Roadways (check if applicable) |                          |   |  |
|--|--------------------------|---|--|
| Road Name                                | Classification           | Current Conditions  | Select Future Improvements   |
| Boyette Rd.                              | County Collector - Urban | 4 Lanes<br><input type="checkbox"/> Substandard Road<br><input type="checkbox"/> Sufficient ROW Width | <input checked="" type="checkbox"/> Corridor Preservation Plan<br><input checked="" type="checkbox"/> Site Access Improvements<br><input type="checkbox"/> Substandard Road Improvements<br><input type="checkbox"/> Other |

| Project Trip Generation <input type="checkbox"/> Not applicable for this request |                            |                      |                      |
|--|----------------------------|----------------------|----------------------|
|  | Average Annual Daily Trips | A.M. Peak Hour Trips | P.M. Peak Hour Trips |
| Existing   | 630                        | 12                   | 60                   |
| Proposed   | 2,929                      | 224                  | 232                  |
| Difference (+/-)   | +2,299                     | +212                 | +172                 |

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

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

Notes:

| Design Exception/Administrative Variance <input checked="" type="checkbox"/> Not applicable for this request |                 |                 |
|--|-----------------|-----------------|
| Road Name/Nature of Request  | Type            | Finding         |
|  | Choose an item. | Choose an item. |

Notes:

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

**4.0 ADDITIONAL SITE INFORMATION & AGENCY COMMENTS SUMMARY**

| INFORMATION/REVIEWING AGENCY        | Comments Received   | Objections  | Conditions Requested  | Additional Information/Comments |
|-------------------------------------|---|---|---|---------------------------------|
| Environmental:                      |   |   |   |                                 |
| Environmental Protection Commission | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |                                 |
| Natural Resources                   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |                                 |
| Conservation & Environ. Lands Mgmt. | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |                                 |

Check if Applicable:

- Wetlands/Other Surface Waters
- Use of Environmentally Sensitive Land Credit  Wellhead Protection Area
- Surface Water Resource Protection Area
- Potable Water Wellfield Protection Area  Significant Wildlife Habitat
- Coastal High Hazard Area
- Urban/Suburban/Rural Scenic Corridor  Adjacent to ELAPP property
- Other \_\_\_\_\_

| Public Facilities:   | Comments Received   | Objections  | Conditions Requested  | Additional Information/Comments |
|--|---|---|---|---------------------------------|
| <b>Transportation</b><br><input type="checkbox"/> Design Exc./Adm. Variance Requested<br><input type="checkbox"/> Off-site Improvements Provided   | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |                                 |
| <b>Service Area/ Water &amp; Wastewater</b><br><input type="checkbox"/> Urban <input type="checkbox"/> City of Tampa<br><input 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            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |                                 |
| <b>Hillsborough County School Board</b><br>Adequate <input checked="" type="checkbox"/> K-5 <input type="checkbox"/> 6-8<br><input type="checkbox"/> 9-12 <input type="checkbox"/> N/A Inadequate<br><input type="checkbox"/> K-5 <input checked="" type="checkbox"/> 6-8 <input checked="" type="checkbox"/> 9-12<br><input type="checkbox"/> N/A | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |                                 |
| <b>Impact/Mobility Fees</b><br><br>(Fee estimate is based on a 1,500 square foot, 3 bedroom, 1-2 story townhome)<br>Mobility: \$5,995.00 * 86 units = \$515,570<br><br>Shopping Center (per 1,000 s.f.) Mobility: \$12,206 Fire: \$313   |   |   |   |                                 |



ALF

(per Bed/Fire per 1k sf)

Mobility: \$1,128 Fire: \$95

Parks: \$1,957 \* 86 units School: \$7,027.00 \* 86 units Fire:\$249.00\*86units Total townhome

= \$168,302 = \$604,322 =\$ 21,414

= \$1,309,608

Daycare

(per 1,000 s.f.)

Mobility: \$11,840

Fire: \$95

**Project Summary/Description:**

Urban Mobility, Central Park, South Fire - 86 townhome units; 31-36k s.f. retail strip; 10k Urgent Care (Clinic), 10k Med Office; 10k Daycare, 125bedALF.10kCharterschool. Charter school is exempt from impacts.

Medical Office (10k or less s.f.) (per 1,000 s.f.)

Mobility: \$19,674

Fire: \$158

Clinic

(per 1,000 s.f.) Mobility: \$30,011 Fire: \$95

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

|   |  |  |  |  |
|---|--|--|--|--|
| Requested <input checked="" type="checkbox"/> Consistent<br><input type="checkbox"/> Inconsistent |  |  |  |  |
|---|--|--|--|--|

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## 5.0 IMPLEMENTATION RECOMMENDATIONS

### 5.1 Compatibility

The property's existing use is a recreational golf course. The site is surrounded to the south, southeast, and southwest by single-family detached home sub. Further southwest is Saint Stephens Catholic Church and School. The parcel adjacent to the west contains the Hillsborough County South Central Water Pump Station. Further to the west is single-family detached housing. The adjacent parcel to the north and east is owned by the Tampa Bay Conservancy Inc. (Myron and Helen Gibbons Nature Preserve). Further to the northeast is the western boundary of a large single-family detached home subdivision with frontage directly on Bell Shoals Road. To the east, along Boyette Rd., is land owned by Hillsborough County containing a large water retention pond.

The subject property is currently developed as a golf driving range. According to the project's narrative, this property is one of the last developable sites in the area, and with its direct access onto Boyette Road, a lighted intersection, and close proximately to Bell Shoals Road, it is a prime location for a mixed-use project. Boyette Road is a 4-lane collector road and existing land uses along this corridor range from commercial uses, private educational facilities, retail uses, residential uses, and preserved areas.

The request is to rezone the subject site from Agricultural Rural (AR) to Planned Development (PD) to allow up to 86 Townhomes (single-family attached) with a density bonus within Parcel 1 (north an existing TECO easement) and up to 20,000 sq. ft. of limited Commercial Neighborhood (CN) from three distinct use categories in Parcel 2 (south of the TECO easement, along Boyette Rd.). In order achieve 86 residential units (at 6 du/ac), the applicant is utilizing Policy 19.3 which provides incentives to encourage mixed-use development by providing at least 3 uses on site which in turn will permit density/FAR up to the next land use category, where 2 uses shall be non-residential uses. The non-residential uses have been classified into 3 Groups. The applicant met with staff and is proposing a list and size of development that could be considered, where at least 2 uses shall be developed in Parcel 2, one use from either Group, where no two uses are chosen from the same group. The applicant is also committed to limiting the height to one-story and architecturally finished on all four sides with a residential like appearance for the non-residential portion of the site.

The three use Groups are proposed as follows:

**Group A – Retail – No drive-thru**

4,500 SF site down restaurant 2,500 SF coffee shop

5,000 SF Bank

4,000 SF Fitness Center

5,000 SF Brewery/Beer Garden 5,000 SF Retail limited to:

Apparel and Shoe Store

Appliance Stores, Small

Art Supply Store

Bicycle Sales/repair

Book/Stationary Store, New and Used Camera/Photography Store

Florist Shop

Furniture/home furnishings

General Business, Such as Retail Goods and Stores Jewelry Store (Watch, clock, Jewelry Repair)

New Stand

Novelty and Souvenir Shop

Optician/Optical Supplies

Locksmith

Mail and Package Services

Mail Order Office

Mail Order Pickup Facilities Pet shop (no outdoor rec area) Sporting Goods Store

5,000 – 10,000 SF Specialty Food Store to include:

Bakery, Candies, & Nuts, Dairy, Delicatessens, Meat Seafood and Produce

**Group B – Office - No drive-thru**

10,000 SF limited to:

Urgent Care (no 24 hour operation)

Outpatient Surgical Center (no 24 hour operation) Employment Services

Government Office

Health Practitioner's Office

Medical Offices or Clinics with scheduled or Emergency Services by Physicians

(No 24 hr use) Professional Office

Professional Services

## **Group C – Residence Support - No drive-thru**

10,000 SF limited to:

Day Care (100 children / or pet/kennel with restrictions)

No drive thru facilities will be permitted to prevent intense uses from developing on site.

A waiver to the additional 2-foot setback for every foot above 20-feet in height, per LDC Section 6.01.01. endnote 8 is being requested only on the west side of the site. The 2:1 requirement is to address potential compatibility issues; however, the adjacent use is TBW water facility. There is a 5-foot buffer proposed along the western PD boundary. The eastern boundary will maintain the “2:1” requirement although the closest single- family development is located 500 feet to the east with heavy vegetation functioning as a buffer between both uses. The LDC requires a 5-foot buffer with a Type A screening between the proposed residential use and the adjacent AR zoning along the east/north. With the required 5-foot buffer and building height of 35-feet, an additional 30-foot setback is required ( $35' - 20' = 15' \times 2 = 30' + 5'$  buffer). The total required setback is 35 feet. Furthermore, the applicant is committed to include a 6-foot fence with a 10-foot buffer / type B screening.

Commercial development standards will be of the Commercial Neighborhood (CN) standards, single story structures.

### **1<sup>st</sup> Remand**

This case was presented at the July 25, 2022 Zoning Hearing Master hearing. In order to build more than 57 residential units and exceed the density of 4 DU/ac in Parcel 1, the applicant proposed a mixed use project. In conversations with Planning Commission staff, the applicant had proposed and committed to a timing mechanism that would guarantee the development of all proposed uses (residential in Parcel 1 and non-residential in Parcel 2) and comply with the mixed use Objectives and Policies from the Comprehensive Plan Objective 19 and Policy 19.2 for the integration of mixed-use developments. A condition was proposed stating that *prior to the issuance of any Certificate of Occupancy for 58 or more residential units, two of the non- residential uses listed in the Group lists need be constructed with a Certificate of Occupancy issued*. At the July hearing, the applicant submitted a modification to this condition to require that *prior to the issuance of any building permits for 58 dwelling units or more, the road and utility infrastructure (North South Entry Road with sidewalks and pedestrian connections and utility stub outs necessary to service Parcel 2) to be constructed and Certificate of Completion issued*. This modification of the condition would not require two of the non-residential uses listed in the Group lists to be constructed with a Certificate of Occupancy issued prior to the issuance of any Certificate of Occupancy for 58 or more residential units. Staff from the Planning Commission

and Development Services could not amend the reports and the case remained scheduled for the BOCC Land Use Meeting. At the BOCC Land Use Hearing on October 11, 2022, the case was remanded to the Zoning Hearing Master hearing in order to allow the evaluation by staff of the proposed modification to the condition with the timing mechanism for the development of the two project Parcels.

As part of this remand, the condition pertaining to the timing mechanism for the development of the Parcel 1 (residential) now requires that prior to the issuance of any building permits for 58 dwelling units or more, the road and utility infrastructure (North South Entry Road with sidewalks and pedestrian connections and utility stub outs necessary to service Parcel 2) will need to be constructed and Certificate of Completion issued.

This condition will still require that Parcel 2 be developed with two non-residential uses from two different use Groups. Each use will have a minimum of 2,500 square feet of building space.

Additionally, the applicant commits that in order to demonstrate that Parcel 2 will have adequate land area to accommodate two non-residential uses and related parking, open space, etc., if Parcel 2 is developed in more than one phase, a Preliminary Site Development Plan (PSDP) will be required to be submitted for site development review and approval. The PSDP will need to include the use proposed as Phase 1 along with the most intense use from a different Group list as Phase 2. For instance, if a developer proposes a use from Group A as Phase 1, the PSDP shall include a the most intense use remaining in Group B or C (10K sq ft Medical / Health Practitioner's Office). If a developer proposes a use from Group B as Phase 1, the PSDP shall include the most intense use remaining in Group A or C (4,500 sq ft Sit Down Restaurant).

Planning Commission and Development Services staff reviewed the change in the conditions and found them acceptable. The condition will still ensure that the project be developed with three different uses and be reviewed in accordance with site development regulations established by the Land Development Code.

The applicant also proposes to provide landscaping and native species vegetation along the floodplain compensation slope areas, subject to review and approval by the County Stormwater review section.

## **2<sup>nd</sup> Remand**

This case was presented again at the January 17, 2023 Zoning Hearing Master hearing. The ZHM officer recommended approval of the request with the updated timing mechanism condition that would guarantee the development of all proposed uses in both development Parcels in compliance with the mixed use Objectives and Policies from the Comprehensive Plan Objective 19 and Policy

19.2 for the integration of mixed-use developments. At the March 7, 2023 BOCC land use meeting, area residents and representatives from the Tampa Bay Conservancy expressed concerns with inconsistencies with the Comprehensive Plan policies and the Riverview Plan, high density as a result of land use bonuses and waivers, flooding, incompatible residential types (townhomes) and traffic impacts. County Commissioners commented on traffic concerns, as well as the locational criteria waivers and density bonuses being requested. Additionally, questions were raised about the presence of a creek in the area and the potential for flooding. Others commented regarding the proposed Community Residential Home Type C and the possibility of it to be converted into a standard multifamily use or affordable housing (which would require future modifications to the PD). Commissioners also pointed out that the area has a Future Land Use category of RES-4 today, hence the need by the applicant to ask for a density bonus to increase to a higher density and number of units. It was also stated that while the bonus would require a mix of uses to comply with Comprehensive Plan policies, this density increase would not appear to be consistent with the area's future land use or pattern and the site could still be developed with its current density allowance of RES-4 by the Comprehensive Plan. The County Commissioners asked the case to be remanded back to the ZHM so that the applicant could re-evaluate the density and high number of units being requested and traffic impacts. However, the property owner was not present at the meeting to agree to a second remand and the case was continued to the April 11 Land Use Meeting to receive input from the owner. The applicant then requested a remand of the application to the zoning hearing master hearing.

Based on the comments and input received at the March 7, 2013 BOCC meeting, the applicant amended this PD request by removing the *Community Residential Home Type C* use from Non-Residential uses in Parcel 2, specifically, under the Group C - Residential Support Uses. Additionally, staff clarified the "Pet Day Care" use previously proposed to be categorized as a Kennel use, as defined by the LDC, with restrictions to prohibit breeding, rescue, rehabilitation or adoption of pets. The maximum number of children for the day care has also been indicated in the conditions, consistent with previously submitted site plans. No changes to the number of residential units, decrease in density or waivers (Locational Criteria) have been proposed by the applicant as part of this second remand. All previously proposed conditions have remained the same as presented in the ZHM on January 17, 2023 and at the BOCC land use meeting on March 7, 2023.

Staff has received letters of concerns and opposition from area residents, the Tampa Bay Conservancy and Sierra Club. The letters expressed concerns with traffic generated by the proposed development, school capacity, noise, impacts to the nature preserve, increase in density, introduction of commercial uses in the area, impacts to water supply and reduction of setbacks/buffer from the natural preserve along the east. After the first remand, the applicant amended the application and reduced the intensity of the non-residential uses, restricted

square footage of the day care, eliminated school uses, and will maintain the required buffer/setback along the east in accordance with the Land Development Code. The project will maintain a minimum of 35 feet of building setback along the east, meeting the requirement of the Code. In addition, a 20-foot buffer, with Type B screening will be in place for the residential portion. Per LDC Sec. 6.06.06, the proposed project would require at least 5 feet of buffer between residential uses (Parcel 1) and AR zoning with Type A screening. The Type A screening requires plantings or a solid fence. The applicant proposes 20 feet of buffer with Type B screening. Existing vegetation will be allowed to remain in lieu of required landscaping and trees, subject to approval by Natural Resources. The additional landscaping (Type B) consists of a row of evergreen shade trees which are not less than ten feet high at the time of planting, a minimum of two-inch caliper, and are spaced not more than 20 feet apart. The trees are to be planted within ten feet of the property line. The solid fence will also be placed at least 10 feet from the parcel line, away from existing vegetated areas. Between Parcel 2 (non-residential uses) and the nature preserve site along the east, the applicant proposes a 30-foot buffer with Type B screening. The Code requires at least 20 feet of buffer and Type B screening. Per the submitted site plan, retention ponds will be placed along the east, adjacent to the nature preserve, and vegetation will be preserved subject to Natural Resources review and approval. As part of the site development review process, the developer is required to provide wildlife and environmental studies in accordance with the Land Development Code. The project will be conditioned requiring that water distribution system improvements will need to be completed prior to connection to the County's water system by this future development. Stormwater design and construction will be subject to review and approval by the site development review section as established in the Land Development Code to ensure the project will capture all stormwater onsite. The proposed PD plan shows areas for future retention ponds. Comments from the School Board state that a school concurrency review will be issued PRIOR TO preliminary plat or site plan approval. The School Board also indicated that at this time, additional capacity at the middle and high school levels exists in adjacent service areas to accommodate the proposed project, and capacity exists in the Elementary School level for this area.

Although cross access to adjacent parcels is encouraged, the existing adjacent uses restricts this. The Tampa Bay Water supply facility is located to the west with its own access fenced with a 6-foot chain link fence with electrical wires to prevent trespassing. The Gibbon Nature Preserve is located to the north and east of the subject site and future development of this site is unlikely.

The is located between a water supply facility to the west and a storm water pond and recreation land/preserve to the east and to the north. Residential subdivisions surround this area to the north, northeast and south. Other residential projects are located further to the west. The site is also bisected by the 150-foot wide TECO easement creating two distinct areas for commercial use along Boyette Road and the residential component internal to the site, adjacent

to the preserve. The TECO easement functions as buffer between both uses, however the site will be interconnected by vehicular and pedestrian access.

There are wetlands present on the site. The Environmental Protection Commission, EPC, reviewed the proposed Site Plan and does not object. No impacts to wetlands or setbacks are shown on the proposed Plan. The Conservation and Environmental Lands Management reviewed this rezoning petition and has no comments. Transportation staff does not object to this request and proposes conditions for site access and road improvements along Boyette Rd.

The area is a mix of mostly residential single family-detached, and low scale commercial, and office uses. Residential support uses (schools and churches) are also commonly found in the area. The proposed project scale and design would ensure that is compatible with the surrounding development pattern and land uses. Intensive uses are being eliminated from the proposed development. The project will maintain the required setbacks along the east, where the adjacent nature preserve is located, as required per the LDC. The applicant, however, will provide additional buffer and screening more than what the Code requires. The non-residential component will be limited to 1-story buildings with a residential design. Compared to the initial proposal by the applicant, the project has been scaled down, more restrictions have been proposed, and compliance with provision from the Code has been maintained. Additionally, the Community Residential Home use is being removed from

Parcel 2; therefore, all residential uses are limited to Parcel 1 only. Staff from the Planning Commission has evaluated the request and has found it Consistent. Objective 19 and Policy 19.2 indicates that a mixed-use development must be integrated. Policy 16.2 requires the gradual transition between uses. The applicant's site plan shows the commercial buildings are in the southern portion of the property facing south towards Boyette Road. The proposed site plan shows an integrated design to the residential located on the northern portion of the property and a gradual transition from the natural preservation area to the north and east, consistent with policy direction. To ensure the project will be developed in accordance with the objectives and policies above, a timing mechanism for the development of the mix of uses is being proposed requiring the construction of the access road and infrastructure serving the project and the non-residential uses in Parcel 2 to be completed before more than 57 residential units can be issued building permits. Planning Commission staff also sees no compatibility issues as the adjacent use is public institutional. Lastly, a waiver to the Commercial Locational Criteria (CLC) has been requested, and Planning Commission staff recommends approval of the waiver.

## **5.2 Recommendation**

Based on the above considerations, staff recommends approval with conditions.



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

## **SUMMARY OF HEARING**

THIS CAUSE came for hearing before the Hillsborough County Land Use Hearing Officer on July 24, 2023. Ms. Michelle Heinrich of the Hillsborough County Development Services Department introduced the petition.

Hearing Master Finch stated that in her research of why the rezoning application was being remanded for a second time by the Board of County Commissioners (BOCC), she found that at the March 7, 2023 BOCC meeting there was discussion of remanding the rezoning back to the Zoning Hearing Master to discuss the density bonus and traffic issues but because the applicant's attorney represented the contract purchaser of the property and not the property owner who was not present at the BOCC meeting, the rezoning was continued to the April 11, 2023 BOCC meeting at which there was no discussion of the item as the applicant requested a remand. Hearing Master Finch stated that while there was no formal direction from the BOCC of the issues that they were requesting to be reviewed by the Zoning Hearing Master, she asked County staff and the County Attorney to advise regarding the starting point for the hearing.

Mr. Israel Monsanto of the Development Services Department testified that there was not a clear direction from the BOCC but discussion included matters pertaining to the density bonus, traffic and the possible conversion of the Community Residential Home land use to multi-family development.

Hearing Master Finch asked Mr. Monsanto to confirm that the remand did not include a specific motion from the BOCC. Mr. Clark of the County Attorney's Office stated that without a motion from the BOCC, the Hearing Master is free to consider any new evidence and aspect of the application to supplement the record.

Ms. Kami Corbett testified on behalf of the applicant and stated that there was a remand which was focused on specifically Commissioner Owen's request that the applicant consider reducing the density. She stated that as far as the issues with the density bonus and the commercial locational criteria, the record is clear that the applicant has met its burden. She asked Mr. Mac McCraw from Mattamy Homes to speak regarding the density concerns.

Mr. Mac McCraw with Mattamy Homes 4107 Crescent Park Drive Riverview testified as the applicant. Mr. McCraw stated that Mattamy Homes builds first class communities and has developed and completed five townhome communities in Hillsborough County. He added that their townhome buyers enjoy proximity to suburban business centers at a much more attainable price

than new single-family detached homes. Mr. McCraw showed pictures of their other townhome developments and stated that they try to blend in with communities. He testified that in April, the BOCC remanded the rezoning application and challenged them to lower the density. He stated that he did not believe the BOCC asked the Zoning Hearing Master to do anything but rather asked the developer to work with the seller to come up with a solution regarding the density. In response, the developer removed the assisted living facility use and its allowable bed counts. He added that Commissioner Wostal supported their request but did have concerns about the additional units associated with the assisted living facility use therefore it was removed as a part of the application. Mr. McCraw testified that he did consider reducing the density however it was not a viable option that he could work out with the seller due to the power line transmission easement which takes up a vast amount of property. Due to the easement, only 40-foot wide single-family detached homes could be accommodated and a maximum of 40 homes could be developed. Mr. McCraw stated that he also looked at reducing the density of the townhomes to 58 units which would be kind of a RES-4 mix. He added that the problem with doing that is it added \$25,000 to \$30,000 in cost per unit. He stated that it takes about the same amount of common infrastructure to develop 40 units or 58 units or 86 units. The cost of the land is the same. The roads serving the property, the offsite improvements, the lift station that is required all cost the same amount of money whether 40 or 86 units are developed. Therefore, there are less units to absorb the fixed costs which is exacerbated by the non-typical high common infrastructure cost associated with the transmission line easement. Mr. McCraw then showed a graphic to discuss the traffic generated by the project. He stated that there is a very de minimus effect of the traffic for 58 townhomes compared to 86 townhomes.

Hearing Master Finch asked Mr. McCraw if the traffic chart included the proposed up to 20,000 of limited commercial entitlements. Mr. McCraw replied yes.

Mr. McCraw continued his presentation by stating that reducing the number of units to 58 has very little impact on the traffic counts. He stated that at 86 units, the Level of Service for Boyette Road is still acceptable which is confirmed by the County's staff report. He concluded his remarks by stating that the request is still for 86 townhome units. The bonus provisions of the Comprehensive Plan allow for the density and that both planning staff support the request.

Mr. Israel Monsanto of the Development Services Department testified that the request was presented at the January 17, 2023 Zoning Hearing Master (ZHM) hearing and a recommendation for approval was made by the ZHM. He discussed the March 7, 2023 BOCC meeting and the concerns expressed by the Tampa Bay Conservancy regarding inconsistencies with the Comprehensive Plan, the Riverview Plan and the proposed density bonus and waiver requests including commercial locational criteria. He detailed questions about possible flooding and the concern about the Community Residential Home Type C

possible land use. Mr. Monsanto testified about the history of the application as it pertained to the remand and stated that the applicant has removed the Community Residential Home as a possible land use and clarified the possible pet daycare. The number of children for a possible child care center has been clarified as well. Mr. Monsanto stated that staff continues to recommend approval of the rezoning request.

Ms. Andrea Papadrew of the Planning Commission stated that the site is designated Residential-4 and located with the Riverview Community Planning Area. The request is consistent with Policies 1.4 and 8.1 regarding compatibility with surrounding uses. Ms. Papadrew discussed the adjacent parcels and stated that the applicant is proposing a mixed use development with the bonus criteria stated in Policy 19.3 which requires all three land uses to be developed to receive the density bonus. She stated that the request is also consistent with Policy 16.10 regarding the compatibility of density increases and also Goal 6 of the Riverview Community Plan which seeks to protect the Alafia River which does not abut the property. Ms. Papadrew discussed the request for a waiver of locational criteria which Planning Commission staff supports as the Commercial Neighborhood land uses have been limited to a maximum of 5,000 square feet with up to 10,000 square feet for medical office and specialty food stores. The limitation of square footage will not introduce intensive retail land uses. Ms. Papadrew concluded her presentation by stating that the proposed location of the commercial land uses to the south that are integrated with the residential land uses to the north provide a gradual transition to the natural preservation area to the north of the property. The Planning Commission staff found the Planned Development to be consistent with the Comprehensive Plan subject to the proposed zoning conditions.

The Zoning Hearing Master asked if there were citizens that would like to speak in support. No one replied.

The Zoning Hearing Master asked if there were citizens that would like to speak in opposition.

Ms. Jane Graham of Sunshine City Law testified on behalf of Mr. James Anderson who owns property at 10514 Sedgwick Drive which is in close proximity to the subject property. Ms. Graham stated that Mr. Anderson walks his dog on the preserve which is next to the subject property. Ms. Graham stated that Mr. Anderson would like to renew his objections which were previously stated at the July 25, 2022 and January 17, 2023 Zoning Hearing Officer hearings. She stated that as the staff report noted, the case was to be remanded back to the ZHM as the County Commissioners on March 7<sup>th</sup> asked the applicant to reevaluate the density and the high number of units being requested as well as the traffic impacts. She added that Commission Owen said that he wanted to make the project more compatible without the density bonus and without requiring the applicant to go back to the drawing board. Ms. Graham testified

that the applicant has failed to modify the application to address any the concerns raised by the Commission. She stated that there is no new information provided at the hearing. Ms. Graham stated that the applicant presented a bar chart and said that it was compliant but there is no analysis of that by staff therefore it does not raise to the level of competent substantial evidence. Ms. Graham testified that the applicant has not addressed the reduction of density and the staff report confirms that there are no changes to the number of residential units nor a decrease in density or waivers. She stated that the applicant testified that reducing the density to 58 units which would be the maximum under the RES-4 category which would add \$30,000 per dwelling unit so it can't be done. Ms. Graham stated that is not an argument for the Hearing Master to make a decision under Land Development Code Section 10.03.03.6 as it is a cost issue and not a zoning issue. Ms. Graham stated that the request is incompatible with Residential-4 and testified that she would submit sections of the Comprehensive Plan regarding RES-4 into the record. She discussed one section that states that a density bonus in RES-4 is allowed and the maximum density permitted only if the circumstances are ideal with regards to compatibility. She stated that the property does not meet commercial locational criteria. Therefore, the application is insufficient and warrants a recommendation of denial.

Ms. Ethel Hammer 19825 Angel Lane Odessa testified in opposition. Ms. Hammer stated that she was representing the Tampa Bay Conservancy who owns the adjacent parcel to the north of the subject property. She added that because her prior testimony is a part of the record, she would limit her comments to things she has not previously discussed. Ms. Hammer testified that the mixed use aspect of the project is achieved by including non-residential as a part of the project. She stated that if the property met commercial locational criteria, the development would be limited to 5,000 square feet as the qualifying roadways most closely resemble a major local road and a four-lane highway. Ms. Hammer testified that Policy 22.8 states that the square footage limit cannot be waived by the Board, only the location. She discussed the proposed three land uses to qualify as a mixed use project. The Planning Commission uses the mixed use aspect as part of their justification for the commercial locational criteria waiver. However, the benefit received by using Policy 19.3 only permits a density bonus to the next higher land use category and an increase in the Floor Area Ratio but does not permit an increase in square footage. Ms. Hammer testified that an increase in square footage would be in direct conflict with Policy 22.8 therefore the mixed use project cannot be justified based on an increase in the square footage of residential. Ms. Hammer stated that the Conservancy continues to object to the increase in density and the intensity of the proposed non-residential development.

Mr. Gary Gibbons 800 29<sup>th</sup> Avenue North St. Petersburg testified in opposition. He stated that he was at the hearing in two capacities. First, he was representing the Gibbons family and second as the Vice Chair of the Tampa Bay

Sierra Club. He added that he would be filing additional letters of opposition into the record. Mr. Gibbons discussed the history of the adjacent Gibbons Nature Preserve and stated that the County recognizes the preserve as a having significant wildlife habitat. He stated that the proposed development is too intense and not compatible with the surrounding properties. Mr. Gibbons showed a map to discuss the proximity of the subject parcel to the Alafia River. He pointed to Bell Creek which is approximately 30 feet north of the subject property and stated that the Creek is a major tributary of the Alafia River. He detailed flooding incidents in the area and stated that a pedestrian bridge on the preserve required replacement after a significant flood. Mr. Gibbons testified that the preserve is in the Coastal High Hazard Area. He stated that it is the exact type of property intended to be protected under Goal 6 of the Riverview Community Plan. Mr. Gibbons stated that the application violates Goal 6 by seeking to intensify development by adding commercial that was never contemplated under the current zoning. He cited Ms. Hammer's testimony regarding the proposed size of the commercial development. He filed a letter in opposition into the record from the Tampa Bay Sierra Club who object to the project as it is inconsistent with Comprehensive Plan Object 3.7 and Policies 3.7.5 and 3.9.9 as well as Goal 6 of the Riverview Community Plan.

Ms. Sabine Prather 1601 Bentwood Drive testified in opposition. Ms. Prather stated that she is a Sierra Club Conservation Committee member and discussed the subject property. She testified that about one-quarter of the proposed density is in a flood zone. Additionally, she stated that the Riverview Community Plan Goal 1 states that commercial strip development should be avoided and that a commercial use would be incompatible with that Goal.

Development Services Department staff did not have additional comments.

Hearing Master Finch asked Ms. Papandrew of the Planning Commission staff about Ms. Hammer's comments regarding commercial locational criteria and the request to go to the next land use category and an increase in the Floor Area Ratio which does not necessarily equate to an increase in square footage for the requested commercial. Ms. Papandrew replied that Ms. Hammer is referring to Policy 22.2 for commercial locational criteria. She stated the locational criteria requires the property to be within 75 percent from the qualifying intersection which for the RES-4 land use category is 900 feet. Ms. Papandrew testified that the site is approximately 2,500 feet from the nearest qualifying intersection which is Boyette Road and Bell Shoals Road which does not meet the criteria. If the parcel does not meet the distance, then the property is not subject to the square footage restriction. A waiver can be requested. Regarding Policy 19.3, the requested density bonus which is separate from commercial locational criteria can be proposed if the required three land uses are included.

Hearing Master Finch asked Ms. Papandrew if the Planning Commission is supporting not only the waiver but the rezoning application. Ms. Papandrew replied yes.

Ms. Corbett testified during the rebuttal period that she would like the project traffic engineer to testify regarding the traffic bar chart that was shown by the applicant at the hearing.

Mr. Ali Atefi with Lincks and Associates testified that he reviewed the traffic impact with a reduction in the number of townhome dwelling units from 86 to 58 units. He stated that as was shown on the bar chart, there is an insignificant reduction in the am and pm peak hour trips. He added that there are only 15 trips per hour in the morning and 17 trips during the pm peak hour reduction.

Hearing Master Finch asked Mr. Atefi if the bar chart that was shown by the applicant represents the trip generation rates that are attributed to the land uses proposed. Mr. Atefi replied yes.

Hearing Master Finch asked Mr. Atefi how the trip generation rates are obtained. Mr. Atefi replied that they are from the Institute of Transportation Engineers (ITE) trip generation manual which is widely used to estimate the trips.

Hearing Master Finch asked Mr. Atefi if the ITE manual is the accepted standard for obtaining those rates. Mr. Atefi replied yes.

Mr. Atefi testified that his office, Lincks and Associates, prepared the bar chart table shown by the applicant.

Ms. Corbett continued her testimony in rebuttal. She stated that she did not hear any new objections. She added that all of the prior objections were made regarding the residential density bonus and that the RES-4 land use category on every parcel could be considered for six units per acre. She concluded her presentation by stating that she had previously provided testimony from the project civil engineer regarding flooding and environmental specialist who previously testified that there is a net environmental benefit to this rezoning.

The hearing was then concluded.

### **EVIDENCE SUBMITTED**

\*Mr. Gibbons submitted a letter in opposition from the Sierra Club of Tampa Bay a Future Land Use map, a map of the Significant Wildlife Habitat and a graphic depicting the distance from the subject property to Bell Creek into the record into the record.

\*Ms. Graham submitted a letter including attachments of legal objections to the rezoning application and portions of the Comprehensive Plan pertaining to the RES-4 Future Land Use category into the record.

\*Mr. McCraw submitted his written comments, photos of other townhome projects developed by the applicant, a Future Land Use map, an aerial photo, a map depicting the surrounding land uses, a bar chart comparing the vehicular trips of the existing golf driving range, the proposed mixed use project at 58 townhome units and 86 townhome units 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.

## **SECOND REMAND FINDINGS OF FACT**

1. The subject site is 17.67 acres in size and is zoned Agricultural Rural (AR) and designated Residential-4 (RES-4). The property is located in the Urban Service Area and the Riverview Community Planning Area
2. The subject property is currently developed with a golf driving range facility which includes batting cages, a miniature golf course and associated retail land uses. The facility is lighted for operation at night and has been in existence for approximately twenty (20) years.
3. The purpose of the rezoning from AR to Planned Development (PD) is to permit the development of a maximum of 86 townhomes and up to 20,000 square feet of commercial, office and residential support uses.
4. The subject property is bisected by a TECO easement that includes existing power lines which run east-west through the property. The Planned Development proposes to locate the townhomes north of the TECO easement (Parcel 1) and the non-residential land uses south of the TECO easement (Parcel 2) which fronts Boyette Road.
5. The rezoning application was remanded to the Zoning Hearing Master hearing at the request of the applicant after discussion at the March 7, 2023 Board of County Commissioner's meeting regarding the proposed density bonus and project traffic. Additionally, a question was raised regarding the requested Type C Community Residential Home and if the density could be converted to multi-family and/or affordable housing in the future.
6. The applicant revised the rezoning application to delete the Type C Community Residential Home land use. Further, the pet day care and child care uses were clarified in the proposed zoning conditions. No change to the proposed number of dwelling units is being proposed.

7. The PD includes a request to utilize Policy 19.3 of the Comprehensive Plan's Future Land Use Element which states that projects with three or more land uses may utilize the density of the next higher land use category which in this case would be the RES-6 Future Land Use category.
8. The applicant has requested a waiver to the additional two-to-one setback for buildings over twenty (20) feet in height on the western side of the project only.

The waiver is justified as the adjacent use along the entire western boundary is a Tampa Bay Water supply facility (the Hillsborough County South Central Water Pump Station). The applicant is providing a five (5) foot buffer along the western PD boundary.

9. No Planned Development Variations have been requested by the applicant.
10. The Planning Commission staff stated the applicant is proposing a mixed use development with the bonus criteria stated in Policy 19.3 which requires three land uses to be developed to receive the density bonus. Staff stated that the request is consistent with Policy 16.10 regarding the compatibility of density increases and also Goal 6 of the Riverview Community Plan which seeks to protect the Alafia River which does not abut the property. The Planning Commission staff supports the waiver of commercial locational criteria as the Commercial Neighborhood land uses have been limited to a maximum of 5,000 square feet with up to 10,000 square feet for medical office and specialty food stores and stated further that the limitation of square footage will not introduce intensive retail land uses. Planning Commission staff stated that the proposed location of the commercial land uses to the south that are integrated with the residential land uses to the north provide a gradual transition to the natural preservation area to the north of the property. The Planning Commission found the rezoning request consistent with the Comprehensive Plan.
11. The area surrounding the subject property is developed with a water supply facility owned by Tampa Bay Water to the west, a 60-acre nature preserve with an ownership strip to the east and the majority of the preserve to the north and residential subdivisions across Boyette Road to the south. Hillsborough County owns a larger tract of land fronting Boyette Road to the east of the nature preserve property that includes a stormwater pond. Also to the east of the nature preserve property is a wooded tract that is owned by the homeowners association for the residential subdivision to the northeast. The tract appears to be developed with recreational amenities including a lighted tennis court that serve the residents of the subdivision.



12. The applicant proposes to provide the required floodplain mitigation compensation area with native plantings as well as the stormwater pond at the northern portion of the subject property to buffer the nature preserve to the north and northeast corner of the site from the proposed townhomes. Further, a stormwater pond is proposed to be located at the southeastern portion of the parcel to also buffer the non-residential development from the nature preserve property.

The applicant committed to a zoning condition which requires a 4:1 slope that will be planted with appropriate native species on three-foot centers for herbaceous ground cover, five-foot centers for shrubs and ten-foot center for trees.

13. Testimony in opposition was provided at the Zoning Hearing Master hearing.

An attorney representing a neighbor submitted a letter including attachments of legal objections to the rezoning application and portion of the Comprehensive Plan pertaining to the RES-4 Future Land Use category. The attorney stated that the applicant provided no new information and failed to modify the application to address any of the concerns raised by the Board of County Commissioners. The attorney stated that the project vehicular trip comparison bar chart presented by the applicant did not raise to the level of competent substantial evidence.

The President of the Tampa Bay Conservancy which owns the nature preserve to the east and north testified in opposition at the Zoning Hearing Master hearing and referenced her prior testimony in opposition to incorporate it as a part of the record. The testimony focused on the proposed waiver of commercial locational criteria and the assertion that only the location, but not the square footage, can be waived by the Board of County Commissioners. Further, comments were provided regarding Policy 19.3 which permits a density bonus to the next higher land use category and an increase in the Floor Area Ratio (FAR) for a mixed-use project. An assertion was made that Policy 19.3 permits an increase in the FAR but does not permit an increase in square footage.

A family member of the Gibbons Nature Preserve testified in opposition and filed a letter in opposition into the record from the Tampa Bay Sierra Club who object to the project. He stated that the proposed development is too intense and not compatible with the surrounding properties. A map depicting the proximity of the subject parcel to Bell Creek as approximately 30 feet north of the subject property was shown to assert that the Creek is a major tributary of the Alafia River and therefore policies that encourage the protection of the Alafia River are applicable to the rezoning application. Testimony was provided regarding flooding incidents in the area and that a pedestrian bridge on the preserve parcel was replaced after a significant flood. Testimony was

also provided that the request violates Goal 6 of the Riverview Community Plan by seeking to intensify development with commercial land uses that were never contemplated under the current zoning.

A member of the Sierra Club Conservation Committee testified in opposition. Concerns included assertions that approximately one-quarter of the proposed density is in a flood zone and that the Riverview Community Plan Goal 1 states that commercial strip development should be avoided.

14. Testimony in rebuttal from the applicant's transportation expert stated that the project vehicular trip comparison bar chart shown by the applicant at the hearing was derived from an analysis of the Institute of Transportation Engineers Trip Generation Manual which provides trip generation rates based on land use type and is considered the industry standards for transportation data. Further, the applicant's transportation expert concluded that the traffic impact with a reduction in the number of townhome dwelling units from 86 to 58 units resulted in an insignificant reduction in the am and pm peak hour trips.
15. Rebuttal testimony from the Planning Commission staff stated that locational criteria requires the property to be within 75 percent from the qualifying intersection which for the RES-4 land use category is 900 feet. Staff stated that if the parcel does not meet the distance, a waiver can be requested. Regarding Policy 19.3, staff testified that the requested density bonus, which is separate from commercial locational criteria, can be proposed if the required three land uses are included.
16. It is noted that Planning Commission staff has previously testified that the Alafia River does not abut the subject property and therefore policies addressing the protection of the Alafia River are not applicable to the subject rezoning application.
17. A non-residential land use has operated on the subject property for almost twenty (20) years. The existing golf driving range, miniature golf course and batting cages land use includes a lighted field and parking lot area as well as accessory retail sales. The impacts to the surrounding parcels from the existing use are similar in nature to similarly sized commercial land uses.
18. The development of Parcel 2 with limited Commercial Neighborhood land uses is appropriate along the frontage of Boyette Road which is a four-lane collector roadway.

19. It is emphasized that the proposed limited Group A Retail/Commercial CN land uses are restricted to a maximum of 5,000 square feet or less (with the exception of Specialty Food Stores), as shown in the proposed zoning conditions. The Group B Office land uses are restricted to a maximum of 10,000 square feet. The two non-residential land uses are conditioned for a maximum of 20,000 square feet which is in accordance with the Comprehensive Plan square footage maximum for suburban scale neighborhood serving commercial land uses.
20. The proposed land use of single-family attached dwelling units (townhomes) is consistent with the development pattern in the area and serves to provide an alternative housing option to the community. The requested density bonus to achieve a maximum of 86 dwelling units is appropriate given the required mixed use development and the timing mechanism which requires that the road and utility infrastructure be constructed and Certificates of Occupancy issued prior to any building permits being issued after the 57<sup>th</sup> dwelling unit.
21. The trip generation rate comparison table submitted by the applicant shows an insignificant decrease in the amount of traffic generated by 58 townhomes as compared to the proposed 86 townhomes.
22. The design of the site plan with the floodplain mitigation and stormwater ponds adjacent to the nature preserve both to the north and east as well as along the Boyette Road frontage mitigates the impacts of the project to the surrounding area. The delineation of the land uses north and south of the TECO easement with a connecting access road provides a gradual transition of land uses from the preserve to Boyette Road.
23. The rezoning to Planned Development with the zoning conditions as prepared by the Development Services Department for 86 townhomes and up to 20,000 square feet of commercial, office and residential support uses is an appropriate mixed-use project. The site plan and associated zoning conditions result in a project that is compatible with the surrounding land uses in the area and consistent with the Comprehensive Plan.

#### **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 unless zoning condition 1.4 is revised as presented by the applicant's representative at the Zoning Hearing Master hearing.

## **CONCLUSIONS OF LAW**

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

### **SUMMARY**

The request is to rezone 17.67 acres from AR to PD to permit the development of a maximum of 86 townhomes and up to 20,000 square feet of commercial, office and residential support uses.

The rezoning application was remanded to the Zoning Hearing Master hearing at the request of the applicant after discussion at the March 7, 2023 Board of County Commissioner's meeting regarding the proposed density bonus and project traffic. Additionally, a question was raised regarding the requested Type C Community Residential Home and if the density could be converted to multi-family and/or affordable housing in the future.

The applicant revised the rezoning application to delete the Type C Community Residential Home land use. Further, the pet day care and child care uses were clarified in the proposed zoning conditions. No change to the proposed number of dwelling units is being proposed. The applicant showed a bar chart to depict the trip generation rates of the proposed 86 townhomes as compared to 58 townhomes to assert that a reduction in units has a de minimus impact in project traffic.

The PD includes a request to utilize Policy 19.3 of the Comprehensive Plan's Future Land Use Element which states that projects with three or more land uses may utilize the density of the next higher land use category which in this case would be the RES-6 Future Land Use category. The applicant has requested a waiver to the additional two-to-one setback for buildings over twenty (20) feet in height on the western side of the project only. The waiver is justified as the adjacent use along the entire western boundary is a Tampa Bay Water supply facility (the Hillsborough County South Central Water Pump Station). The applicant is providing a five (5) foot buffer along the western PD boundary.

Testimony in opposition was provided at the Zoning Hearing Master hearing and also submitted into the County's record prior to the hearing. The concerns expressed pertained to the applicant providing no new information and failing to modify the application. Further, testimony focused on the proposed waiver of commercial locational criteria and the assertion that only the location, but not the square footage, can be waived by the Board of County Commissioners. Further, comments were provided regarding Policy 19.3 which permits a density bonus to the next higher land use category and an increase in the Floor Area Ratio (FAR)

for a mixed-use project. An assertion was made that Policy 19.3 permits an increase in the FAR but does not permit an increase in square footage. Concerns were also expressed regarding flooding in the area.

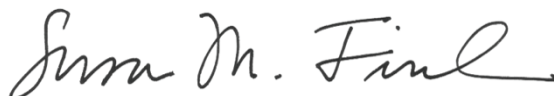
The proposed limited Group A Retail/Commercial CN land uses are restricted to a maximum of 5,000 square feet or less (with the exception of Specialty Food Stores), as shown in the proposed zoning conditions. The Group B Office land uses are restricted to a maximum of 10,000 square feet. The two non-residential land uses are conditioned for a maximum of 20,000 square feet which is in accordance with the Comprehensive Plan square footage maximum for suburban scale neighborhood serving commercial land uses.

A non-residential land use has operated on the subject property for almost twenty (20) years. The existing golf driving range, miniature golf course and batting cages land use includes a lighted field and parking lot area as well as accessory retail sales. The impacts to the surrounding parcels from the existing use are similar in nature to similarly sized commercial land uses. The design of the site plan with the floodplain mitigation and stormwater ponds adjacent to the nature preserve both to the north and east as well as along the Boyette Road frontage is considerate to the surrounding area. The delineation of the land uses north and south of the TECO easement with a connecting access road provides a gradual transition of land uses from the preserve to Boyette Road.

The rezoning to Planned Development with the zoning conditions as prepared by the Development Services Department for 86 townhomes and up to 20,000 square feet of commercial, office and residential support uses. The site plan and associated zoning conditions result in a project that is compatible with the surrounding land uses in the area and consistent with the Comprehensive Plan.

### **RECOMMENDATION**

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



August 10, 2023

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**Susan M. Finch, AICP**  
**Land Use Hearing Officer**

**Date**

OCTOBER 10, 2023 - LAND USE MEETING

The Board of County Commissioners, Hillsborough County, Florida, met in Land Use Meeting and Public Hearing, scheduled for Tuesday, October 10, 2023, at 9:00 a.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida, and held virtually.

The following members were present: Chair Ken Hagan and Commissioners Donna Cameron Cepeda, Harry Cohen, Pat Kemp, Gwen Myers, Michael Owen, and Joshua Wostal.

CALL TO ORDER

- ▶ Chair Hagan called the meeting to order at 9:00 a.m.

PLEDGE OF ALLEGIANCE AND INVOCATION

- ▶ Commissioner Cameron Cepeda led in the pledge of allegiance to the flag and gave the invocation.

DISCLAIMER: The Consent and Board Agenda items have not been edited. Language usage and verbiage are documented exactly as submitted by the department.

CHANGES/CORRECTIONS/ADDITIONS

1. Agenda Page 4, Item-A-11-PRS-23-0878-Lyvwell Carrollwood SS JV 1 LLC - This application is being withdrawn by the Applicant.
2. Agenda Page 9, Item-E-02-PRS-23-0879-Eisenhower Property Group - Additional Party of Record has been added to the backup.
3. Agenda Page 10, Item-F-01-RZ-PD-22-0075-Matmattamy Tampa / Sarasota, LLC - Correct scrivener's error in Introduction Summary on first page of staff report to remove reference to a Community Residential Home Type C as a proposed use on the southside of the TECO easement. The applicant removed this use from the list of proposed uses in Parcel 2 of the PD as part of the remand.

WITHDRAWALS, CONTINUANCES, AND REMANDS

- A.1. RZ-PD 18-0996 STREETFRONT COMMERCIAL PROPERTIES LLC - Staff is requesting the item be continued to the November 07, 2023, Board of County Commissioners Land Use Meeting at 9:00 A. M.
- A.2. PRS 23-0299 MARK BENTLEY, B.C.S, AICP - This Application is out of order and is being continued to the December 12, 2023, Board of County Commissioners Land Use Meeting at 9.00 A. M.

TUESDAY, OCTOBER 10, 2023

RECOMMENDATION: Approvable, Subject to Conditions

▶ Mr. Grady introduced the item. ▶ Attorney Kamala Corbett, applicant representative, summarized the item. Chair Hagan called for public comment; there was no response. Subsequent to remarks, ▶ **Commissioner Owen moved for approval, seconded by Commissioner Wostal, and carried seven to zero.**

E.3. Application Number: PRS 23-0940  
 Applicant: STILLWATER PROPERTY OWNERS ASSOCIATION INC  
 Location: 7799 Still Lakes Dr.  
 Folio Number: 887.5098  
 Acreage: 2.37 acres, more or less  
 Comp Plan: RES-1  
 Service Area: Rural  
 Community Plan: Keystone Odessa  
 Existing Zoning: PD (97-0069)  
 Request: Minor Modification to PD

- Remove community recreation area to combine with adjacent residential lot

RECOMMENDATION: Approvable, Subject to Conditions

▶ Mr. Grady touched on the item. ▶ Attorney Matthew Maggard, applicant representative, gave a presentation. Chair Hagan called for public comment; there was no response. ▶ **Commissioner Myers moved for approval, seconded by Commissioner Wostal, and carried seven to zero.**

REGULAR AGENDA

F.1. Application Number: RZ-PD 22-0075 Remand  
 Applicant: MATMATTAMY TAMPA/ SARASOTA, LLC  
 Location: 12910 Boyette Rd.  
 Folio Number: 76763.1500  
 Acreage: 17.67 acres, more or less  
 Comp Plan: RES-4  
 Service Area: Urban  
 Community Plan: Riverview  
 Existing Zoning: AR  
 Request: Rezone to PD

RECOMMENDATION:

TUESDAY, OCTOBER 10, 2023

ZHM: Approval  
DS: Approvable, subject to conditions  
PC: Consistent with Plan

▶ Mr. Grady introduced the item. ▶ Mr. Israel Monsanto, DS, reviewed the item.  
▶ Mr. Mac McCraw, applicant representative, spoke on the item and supplied information. Chair Hagan called for public comment. The following individuals opposed the item: ▶ Attorney Jane Graham, Ms. Ethel Hammer, and Messrs. Gary Gibbons, ▶ Ryan Brooks, and Jim Smeaton. Mr. McCraw gave rebuttal. ▶ Ms. Melissa Lienhard, PC, and Senior Assistant County Attorney Johanna Lundgren gave PC/ZHM recommendations. Subsequent to comments, ▶ **Commissioner Owen moved for denial on the item, seconded by Commissioner Kemp.** Commissioner Cameron Cepeda observed existing traffic/safety challenges. Commissioner Wostal reiterated density bonus concerns and current allowable site uses, which Mr. Gormly addressed. Commissioner Kemp made remarks. Commissioner Cohen opined on the lack of remand efforts on the item. ▶ **The motion carried six to one; Commissioner Cameron Cepeda voted no.**

▶ Chair Hagan requested a motion to reconsider Item F-1. **Commissioner Kemp moved to reconsider, seconded by Commissioner Cohen, and carried six to zero.** (Commissioner Wostal was out of the room.)

▶ **Commissioner Owen moved for denial on the item, seconded by Commissioner Kemp, and carried six to zero.** (Commissioner Wostal was out of the room.)

NOTE: The above action reversed the recommendation for approval by the ZHM.

F.2. Application Number: MM 22-1637  
Applicant: DAVID WRIGHT/ TSP COMPANIES, INC  
Location: 200ft NE of E Chelsea St & Berkley Dr Intersection.  
Folio Number: 41118.0000 & 41120.0100  
Acreage: 2.04 acres, more or less  
Comp Plan: RES-6  
Service Area: Urban  
Community Plan: East Lake Orient Park  
Existing Zoning: PD (92-0053)  
Request: Major Modification to PD