



Meeting Date November 3, 2022

☒ Consent Section

☐ Regular Section

☐ Public Hearing

Subject: Approve a resolution providing for the rendition of the denial of application MM 22-0103, an application for major modification to a Planned Development (PD 03-0348). The Board of County Commissioners voted to deny this application during the August 25, 2022 Board of County Commissioners Land Use Meeting.

Department Name: County Attorney's Office

Contact Person: Johanna M. Lundgren

Contact Phone: 272-5670

Staff's Recommended Board Motion:

Adopt a resolution providing for the rendition of the denial of application MM 22-0103, an application for a major modification to a Planned Development (PD 03-0348).

Background:

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

In accordance with Sec. 10.03.04 of the LDC, the Board of County Commissioners conducted a public meeting and considered application MM 22-0103 during the August 25, 2022 Board of County Commissioners Land Use Meeting. The Board conducted its review of this application in accordance with the Land Development Code, and voted to deny the application. The Board is requested to adopt the attached resolution providing for the rendition of the Board's denial of application MM 22-0103.

List Attachments:

Resolution providing for denial of MM 22-0103, with the following attachments: (1) Zoning Hearing Master Recommendation, (2) Excerpt of Minutes of August 25, 2022 Board of County Commissioners Land Use Meeting

RESOLUTION # _____

REZONING PETITION# MM 22-0103

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

Cohen	Yes
Hagan	Yes
Kemp	Yes
Meyers	Yes
Smith	Yes
White	Yes

WHEREAS, on the 22nd day of October 2021, Nick Pullaro, Heritage Station Capital Group, LLC submitted a rezoning petition (the “Petition”) requesting a Major Modification to PD 03-0348, as most recently modified by PRS 13-0032, for development options including a convenience store with gas pumps and/or a drive-thru restaurant which are prohibited under the existing zoning for the parcel of land described in said petition (the “Property”); and,

WHEREAS, the Land Use Hearing Officer on June 13, 2022, held a duly noticed public hearing on the Petition 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 the Petition; and,

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

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

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

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

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

WHEREAS, the Board of County Commissioners of Hillsborough County has on August 25, 2022, held a duly noticed public meeting on the Petition and has considered all record evidence

and heard and considered all argument received thereon.

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

I. FINDINGS

A. The recitals set forth above are hereby incorporated into this Resolution.

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

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

D. §163.3194(3) (a) of the Act provides that, "(a) development order ... shall be consistent with the comprehensive plan if the land uses, densities or intensities, and other aspects of development permitted by such order...are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government."

E. The Board hereby rejects the Zoning Hearing Master's recommendation of approval on the grounds that the Petition is not compatible with the established residential neighborhoods in the areas nearby the Property, and as such is not consistent with Future Land Use Element Policy 1.4 of the Comprehensive Plan, which states:

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

Further, the Petition's proposed intensity of uses, proposed hours of operation, and proposed parking configuration are incompatible with the established residential neighborhoods in the areas nearby the Property. As such, the Petition is also inconsistent with Future Land Use Element Objective 16, Future Land Use Element Policy 16.1, and Future Land Use Element Policy 16.2.

F. Record evidence which describes both the natural and the non-natural physical characteristics and the environmental functions of both the Property and the surrounding areas supports a finding that the retention of the existing zoning serves the legitimate public purpose of protecting the existing residential neighborhoods from incompatible development.

II. CONCLUSION

The Board of County Commissioners of Hillsborough County hereby denies the above-referenced Petition.

III. EFFECTIVE DATE

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

STATE OF FLORIDA)
)
COUNTY OF HILLSBOROUGH)

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

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

CINDY STUART, CLERK

BY: _____
Deputy Clerk

COUNTY OF HILLSBOROUGH

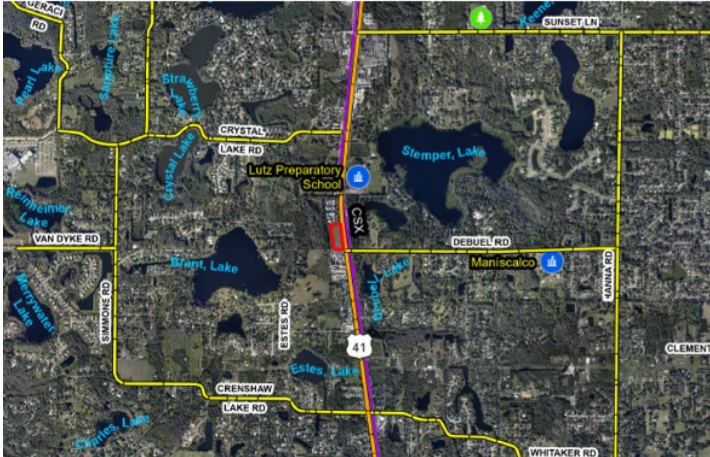
**RECOMMENDATION OF THE
LAND USE HEARING OFFICER**

APPLICATION NUMBER:	MM 22-0103 REMAND
DATE OF HEARING:	June 13, 2022
APPLICANT:	Nick Pullaro / Heritage Station Capital Group, Inc.
PETITION REQUEST:	The Major Modification request is to modify PD 03-0348 to amend the site plan/conditions to, among other items, include a convenience store with gas pumps, drive-thru restaurant, revise the hours of operation and increase the number of access points
LOCATION:	17710 North 41 Highway
SIZE OF PROPERTY:	3.46 acres, m.o.l.
EXISTING ZONING DISTRICT:	PD 03-0348
FUTURE LAND USE CATEGORY:	NMU-4
SERVICE AREA:	Rural
COMMUNITY PLAN:	Lutz

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: Nick Pullaro, Heritage Station Capital Group LLC

FLU Category: NMU-4

Service Area: Rural

Site Acreage: 3.45+/-

Community Plan Area: Lutz

Overlay: None

Introduction Summary:

The subject application was remanded to the June 13, 2022 ZHM hearing at the applicant's request. No application modifications were submitted to staff for this remand hearing.

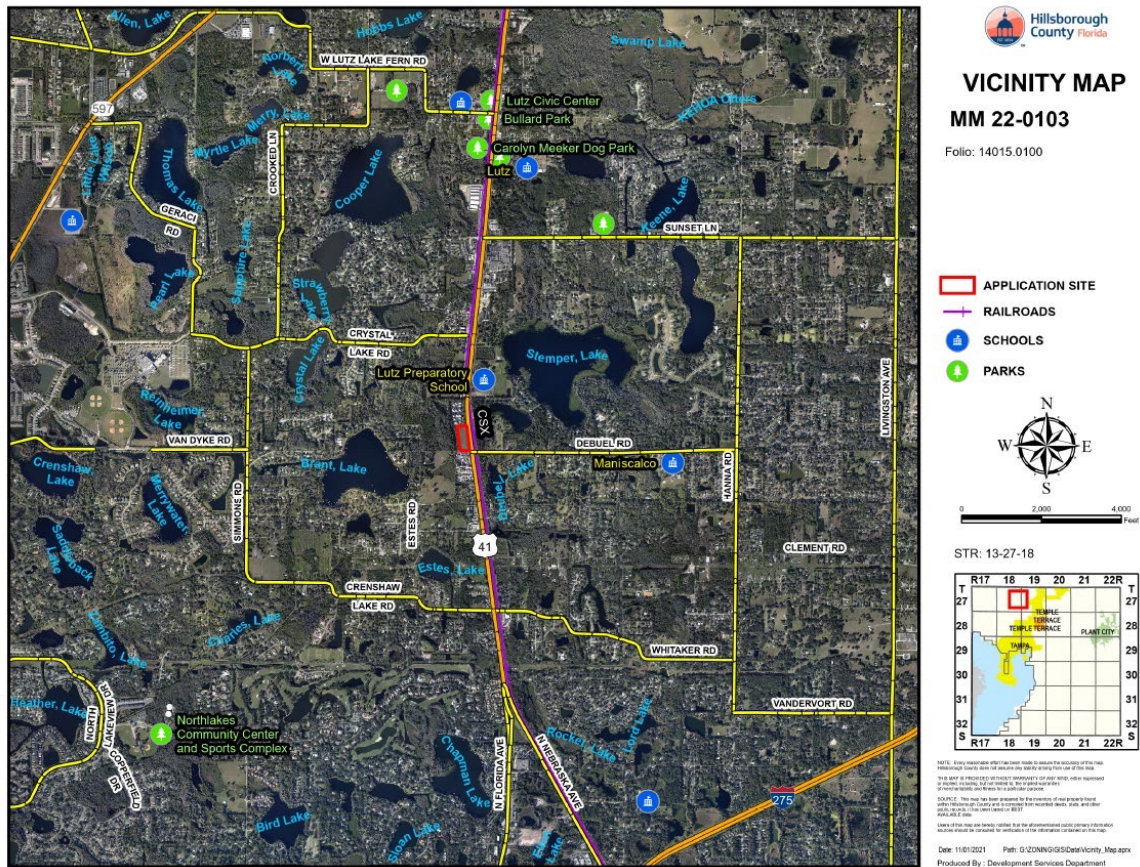
The subject site is located within PD 03-0348, as most recently modified by PRS 13-0032. The PD permits two development options within two delineated parcels. Option 1 permits 50,000 sf of office uses in Parcel A and 12,000 square feet of limited retail uses in Parcel B. Option 2 permits 46,000 sf of office uses in Parcel A and 16,000 sf of limited retail uses in Parcel B. Prohibited retail uses include convenience stores with gas pumps, gas stations and fast food restaurants among other specified uses. The modification request is for Parcel B only.

Existing Approval(s):	Proposed Modification(s):
Option 1 Parcel B: 12,000 sf of limited retail uses permitted	Decrease the square footage to 10,200 sf to allow a convenience store with gas pumps and a drive-thru restaurant. (60,200 sf in overall PD)
Option 2 Parcel B: 16,000 sf of limited retail use permitted	Increase the square footage to a maximum of 21,200 sf to allow a convenience store with gas pumps or a drive thru restaurant, and all CN zoning district uses. (71,200 sf in overall PD)
Development under Option 1 or Option 2	Add Option 3 to allow 25,000 sf of CN zoning district uses, excluding a convenience store with gas pumps or a drive- thru restaurant. (75,000 sf in overall PD)
Compliance with the Lutz Rural Development Standards in addition to additional architectural requirements (Parcels A and B, Options 1 and 2)	Additional architectural requirements applicable to Parcel A only. Parcel B (all options) to comply with the Lutz Rural Development Standards (except as noted below) with no additional architectural requirements.
Parking locations in accordance with the Lutz Rural Development Standards for Parcels A and B (Options 1 and 2)	For Parcel B, allow one row of angled parking along US Highway 41 and Cypress Lane that will not be adjacent to the building

Hours of operation and of delivery for Parcel B restricted to 6:00 am to midnight	No hours of operation and delivery for Parcel B (all options)
One access point to/from Cypress Lane	Two access points to/from Cypress Lane

Additional Information:	
PD Variation(s):	None Requested as part of this application
Waiver(s) to the Land Development Code:	Waiver to LDC Section 3.09.09.2.b (parking not adjacent to building)
Planning Commission Recommendation: Consistent	Development Services Recommendation: Approvable, subject to proposed conditions

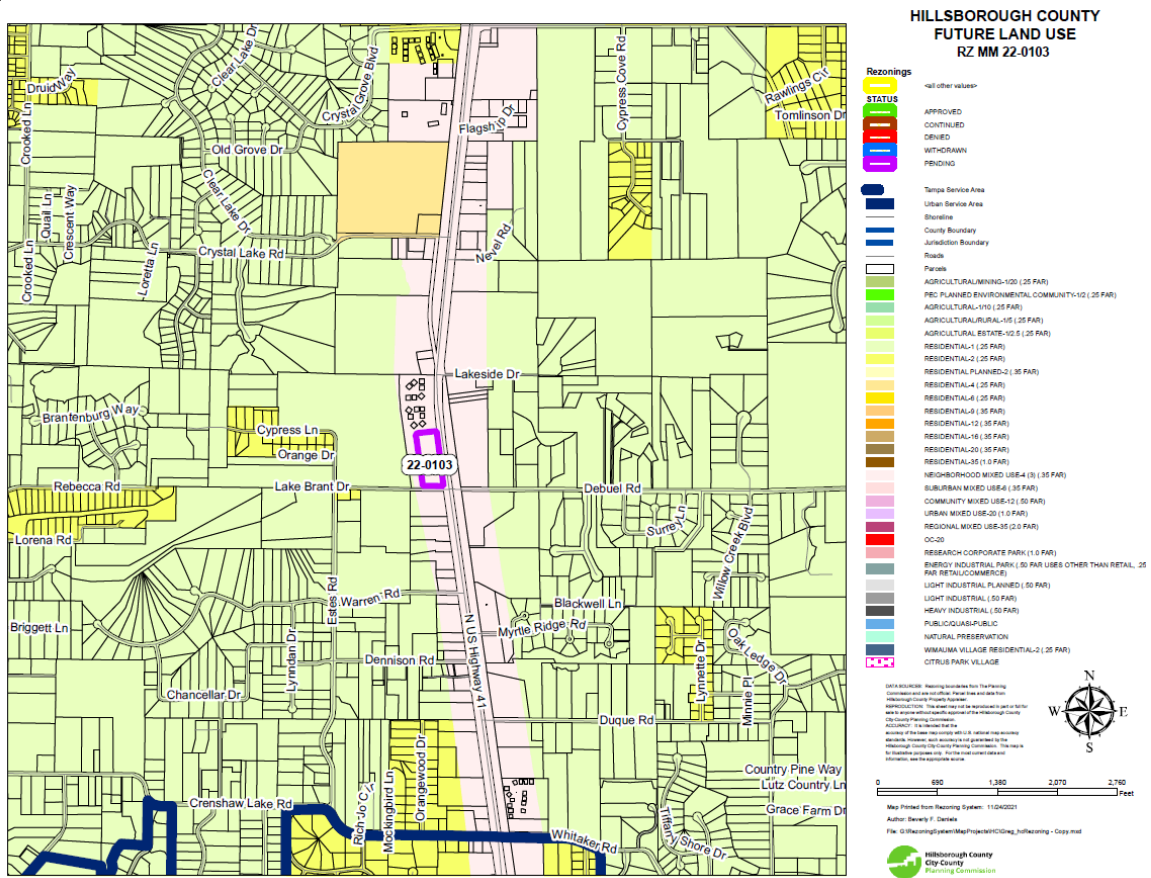
2.0 LAND USE MAP SET AND SUMMARY DATA 2.1 Vicinity Map



Context of Surrounding Area:

The site is located along the west side of US Highway 41 in the Rural Service Area portion of the Lutz community. The area is developed with non-residential uses along the US Highway 41 corridor, while residential neighborhoods, lakes and open space are present on both sides of the corridor.

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

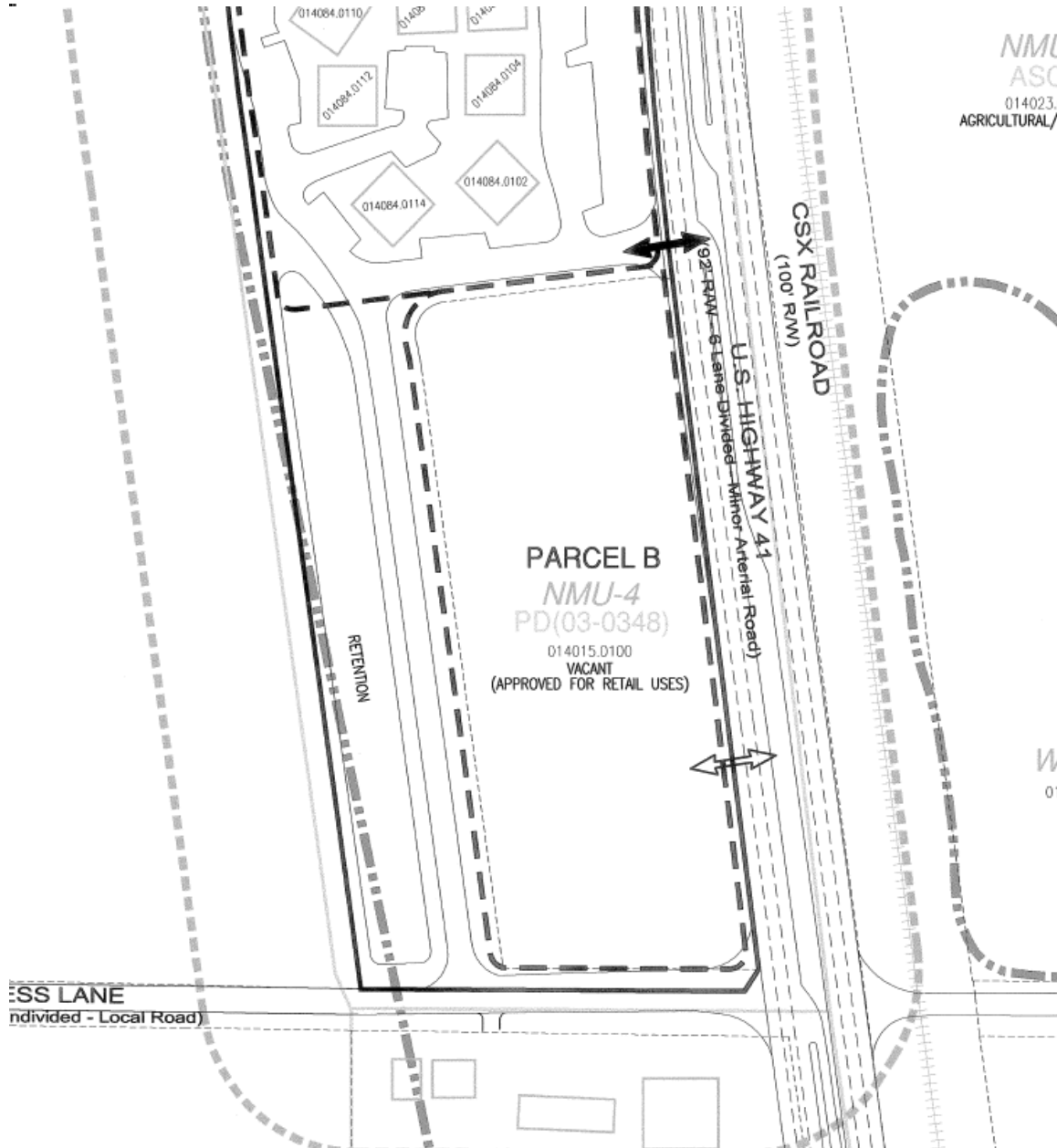


Adjacent Zonings and Uses

Location :	Zoning :	Maximum Density/F.A.R. Permitted by Zoning District:	Allowable Use:	Existing Use:
North	PD	46,000-50,000 sf	Office	Office
South	CG	0.27	General Commercial Uses	Auto sales, service and repair
East	ASC-1	1 unit per acre	Single-family residential	Vacant/Agricultural (Pasture)
West	ASC-1	1 unit per acre	Single-family residential	Vacant/Agricultural (Timber)

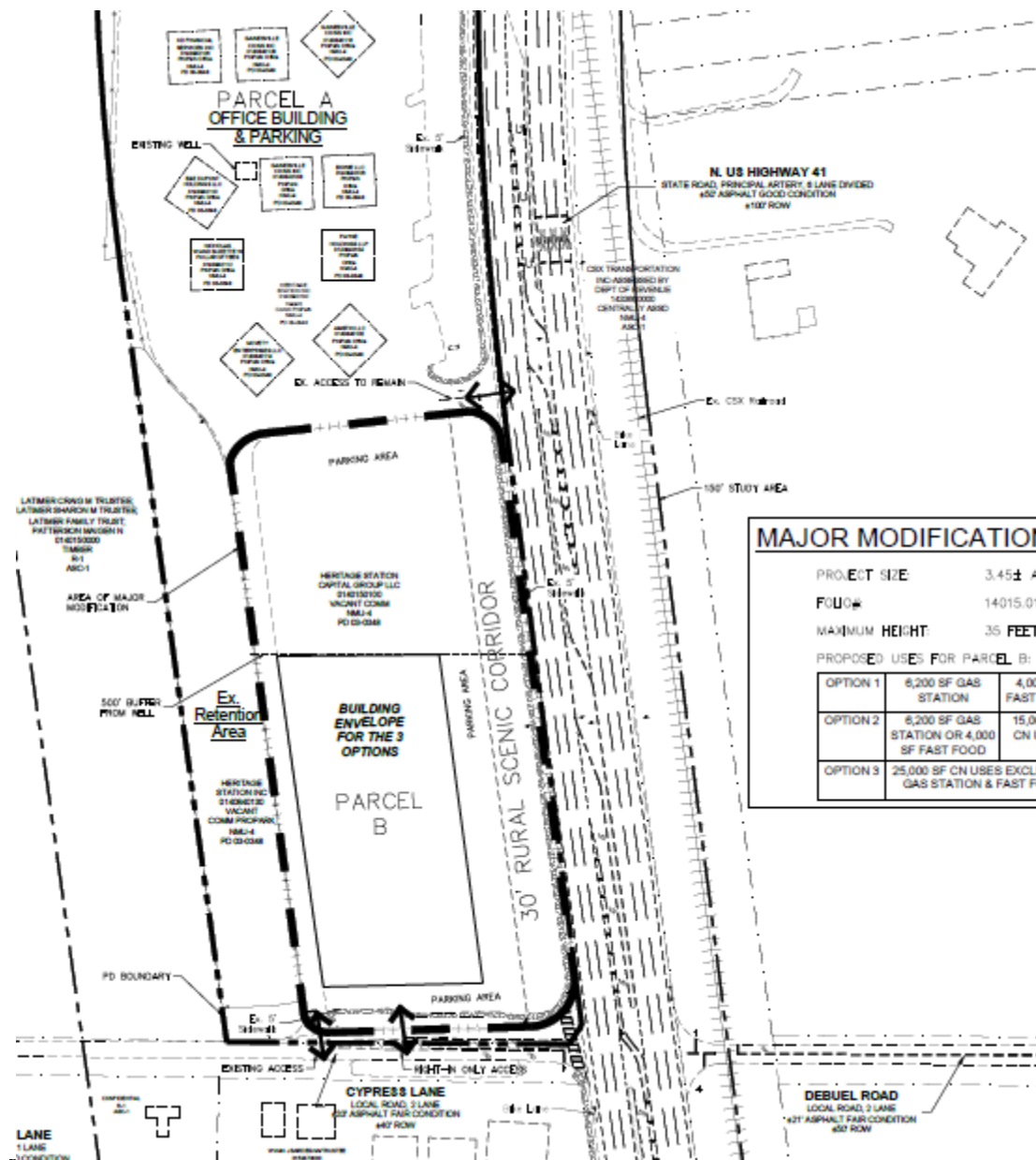
2.0 LAND USE MAP SET AND SUMMARY DATA

2.4 Approved Site Plan (partial provided below for size and orientation purposes. See Section 8.1 for full site plan)



2.0 LAND USE MAP SET AND SUMMARY DATA

2.5 Proposed Site Plan (partial provided below for size and orientation purposes. See Section 8.2 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
Cypress Lane	County Local - Rural	2 Lanes <input checked="" type="checkbox"/> Substandard Road <input type="checkbox"/> Sufficient ROW Width	<input type="checkbox"/> Corridor Preservation Plan <input type="checkbox"/> Site Access Improvements <input checked="" type="checkbox"/> Substandard Road Improvements <input type="checkbox"/> Other

Project Trip Generation ☐ Not applicable for this request

	Average Annual Daily Trips	A.M. Peak Hour Trips	P.M. Peak Hour Trips
Existing	1,273	101	112
Proposed	7,077	598	495
Difference (+/-)	+5,804	+497	+383

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

Connectivity and Cross Access ☐ Not applicable for this request

Project Boundary	Primary Access	Additional Connectivity/Access	Cross Access	Finding
North		Vehicular & Pedestrian	Vehicular & Pedestrian	Meets LDC
South	X	None	None	Meets LDC
East		None	None	Meets LDC
West		None	None	Meets LDC

Notes:

Design Exception/Administrative Variance ☐ Not applicable for this request

Road Name/Nature of Request	Type	Finding
Cypress Lane/Substandard Roadway Improvement	Design Exception Requested	Approvable
	Choose an item.	Choose an item.

Notes:

4.0 ADDITIONAL SITE INFORMATION & AGENCY COMMENTS SUMMARY				
INFORMATION/REVIEWING AGENCY				
Environmental:	Comments Received	Objections	Conditions Requested	Additional Information/Comments
Environmental Protection Commission	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" 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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Check if Applicable: <input type="checkbox"/> Wetlands/Other Surface Waters <input type="checkbox"/> Use of Environmentally Sensitive Land Credit <input checked="" type="checkbox"/> Wellhead Protection Area <input type="checkbox"/> Surface Water Resource Protection Area <input checked="" type="checkbox"/> Potable Water Wellfield Protection Area <input type="checkbox"/> Significant Wildlife Habitat <input type="checkbox"/> Coastal High Hazard Area <input type="checkbox"/> Urban/Suburban/Rural Scenic Corridor <input type="checkbox"/> Adjacent to ELAPP property <input type="checkbox"/> Other _____				
Public Facilities:	Comments Received	Objections	Conditions Requested	Additional Information/Comments
Transportation <input checked="" type="checkbox"/> Design Exc./Adm. Variance Requested <input type="checkbox"/> Off-site Improvements Provided	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Service Area/ Water & Wastewater <input type="checkbox"/> Urban <input type="checkbox"/> City of Tampa <input checked="" type="checkbox"/> Rural <input type="checkbox"/> City of Temple Terrace	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Hillsborough County School Board Adequate <input type="checkbox"/> K-5 <input type="checkbox"/> 6-8 <input type="checkbox"/> 9-12 <input checked="" type="checkbox"/> N/A Inadequate <input type="checkbox"/> K-5 <input type="checkbox"/> 6-8 <input type="checkbox"/> 9-12 <input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
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Impact/Mobility Fees (Various use types allowed. Estimates are a sample of potential development)

Restaurant, High Turnover Retail - Shopping Center

Discount Free Standing (Per 1,000 s.f.) Mobility: \$12,177
Fire: \$313

(Per 1,000 s.f.) Mobility: \$39,504 Fire: \$313

Retail - Conv Mkt. w/Gas (Mobility Per Fueling Pos.) (Fire Per 1,000 s.f.) Mobility: \$16,580
(Per 1,000 s.f.)

Mobility: \$12,206 Fire: \$313

Retail - Fast Food w/DT (Per 1,000 s.f.) Mobility: \$94,045

General Office (Per 1,000 s.f.) Mobility: \$7,502 Fire: \$158

Bank w/Drive In (Per 1,000 s.f.) Mobility: \$18,549 Fire: \$313

Fire: \$313

Urban Rural, Northwest Fire - various options/uses ***Rates based on Jan 1, 2022, fee schedule***

Fire: \$313

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

5.0 IMPLEMENTATION RECOMMENDATIONS

5.1 Compatibility

The site is located on the west side of US Highway 41, a 6-lane principal arterial roadway. Property to the north is developed with an office park, while property to the south is developed with an autosales and service business. Property to the immediate west is a 33-acre undeveloped parcel, which appears to consist primarily of wetlands. This provides significant separation from the subject site and residential development found to the immediate west. Properties to the south west are located approximately 157 from the site on the south side of Cypress Lane. The presence of US Highway 41 provides separation between the site and properties to the east. A railroad track is also present along the eastern side of US Highway 41. The residential development to the east appears to be approximately 500-670 feet from the PD boundary with heavy vegetation along the east side of US Highway 41. All CG zoning district development standards, which address building height, buffering/screening and building setbacks to provide compatibility for a commercial project, are proposed to be met. With the exception of one row of parking, the project will comply with the Lutz Rural Development Standards.

Based upon the above, staff has not identified any compatibility issues associated with the requests.

5.2 Recommendation

Approvable, subject to proposed conditions.

Zoning conditions were presented to the Zoning Hearing Master at the hearing and are hereby incorporated into the Zoning Hearing Master's recommendation.

SUMMARY OF HEARING

THIS CAUSE came on for hearing before the Hillsborough County Land Use Hearing Officer on June 13, 2022. Mr. Brian Grady of the Hillsborough County Development Services Department introduced the petition and stated that the application had been remanded.

Mr. William Molloy 325 South Boulevard testified on behalf of the applicant. Mr. Molloy stated that the remand was requested by the applicant to bolster the record and introduce more expert testimony and letters of support.

Ms. Isabelle Albert 1000 North Ashley Drive Suite 900 testified on behalf of the applicant and showed a PowerPoint presentation. Ms. Albert stated that the property is located at the corner of Cypress and US 41. She added that while some of the neighbors who did not object to the rezoning request had not submitted anything in writing. Those citizens in support mailed letters to the County Commissioners. Additionally, the applicant went around the Lutz community to obtain letters of support which were submitted into the County's record. There are approximately 85 letters of support now in the record. Regarding the concerns of some citizens regarding the possible gas leak into the aquifer, the applicant retained a hydrologist. His resume and statements as an expert that he made regarding other cases has been submitted into the record. Ms. Albert referred to the Grant family who live across the street from the subject property on the eastern side and stated that they support the request.

Hearing Master Finch asked Ms. Albert if the hydrologist did an analysis of the subject property. Ms. Albert replied no.

Hearing Master Finch asked Ms. Albert if the information provided regarding underground storage tanks is just in general. Ms. Albert replied yes.

Ms. Michelle Heinrich of the Development Services Department, testified regarding the County staff report. Ms. Heinrich testified that there were no changes to the request and that staff's original presentation remains as well as their recommendation of support.

Ms. Melissa Lienhard of the Planning Commission testified regarding the Planning Commission staff report. Ms. Lienhard stated that the property is designated Neighborhood Mixed Use-4 by the Future Land Use Map and is located within the Rural Service Area and the Lutz Community Plan. She testified that the request had not changed and referenced staff's prior presentation.

Hearing Master Finch asked Ms. Lienhard to confirm that the property meets

commercial locational criteria and that no waiver has been requested. Ms. Lienhard replied that the site does meet commercial locational criteria and added that 75 percent of the property is within 900 feet of the intersection.

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

Ms. Betty Willis 1440 Hounds Hollow Court Lutz testified in support. She stated that she had been a resident of Lutz since 1978 and that her husband had been the senior pastor at First Baptist Church of Lutz which is north of the subject property. Ms. Willis testified that her family had been one of the first to live in the Brandt Lakes subdivision. She added that she ran a business in Lutz for over 30 years and that not every Lutz resident opposes development, especially along Highway 41. She testified that she supports the rezoning request.

Mr. Nick Pullaro 1612 Magdalene Manor Drive Lutz testified in support. He stated that he was the rezoning applicant and that the opposition has stated that the site has twice been denied a gas station by a unanimous vote of the BOCC. Mr. Pullaro testified that the original rezoning request in 2003 requested professional office and a gas station but there was never a vote on the gas station component as it was withdrawn from the request. The rezoning request was approved. In 2013, a minor modification for an increase to the retail square footage was requested and approved unanimously by the BOCC. A gas station was not requested. Mr. Pullaro stated that he has been a partner in the ownership of the parcel since 1985. He described community fundraising events that had been held on-site. Mr. Pullaro concluded his comments by stating that he developed the Heritage Station Office Park which he believes is one of the nicest developments in Lutz and that the proposed project would be held to the same standard.

Ms. Natalie Davis 17844 North US Highway 41 testified in support and stated that she grew up at the intersection of Sunset Lane and 41 in Lutz which is just north of the subject property. At that time, US Highway 41 was a two-lane road and now she is a business owner in Lutz. She described the growth in the Lutz community and cited the increases in population from 5,500 for all of Lutz to over 18,000 in just the zip code of 33549. She added that the zip code of 33548 has seen a growth in population of 27 percent. US Highway 41 is now a six-lane road. Residents in Lutz want new places to shop and dine. The development will increase the tax base and provide construction and employment jobs in the community. She discussed the opposition's concerns regarding pollution to the lake from the gas station and stated that the pollution was coming from nitrogen, fertilizers, pesticides, herbicides and aging septic tanks and drain fields in the area. She described the two-stroke boat engines that use the lake and the gas and carbon dioxide associated with them. Ms. Davis testified that gas stations are highly regulated with frequent inspections. Leaks are required to be reported. She described the concerns made by the opposition regarding traffic and stated that the issues are grossly overstated. Ms. Davis concluded her

remarks by referencing the many letters of support for the request.

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

Mr. Craig Latimer P.O. Box 2303 Lutz testified in opposition. Mr. Latimer stated that he is one of the property owners to the west of the subject property and that half of the property is wetlands also known as a swamp. It is an important part of the ecosystem and important to the drinking water in the area. Gas stations and fast food restaurants are a known source of run-off of oil, gas, coolants and grease. The pollutants will leach into the soil and compromise the drinking water. Mr. Latimer testified that he does not oppose development which is compatible with the current CN zoning but that a 24-hour gas station with a convenience store with an estimate 6,000 stops a day is not compatible with the neighborhood. He added that there are 11 gas stations within three mile radius of the property. He testified that Cypress Lane to the south of the subject property is one-lane. The garbage truck has to back down Cypress Lane as there is no turnaround. He described the surrounding traffic pattern and stated that the rural roads are barely 20 feet in width. He stated that he was a retired police officer and that the project will directly impact the quality of life in the rural neighborhood. Nothing has changed since the applicant requested the gas station previously.

Mr. Dan Romesburg, 1816 Rebecca Road testified in opposition. Mr. Romesburg stated that he is the President of the Lake Brant Special Dependent Taxing District which represents about 100 households on Lake Brant. He referred to his prior letter dated December 21, 2021. Mr. Romesburg stated that while the Departments have reviewed the application several times, customers will go into a gas station and not take any precautions. They will dump fuel on the pavement which will go into the watershed and eventually enter the lake. He added that the University of Florida has reviewed water samples from the lake and found the water quality is excellent. He asked why the developer did not build more office buildings on-site which he would not object to.

Mr. Chris Capkovic 17510 Estes Road testified in opposition and stated that he was a trustee representing 98 households and had 80 letters in opposition. Mr. Capkovic stated that he does not oppose responsible development but only opposes the same four uses that the 2003 Board of County Commissioners unanimously decided should not be allowed because of the site's close proximity to Lake Brant. Mr. Capkovic described the Special Dependent District and stated that they had worked with many agencies regarding the lake quality. He stated that the letters in support are not from residents of the immediate area. He added that gas and fast food are the two most polluting land uses and within feet of the wetland. The petroleum and associated products would run into Lake Brant. He expressed concerns regarding the effect to their drinking water. He read from a newspaper article regarding the previous request for a gas station and fast food restaurant and stated that Commissioner Hagan said it was not a

good idea next to a wetland. Mr. Capkovic concluded his remarks by stating that the request should not be allowed.

County staff did not have additional comments.

Mr. Molloy testified during the rebuttal period that the reviewing agencies have found this project to be safe and appropriate regarding the proximity of the proposed use to the wetlands. He cited the applicant's hydrologist who would say that the tanks are hermetically sealed and not a threat to the environment. The Planning Commission found the project compatible with the area. Regarding traffic, the traffic study concludes that the bulk of the traffic will be onto US 41.

Ms. Albert testified during the rebuttal period that the 80 letters in opposition have unfounded fears that a gas station will leak in to the system and pollute the lake. She described the people in the area that support the rezoning request.

Hearing Master Finch then concluded the hearing.

EVIDENCE SUBMITTED

*Ms. Albert submitted the resume of the applicant's hydrologist, a PowerPoint presentation regarding Wellhead Protection, a portion of a transcript regarding Wellhead Protection, a copy of the Remand PowerPoint presentation, photos of the office project on-site and information regarding underground storage tanks into the record.

*Mr. Capkovic submitted a Statement from the Lutz Citizens Coalition in opposition, a letter in opposition from Mr. Jay Muffly as President of the Lutz Civic Association and a copy of his written presentation 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 Findings of Fact from the prior Zoning Hearing Master Recommendation dated April 4, 2022 are referenced and incorporated into the Remand Findings of Fact.
2. The applicant's representative testified that the application was requested to be Remanded back to the Zoning Hearing Master to provide the applicant an opportunity to submit the resume and pertinent information from an expert in the field of hydrology and also to submit additional letters

of support into the record. That information was filed into the record at the Remand Zoning Hearing Master hearing.

3. The subject site is 3.46 acres in size and is zoned Planned Development (03-0348). The property is designated NMU-4 by the Comprehensive Plan and located in the Rural Service Area and the Lutz Community Planning Area.
4. The Planned Development (PD) is currently approved for two development options. Option 1 permits 50,000 square feet of office land uses in Parcel A and 12,000 square feet of limited retail uses in Parcel B. Option 2 permits 46,000 square feet of office land uses in Parcel A and 16,000 square feet of limited retail uses in Parcel B. The zoning conditions prohibit certain retail uses including convenience store with gas pumps, gas stations and fast food restaurants.
5. The Major Modification request applies only to Parcel B (southern parcel) and proposes the following:
 - *Option 1: decrease the square footage from 12,000 square feet to 10,200 square feet and allow a convenience store with gas pumps and a drive-thru restaurant
 - *Option 2: increase the square footage from 16,000 square feet to 21,200 square feet to allow a convenience store with gas pumps or a drive-thru restaurant and all CN zoning land uses
 - *Add an Option 3 to allow 25,000 square feet of CN zoning land uses excluding a convenience store with gas pumps and a drive-thru restaurant
 - *Parcel B complies with the Lutz Rural Development Standards but not the additional architectural requirements
 - *Permit one row of angled parking along US Highway 41 and Cypress Lane that is not adjacent to the building
 - *Remove the hours of operation restriction for Parcel B
 - *Increase the number of access points to Cypress Lane from one access to two access points
6. No Planned Development variations are requested.
7. A waiver is requested to the Lutz Rural Development Standards regarding parking to allow one row of angled parking along US Highway 41 and Cypress Lane that is not adjacent to the building. The waiver is appropriate given the applicant's justification that the parking will match the existing parking layout on Parcel A. Additionally, the project provides for a Rural Scenic Corridor that results in a 30-foot natural buffer along both US Highway 41 and Cypress Lane.

8. The Planning Commission staff found the request is under the maximum floor area ratio (FAR) of 0.35 as it proposes an FAR of 0.19. Staff also stated that the parcel is located within the Lutz Community Plan. Staff found the parcel meets commercial locational criteria and that the proposed use is consistent with the vision of the Lutz Community Plan. The Planning Commission found the request consistent with both the Lutz Community Plan and the Comprehensive Plan.
9. Parcel B of the Planned Development is adjacent to Parcel A to the north, which is developed with an office park, a large heavily treed parcel to the west which is zoned ASC-1, US Highway 41, the CSX rail line and a vacant parcel zoned ASC-1 to the east and an auto sales, service and repair business zoned CG to the south.
10. Approximately 85 letters and 55 emails of support for the Major Modification were filed into the County's record prior to the Remand hearing of the application to the Zoning Hearing Master.
11. Testimony in support of the request was presented at the Zoning Hearing Master hearing. Persons in support included the property owner of the parcel to the north, the subject property owner and a long time Lutz resident. Support was based upon the property's location on US Highway 41 North, the growth in the population of Lutz and the associated benefits of the project regarding taxes paid to the County as well as employment associated with the construction of the project as well as the operation.
12. Testimony in opposition to the request was provided at the Zoning Hearing Master hearing and also filed into the County record prior to the hearing. The testimony primarily focused on the traffic associated with the proposed use and also the possible environmental impact of the gas station use. Concerns were also expressed regarding possible gas tank leakage that could impact nearby Lake Brandt.

The applicant's representative submitted the resume of their expert in the field of hydrology and information regarding the agencies that regulate underground storage tanks.
13. County staff testified in their staff report that the Board of County Commissioner's previously denied a request for a convenience store with gas pumps and drive thru restaurants due to existing traffic and unimproved road conditions. Staff stated that since that time, Cypress Lane has been widened and turn lanes have been completed that address the congestion concerns. It is noted that the applicant will be required to complete additional transportation improvements as described above and in the proposed zoning conditions.

14. The proposed commercial building envelope for Parcel B is consistent with the non-residential development along US Highway 41.
15. The proposed modification for the changes to Parcel B is consistent with the parcel's significant frontage on US Highway 41 and the impact of the already approved non-residential development. The proposed uses are compatible with the area and the modification is consistent with the Comprehensive Plan and Land Development Code.

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

The Major Modification request is in compliance with and does further the intent of the Goals, Objectives and the Policies of the Future of Hillsborough Comprehensive Plan.

CONCLUSIONS OF LAW

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

SUMMARY

Planned Development 03-0348 is approved for two development options. Option 1 permits 50,000 square feet of office land uses in Parcel A and 12,000 square feet of limited retail uses in Parcel B. Option 2 permits 46,000 square feet of office land uses in Parcel A and 16,000 square feet of limited retail uses in Parcel B. The zoning conditions prohibit certain retail uses including convenience store with gas pumps, gas stations and fast food restaurants.

The Major Modification request proposes changes to Parcel B of the Planned Development only. The changes are detailed above but include the addition of a convenience store with gas pumps and drive thru restaurant.

A Remand of the Major Modification was requested by the applicant to provide the applicant the opportunity to submit the resume and information from an expert in the field of hydrology and submit additional letters and emails of support into the record. That information was filed into the record at the Remand Zoning Hearing Master hearing.

A waiver is requested to the Lutz Rural Development Standards regarding parking to allow one row of angled parking along US Highway 41 and Cypress Lane that is not adjacent to the building. The waiver is appropriate given the

applicant's justification that the parking will match the existing parking layout on Parcel A. Additionally, the project provides for a Rural Scenic Corridor that results in a 30-foot natural buffer along both US Highway 41 and Cypress Lane.

The Planning Commission found that the parcel meets commercial locational criteria and that the proposed use is consistent with the vision of the Lutz Community Plan. The Planning Commission found the request the Lutz Community Plan and the Comprehensive Plan.

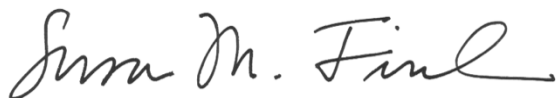
Testimony in support was provided at the hearing. Letters and emails in support for the modification were filed into the record prior to the Remand of the modification. Testimony in opposition to the request was provided at the Zoning Hearing Master hearing and also filed into the County record. The testimony primarily focused on the traffic associated with the proposed uses and also the possible environmental impact of the proposed gas station use. Concerns were also expressed regarding possible gas tank leakage that could impact nearby Lake Brandt. The applicant's representative submitted the resume of their expert in the field of hydrology and information regarding the agencies that regulate underground storage tanks.

County staff testified in their staff report that the Board of County Commissioner's previously denied a request for a convenience store with gas pumps and drive thru restaurants due to existing traffic and unimproved road conditions. Staff stated that since that time, Cypress Lane has been widened and turn lanes have been completed that address the congestion concerns. It is noted that the applicant will be required to complete additional transportation improvements as described above and in the proposed zoning conditions.

The proposed modification for the changes to Parcel B is consistent with the parcel's significant frontage on US Highway 41 and the impact of the already approved non-residential development. The proposed uses are compatible with the area and the modification is consistent with the Comprehensive Plan and Land Development Code.

RECOMMENDATION

Based on the foregoing, this recommendation is for **APPROVAL** of the Major Modification to Planned Development 03-0348 as indicated by the Findings of Fact and Conclusions of Law stated above subject to the zoning conditions prepared by the Development Services Department.



July 6, 2022

Susan M. Finch, AICP
Land Use Hearing Officer

Date

THURSDAY, AUGUST 25, 2022

F.3. Application Number: MM 22-0103 (Remand)
 Applicant: NICK PULLARO HERITAGE STATION CAPITAL GROUP LLC
 Location: 17710 N 41 Hwy.
 Folio Number: 14015.0100
 Acreage: 3.46 acres, more or less
 Comp Plan: NMU-4
 Service Area: Rural
 Community Plan: Lutz
 Existing Zoning: PD (03-0348)
 Request: Major Modification to PD
 RECOMMENDATION:
 ZHM: Approval
 Development Services: Approvable, Subject to Conditions
 PC: Consistent with Plan

► Mr. Grady and Ms. Michelle Heinrich, Development Services, reviewed the request. ► Attorney William Molloy and Ms. Isabelle Albert, applicant representatives, spoke on the item. Vice Chair Smith called for public comment; there was no response. ► Mr. Steve Henry, applicant representative, shared a presentation. ► Attorney Lundgren stated the requirements for public comment. ► Mr. Nick Pullaro, applicant, added remarks. Ms. Natalie Davis was in favor of the item. ► Messrs. Craig Latimer, Daniel Romesburg, and Christopher Capkovic, opposed the item. ► Attorney Malloy and Ms. Albert gave rebuttal. Vice Chair Smith asked for clarification on plan design waivers, to which Ms. Albert responded. ► Ms. Lienhard and Attorney Lundgren reviewed PC/ZHM recommendations. Expressing concerns on community compatibility, ► **Commissioner Hagan moved denial, seconded by Commissioner Kemp.** Subsequent to discussion, ► **the motion carried six to zero.** (Chair Overman was absent.)

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

F.4. Application Number: RZ-PD 22-0319
 Applicant: RMC PROPERTY GROUP
 Location: 11120 Tom Folsom Rd.
 Folio Number: 60921.0000
 Acreage: 24.59 acres, more or less